



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

2021 OCT 15 AM 8:35

MONDAY – OCTOBER 18, 2021

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 on or before the meeting. 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.killingct.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 2631-202-8049 when prompted.

- V. COMMISSION/STAFF RESPONSES TO CITIZENS' COMMENTS**
- VI. PUBLIC HEARINGS – (review / discussion / action)**

NOTE: To participate in THE PUBLIC HEARINGS – 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 2631-202-8049 when prompted

1) **Zone Map Change Ap # 21-1271** – Douglas Const Co (J. Vance/Landowner); 605 Providence Pike & 200 Hubbard Hill Rd; GIS MAP 224, LOT 14; & GIS MAP 245, Lot 001; RD; change zone from RD to General Commercial on both parcels.

2) **Zone MAP Change Ap#21-1274**; Weld, LLC (CGCT Killingly LLC/Landowner); 543 Wauregan Road: GIS MAP 262, LOT 20: General Commercial Zone; application seeks to change the zone of the subject real estate from General Commercial Zone to Light Industrial Zone.

Hearings' segment closes.
Meeting Business will continue.

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

1) **Zone Map Change Ap # 21-1271** – Douglas Const Co (J. Vance/Landowner); 605 Providence Pike & 200 Hubbard Hill Rd; GIS MAP 224, LOT 14; & GIS MAP 245, Lot 001; RD; change zone from RD to General Commercial on both parcels.

2) **Zone MAP Change Ap#21-1274**; Weld, LLC (CGCT Killingly LLC/Landowner); 543 Wauregan Road: GIS MAP 262, LOT 20: General Commercial Zone; application seeks to change the zone of the subject real estate from General Commercial Zone to Light Industrial Zone.

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

1) **Site Plan Application #21-1275**; David Kode (Frito-Lay/Landowner); 1886 Upper Maple St; GIS MAP 62, LOT 53; 94 acres; Ind Zone; for the proposed building additions that will be under the allowed height. Review, and if application is complete, schedule for commission review on November 15, 2021.

2) **Special Permit Application #09-961**; Request to extent the special permit for an additional 3 years; Tilcon Connecticut / Tilcon Inc.; 548 Wauregan Road, Killingly, GIS MAP 263, Lot 22; ~112 acres; rural development; last extension granted September 2018. Review/discussion/action.

3) **Special Permit Application #05-868**; Request for Release of Bond; Ernest Joly & Son, Inc.; for 605 Providence Pike, Killingly, GIS MAP 224; Lot 14; ~170 acres; Rural Development Zone; all phases of work completed. Review/discussion/action.

4) **Special Permit Application #13-1068 & Site Plan Application #13-1069**; Request from Enfield Builders to lower Surety Bond to \$18,356.00 as the Women's Institute never came in with the \$18,356.00 cash bond approved by PZC on December 21, 2020. Review/discussion/action.

(*) Applications submitted prior to 5:00 PM on TUESDAY, OCTOBER 12, 2021, will be on the agenda as New Business, with a "date of receipt" of MONDAY, OCTOBER 18, 2021, and may be scheduled for action during the next regularly scheduled meeting of MONDAY, NOVEMBER 15, 2021.

(*) Applications submitted by 12:00 noon on FRIDAY, OCTOBER 15, 2021, will be received by the Commission ("date of receipt") on MONDAY, October 18, 2021. However, these applications may not be scheduled for action on MONDAY, NOVEMBER 15, 2021, 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) Regular Meeting Minutes – SEPTEMBER 20, 2021.

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

1) **WORKSHOP – Discussion** – should the zoning regulations allow for an accessory structure to be constructed on a vacant parcel of real estate without the primary structure being in place? Discussion continued to Nov. 15, 2021.

2) **WORKSHOP – Discussion** – Five Mile River Overlay District. Discussion continued to Nov. 15, 2021

XI. CORRESPONDENCE

(CONTINUED ON NEXT PAGE)

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

C. Building Office Report

XIII. ECONOMIC DEVELOPMENT DIRECTOR REPORT

XIV. TOWN COUNCIL LIAISON REPORT

XV. ADJOURNMENT

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

1) Zone Map Change Ap # 21-1271 – Douglas Const Co (J. Vance/Landowner); 605 Providence Pike & 200 Hubbard Hill Rd; GIS MAP 224, LOT 14; & GIS MAP 245, Lot 001; RD; change zone from RD to General Commercial on both parcels.

APPLICANT(S):	Douglas Construction Company
LANDOWNER(S):	James M. Vance
SUBJECT PROPERTY:	605 Providence Pike – and – 200 Hubbard Hill Road
ASSESSOR'S INFO:	GIS PA 224, LOT 14 – and – GIS MAP 245, Lot 001
ACREAGE AMOUNT:	~ 177 acres – and - ~12 acres = ~189 acres
ZONING DISTRICT:	Rural Development Zone
REQUEST:	Request to change zone of both parcels from Rural Development to General Commercial.
REGULATIONS:	ARTICLE IX – Section 900

Documents Attached

- 1) New correspondence dated 10/14/2021 from Douglas Construction addressing the concerns of commission members and the public regarding the application; and
- 2) Three (3) maps showing a) total site acreage; b) open area {not to be developed}; and c) developable area.

NOTE: Staff found a compilation map of the area from when the parcel was approved as an earth removal operation and will be bringing copies of that map to the PZC meeting for commission members to review.

Legal Notices

For September 20, 2021:

- 1) Legal Notice (of the hearing) was posted with Town Clerk on Sept 2, 2021
- 2) Legal Notice was posted to the PZC webpage
- 3) Legal Notice was published in the Norwich Bulletin on Tuesday, Sept 7, 2021, and Monday, Sept 13, 2021
- 4) The Memorandum with the complete wording was posted with the Town Clerk on Sept 9, 2021
- 5) Notices were mailed to all abutters on Sept 9, 2021
- 6) Placards were placed on the property on Sept. 9, 2021; and were observed by the ZEO.

For October 18, 2021

- 1) Legal Notice of the decision to continue was published in the Norwich Bulletin on Thursday, Sept 23, 2021
 - 2) Legal Notice of Public Hearing was published in the Norwich Bulletin on Tues. Oct. 5, 2021, and Tues, Oct 12, 2021
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STAFF COMMENTS AND SUGGESTIONS

- 1) Staff suggest that commission members review the documentation that they received for the Sept 20, 2021, meeting along with the new documentation provided to them for this meeting.
- 2) Staff also reminds the commission that zone map/district changes are not based upon a particular use – but all the allowed and special permitted uses under a particular zoning district

(*) IF APPROVED SUGGESTED EFFECTIVE DATE – Monday, November 15, 2021, at 12:01 am.

October 14th, 2021

To: Planning & Zoning Commission
Town of Killingly
Attn: Mr. Keith Thurlow
Mr. Brian Card
Ms. Virge Lorents
Mr. Matthew Wendorf
Mr. John Sarantopoulos

Attn: Ann-Marie Aubrey
Director of Planning and Development
Town of Killingly
172 Main Street
Killingly, CT 06239

Re: Request for Zone Change
605 Providence Pike & 200 Hubbard Hill Road
Response to Request for Additional Information by Commission
Response to Questions made by Commission
Response to Questions/Concerns made by The Public

Dear Mr. Thurlow, The Planning and Zoning Commission, and Ms. Aubrey,

This letter is intended to formally address any questions, concerns or comment presented in relation to the Request for Zone Map Change, Application Number 21-1271, made by Douglas Construction Company, the applicant currently pursuing the purchase of both 605 Providence Pike and 200 Hubbard Hill Road from Mr. James Vance.

As noted in the Planning and Zoning Commission Meeting Minutes prepared for the September 20th, 2021 meeting, multiple questions, comments and concerns were raised relative to the Zone Map Change by both the Commission and the Public, to which Douglas Construction summarizes as follows:

COMMISSION:

1. Mr. Brian Card:
 - a. Current use of the property.
 - b. Historic uses of the property.
 - c. How long has the property been utilized for the mining of gravel?
 - d. General access to the property.
 - e. How does this property being a General Commercial use fit within the current Plan of Conservation and Development?
 - f. Potential Sanitary/Sewer Requirements for the property.
2. Mr. Keith Thurlow:
 - a. Are there any wetlands on the property?

- b. Are there any existing structures on the property?
 - c. Is the graveyard identified on the property?
 - d. Would Applicant continue with the mining operation on the property?
- 3. Ms. Virge Lorents:
 - a. Is this part of Joly Sand & Gravel from the 1950s?
 - b. Will other requirements be considered, such as "dark sky" compliance?
- 4. Mr. John Sarantopoulos:
 - a. How long is the driveway off of Providence Pike?
 - b. Would Douglas Construction be willing to share a conceptual plan for development?

PUBLIC's General Comments Summarized:

- 1. There were concerns regarding property values being affected relative to the land use.
- 2. There were concerns that Douglas Construction should know or should be able to explain what the intended land use will be, within the General Commercial zoning regulation.
- 3. There were concerns about developable areas, proximity to neighboring property lines, potential negative impacts related to varying General Commercial allowable uses.
- 4. There were general concerns about Douglas Construction, transparency and care with regard to potential development. The Town Official must protect the property owners.
- 5. There were concerns regarding wildlife and road traffic.
- 6. There were concerns related to "why the public just found out about the request for Zone Map Change".
- 7. There were concerns raised generally regarding a desire to keep the property and surrounding areas with "peace and quiet".

Douglas Construction Company Responses:

COMMISSION RESPONSES

- 1. The current use of the property is a sand and gravel pit that has been operated by Joly Sand & Gravel for more than 20 years. The current condition of the property is that the land has been carved out due to the harvesting of material, and remedial activities have occurred to an extent. Whether or not those remedial activities meet the requirements of the existing or closed out permits, are unknown to Douglas Construction Company. The current contour of the land is a large and deep bowl that runs from east to west / high to low, as no grading remediation has taken place.
- 2. Other than the gravel pit utilizations, Douglas Construction does not know of any earlier uses of the site. It would be important to note that we did explore the State of Connecticut's map database for Native American or early settlement artifact findings, and nothing has been noted on this property or within the immediate proximity off of this property. This can likely be reaffirmed by the fact that, at some point in the past, the lot was approved to be utilized for the mining and export of gravels.
- 3. The current access to the property is an approximately 50ft wide portion of the lot that extends into the property from Providence Pike (*Route 6*). While additional access points exist along Snake Meadow Road in (3) locations, Douglas Construction has been presently viewed those as primary entry points to the site for (2) initial review reasons: a. Snake Meadow Road predominantly residential and what could be considered more of a backroad, and b. Accessing the site through

Snake Meadow Road would also potentially require (2) wetland crossings before reaching the main section of the site.

4. The Town of Killingly 2020 Plan of Conservation and Development addressed many goals of the Town as it relates to land use, economic expansion, and the responsible management and promotion of business and industrial growth while balancing the impacts on residential and natural/cultural/historical resources. When reviewing the Town of Killingly Zoning Map, we were able to identify that the General Commercial Zoned parcels are relatively limited as well as mostly developed, leaving little opportunity for redevelopment or new development. Douglas Construction also reviewed the Future Land Use Map, which focuses on wetland buffers and critical habitat areas, and we felt as though any General Commercial Zoned development at this property would fall in line with the limitation presented for these buffers and areas.

Providence Pike is also a very well commercial traveled corridor, running between Hartford, CT and Providence, RI, with this property also at the intersecting point of I-395. This creates a locale opportunity for businesses that draw employees and customers from the surrounding areas with an access point onto a main commercial thoroughfare.

The Plan of Conservation and Development also stipulates goals that the expansion of public water and public sewer should be limited, especially into rural areas within the Town. A benefit to General Commercial uses is that they generally do not have high sanitary or water usage requirements, both of which can typically be accommodated via wells for water and onsite septic for sanitary.

With a region economy that is growing, Douglas Construction Company has sought to acquire parcels of land that are geographically well positioned for future development. Based on the Zoning Regulations of the Town of Killingly, we felt that General Commercial allowed for the broadest range of possible future uses that could be desirable for this location and parcel. While there is a stigma that exists relative to commercial development and surrounding land value decreases, the opposite is most commonly true. It is important to remember that General Commercial is not industrial, which does tend to reduce surrounding property value when placed in between unlike adjacent uses.

We believe that based on the goals of the Plan of Conservation and Development, this parcel can certainly accommodate a balance within the General Commercial Zoning Regulation that preserves protected areas, respects the historical aspects that exist on the property, and yet allows for a level of responsible development resulting in increased value to the area and Town.

5. As discussed in the last section, Douglas Construction Company is aware that the only public utility available to this site is electricity. Based on that, any General Commercial Zoned use that is explored would take that limitation into consideration, remaining focused on utilizing only those water and sanitary facilities that can be sourced and accommodated for onsite.
6. There are wetland soils on the property, which coincide with the Future Land Use Mapping for Areas of Conservation. Any proposed development would be in communion with the wetland buffers and upland reviews established throughout the process of any plan review and proposed development. To further the point, the existing wetlands on the property are primarily limited to its extents, which leaves a contiguous developable portion of the parcel. Based on this existing wetland soils layout, the remaining portions of the site present good economic developable opportunity. Furthermore, with the wetland soils predominantly at the extents of the property, this would establish a natural buffer between future development areas and most abutters.

7. There are some existing structures on the property based on our walk. From what we could witness, there was a small shed, some abandoned vehicles and some abandoned mining/screening equipment – likely utilized in the former mining operation. There were no significant structures that were noted during our walk through.
8. The graveyard is identified on the property as well as the current plan set, via the mining operation plans submitted in 2005. Based on the location of the graveyard, any future development of the site would identify the graveyard and preserve the area and its immediate surroundings per any existing requirements by the Town.
9. As a function of the development process, or to bring the site to a constant developable grade, Douglas Construction Company would continue the mining operation. This would likely be accommodated by a simple extension of what has already been performed on the site, as we do not currently have a specific anticipated use for the site.
10. Douglas Construction Company cannot speak to whether or not this is part of / or the same lot as the original Joly Sand & Gravel operation from the 1950's.
11. While we believe that the requirements for development are defined within the General Commercial Zoning Regulations, Douglas Construction is specifically familiar with dark sky compliant lighting, and is more than willing to accommodate the requirements in the zoning regulations, as well as entertain/consider other future development concerns presented by the Planning and Zoning Commission.
12. The 50ft wide section of the driveway is 270 linear feet from the property line at Providence Pike. From there the driveway continues another 920 linear feet to the point where it opens up into the currently open part of the site. Future development would likely relocate this accessway to the east, away from the westerly abutters and further into the 605 Providence Pike parcel.
13. Douglas Construction Company does not have the ability to share a development plan, due to the fact that we do not have any current uses identified for the parcel. The potentially developable areas would be limited by the confines of the wetland soils extents on the property. Due to the fact that we have no basis to show proposed uses at this time, other than to state "anything acceptable within the General Commercial Zoning Regulation", what we can show is the proposed developable area as defined by the existing condition wetland soils restrictions. Please see the attached wetland conceptual development plan.

PUBLIC COMMENT

1. Commercial Development typically raises surrounding property values, unlike industrial development, which commonly diminishes property values. Coincidentally, the same could be said for various types of residential development, relative to property values and residential inventory. While we do not have an identified use for the property at present, the intent within the General Commercial Zoning Regulations does not allow for the industrial type uses that can often lower surrounding values.
2. Douglas Construction Company was created in 1957, and in that time, we have built a reputation of quality and integrity within our industry and arena. We are a self-perform general contractor, building ground up for a number of long-standing clients, ranging from pharmaceutical, office, laboratory, warehouse, retail and other uses. In addition to ground up construction, Douglas Construction Company is also a large scale civil and structural contractor, that perform site work,

utility improvements, mass earth moving and grading, and structural concrete and steel. We perform this work for other general contractors and developers on a regular basis.

As the organization grew, Douglas Construction began acquiring and developing land, for which we presently have office, retail, commercial, and research and development uses in place. This property was identified as a future development opportunity, and was engaged for sale and placed under contract on a speculative basis. At this stage, there are no identified intended uses for the parcel. The reason that we have made the application for zone map change to General Commercial is because this zoning regulation has allowable uses that fall within the use range of other properties that we own and have developed in the past.

3. Attached to this document is a conceptual site plan that identifies what we would consider "developable area" on this parcel. We have defined these areas based on known wetland soils estimations. While this plan cannot illustrate a specific building or use, it can respond to concerns regarding proximity of development to abutting property lines and houses, which was the basis for much of the concern from our potential future neighbors.
4. As stated in Part 2 of this Section, Douglas Construction Company is being as transparent as is within our ability at this stage of development. With no identified use for the land, we can only speculate that our goal is to source a client or use for the property that falls within the General Commercial Zoning Regulations. This purchase is speculative and based on varying levels of due diligence. This pre-development zoning/possible use exercise is part of our due diligence process, so that we can determine if the property will be able to be utilized for uses that fall within our development history – of which the General Commercial Zoning Ordinance covers a majority of those uses. If the property cannot be utilized for these uses, that variable weighs into our overall decision-making process on the value of the land and the potential for its future development.
5. As the property sits today, much of the land has been mined for gravel, leaving it barren from vegetation and growth. Furthermore, based on the available soils mapping, there are additional gravel and sand materials that fall outside of the wetland review areas, which could be mined as a simple expansion of the first mining use. This would require the additional removal of trees and habitat, all of which would still be within the proposed developable areas presented for General Commercial.

For traffic purposes, the only traffic extent that we could speak to is that of the most recent use, which would be incoming and outgoing trucks servicing the transportation of mined gravel from the site. This use and activity pre-existed our interest in the property, and could be progressed forward, unchanged from the existing use.

As part of our development process, Douglas Construction Company commonly commissions traffic studies to determine the best way to facilitate traffic to a site; however, this can only be completed once there is a known development / intended use in place. Without the use, there would be no way to accurately assess traffic impacts, as the use determines the in/out traffic of the site.

6. Per the rules of the Zone Map Change Application procedure of the Town of Killingly, Douglas Construction Company followed the direction of the Town to send notifications to abutters and post placards within a specified timeframe. These were both done in advance of their deadlines, and were in no way intended to be a "last minute" or abrupt notification.
7. Douglas Construction Company sincerely appreciates the concerns of our potential future neighbors, and we acknowledge some of our neighbors wishes to keep the area quiet and rural.

To that point, the use of the land of the past 20 years has been of a commercial nature consisting of the daily use of heavy equipment, processing/screening equipment, heavy truck traffic, and more. Douglas Construction Company believes that there is a misconception of General Commercial uses, and how those uses would impact the backyards of our neighbors. The majority of the abutters to this property are protected by the existing wetlands. While the physical land may be zoned as General Commercial, it does not necessarily mean that it will not remain as wooded or untouched land. There are limitations within the General Commercial Zoning Regulations that prevent a General Commercial Zoned parcel, abutting a Residential Zoned parcel, from building up to the property lines. In most cases, there are landscape or other buffers required, specifically intended at limiting or eliminating impacts to adjacent properties.

Douglas Construction Company hopes that this document, as well as any further clarifications that can be offered in the continuation of the public hearing, are satisfactory to the Commission and the Public. It is not our intent or goal to displease our potential future neighbors or negatively impact the Town. Ultimately, we believe that this property is well suited geographically, and has enough usable area to provide for a feasible commercial development. Douglas Construction Company is more than willing to work with the Planning and Zoning Commission to best accommodate the wishes of the public within the context of a General Commercial Zoning Regulation development at 605 Providence Pike and 200 Hubbard Hill Road.

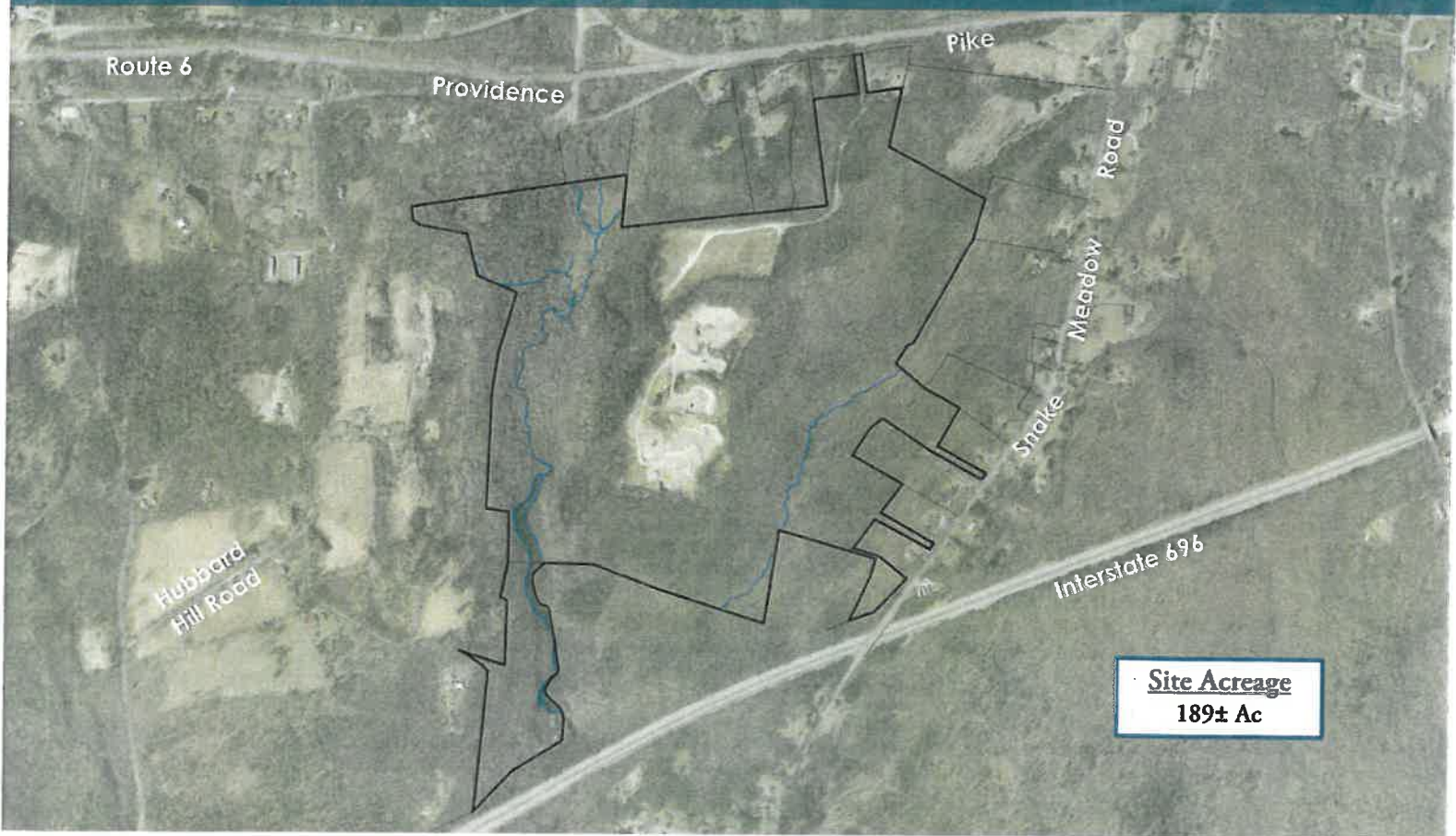
Very Best Regards,



Nicholas H. Durgarian
Vice President
Douglas Construction Company

Zone Map Change Application #21-1271

Douglas Construction Co.



Subject
Property

Restrictive
& Buffering

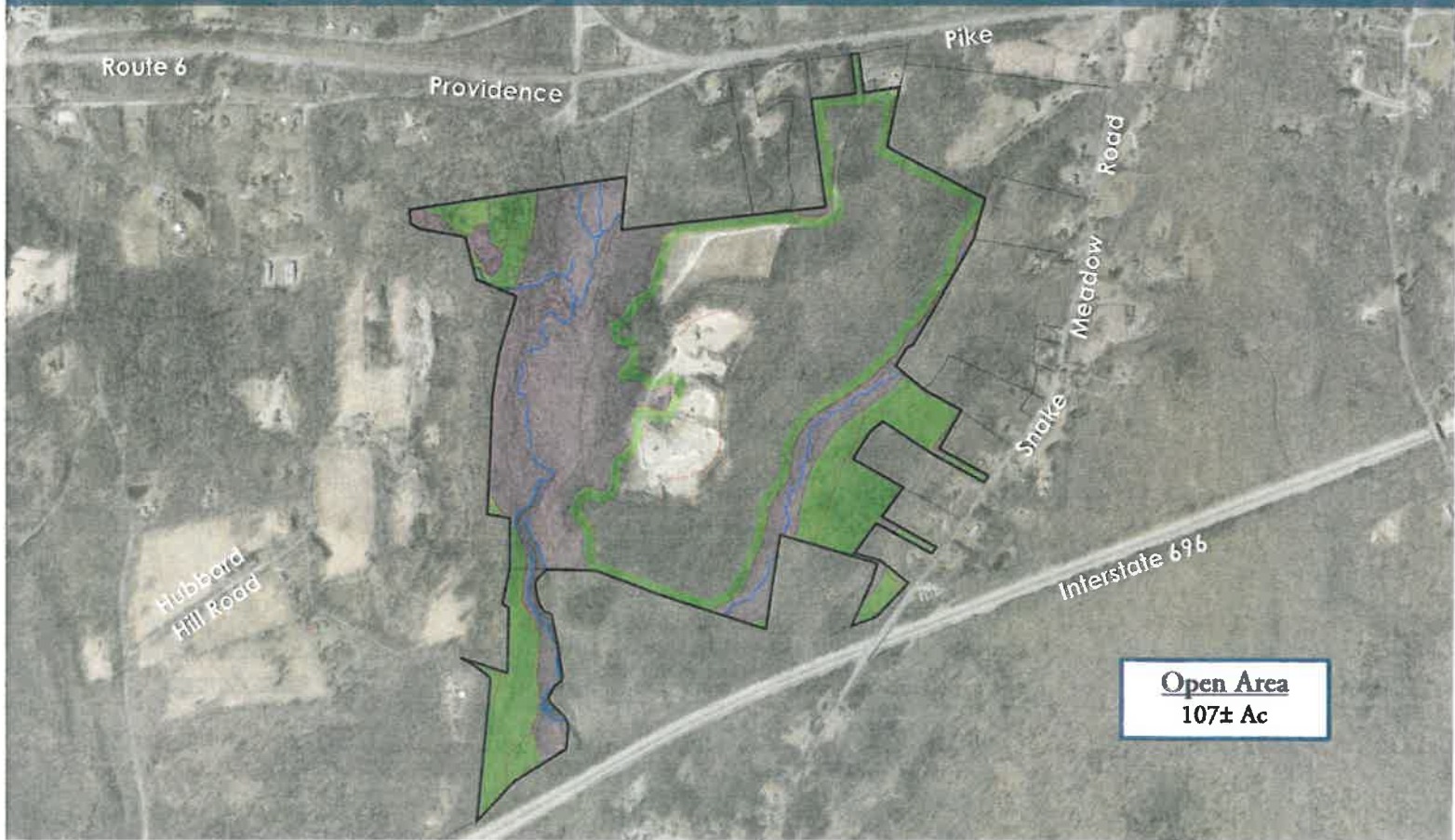
Developable
Area

605 Providence Pike & 200 Hubbard Hill Road



Zone Map Change Application #21-1271

Douglas Construction Co.



Subject
Property

**Restrictive
& Buffering**

Developable
Area

605 Providence Pike & 200 Hubbard Hill Road



Zone Map Change Application #21-1271

Douglas Construction Co.



Subject
Property

Restrictive
& Buffering

Developable
Area

605 Providence Pike & 200 Hubbard Hill Road



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

2) **Zone MAP Change Ap#21-1274**; Weld, LLC (CGCT Killingly LLC/Landowner); 543 Wauregan Road: GIS MAP 262, LOT 20: General Commercial Zone; application seeks to change the zone of the subject real estate from General Commercial Zone to Light Industrial Zone.

APPLICANT(S):	Weld, LLC (Represented by Attorney Timothy Bleasdale)
LANDOWNER(S):	CGCT Killingly, LLC
SUBJECT PROPERTY:	543 Wauregan Road
ASSESSOR'S INFO:	GIS MAP 262; LOT 20
ACREAGE AMOUNT:	~2.0 acres
ZONING DISTRICT:	General Commercial Zone
REQUEST:	Request to change from General Commercial to Light Industrial
REGULATIONS:	ARTICLE IX – Section 900

Documents Attached

- 1) Correspondence dated September 13, 2021 – explaining the request
- 2) Legal Description of Property
- 3) Brief Description of Melting Point Welding & Fabrication, LLC (with pictures)
- 4) Google Maps showing location of 542 Wauregan Road
- 5) Annotated GIS Maps
- 6) Improvement location survey 09/03/2004
- 7) Class A2 boundary line survey dated 7/12/2004

(*) NOTE: There are also a number of letters in support of this application – they are all attached hereto.
a. 5 letters from other businesses; and b. 3 letters from neighbors of their current location.

Legal Notices

- 1) Legal Notice (of the hearing) was posted with Town Clerk on October 1, 2021
 - 2) Legal Notice was posted to the PZC webpage
 - 3) Legal Notice was published in the Norwich Bulletin on Tuesday, Oct. 5, 2021, and Tuesday Oct. 12, 2021
 - 4) The Memorandum with maps was posted with the Town Clerk on October 1, 2021
 - 5) Notices were mailed to all abutters on Oct. 6, 2021 & Oct. 7, 2021 (verification of same in file)
 - 6) Placards were placed on the property by Oct. 8, 2021; and were observed by the ZEO.
-

STAFF COMMENTS AND SUGGESTIONS

- 1) Staff believes the application speaks for itself.
- 2) Staff did receive two phone calls from Killingly abutters and their main concerns were traffic (delivery trucks), noise, and odors. Staff can go into more detail at the time of the hearing.
- 3) Staff also reminds the commission that zone map/district changes are not based upon a particular use – but all the allowed and special permitted uses under a particular zoning district.

(*) IF APPROVED SUGGESTED EFFECTIVE DATE – Monday, November 15, 2021, at 12:01 am.

Application # _____

Date Submitted _____

Received By _____

Fee _____

CHANGE OF ZONE APPLICATION

Procedures and requirements are outlined in Section 900 of the Zoning Regulations. Please review the section carefully.

ALL APPLICANTS FILL OUT THIS SECTION -- PLEASE PRINT

Applicant's Name Weld LLC Phone 860-564-3766

Address 594 Norwich Rd., Plainfield, CT 06374

Owner of Land CGCT Killingly LLC Phone 401-946-3030 (Attorney)

Address 1414 Atwood Ave., Johnson, RI 02919

Location of Property

Street 543 Wauregan Road, Killingly, CT

Tax Map Number 4088 Block 262 Lot 20

Exist. Zoning Dist. General Commercial Prop. Zoning Dist. Light Industrial

Purpose of Change _____

See attached letter and supporting materials

Graeme Burgess
Signature of Applicant

9/10/2021
Date

Kelly M. Coates
Signature of Owner (if different from Applicant) *

9/9/2021
Date

* CGCT Killingly LLC By: Crown Holdings II LLC, Sole Member By: 1992 Alfred Carplonato Trust Agreement-CA, Sole Member By: Kelly M. Coates, Authorized Trustee



September 13, 2021

Planning and Zoning Commission
Killingly Town Hall
172 Main Street
Killingly, CT 06239

RE: Zone Change Application of Weld, LLC
Property Location: 543 Wauregan Road

Dear Commissioners,

This office represents Weld, LLC with respect to the present application to amend the Town's Zoning Map to change the zone of property located at 543 Wauregan Road. This application seeks to change the zone from the General Commercial District ("GC") District to the Light Industrial ("LI") District.

The Proposed Change

This application seeks to change the zone of 543 Wauregan Road ("the Property") from the GC District to the LI District. This change would add approximately 2.1 acres to the LI District. The Property directly abuts the LI District. Approximately 75 feet of the Property's western boundary is contiguous with the LI District encompassing two neighboring properties located at 17 Lucienne Ave. and 583 Wauregan Road.

Presently, the LI District consists of less than 10 acres. The two properties currently in the LI District (17 Lucienne Avenue & 583 Wauregan Road) collectively contribute approximately 9.37 acres to the district. The acreage cited here is approximate and is calculated using the Killingly GIS maps as follows:

- 17 Lucienne Avenue contributes approximately 3.97 acres to the LI District.
- 583 Wauregan Road is an approximately 9.6 acre property that is split zoned with approximately 5.45 acres lying in the LI District and the remaining 4.23 acres lying in the GC District. The usable portion of this property in the LI District is further reduced by an approximately 3 acre pond or impoundment of water on the Quandock Brook as shown on the Town's GIS maps.

If granted, this application would increase the total gross area of the LI District to approximately 11.47 acres. Such a change would bring the LI District into compliance with Sec. 902.3 of the Zoning Regulations (the "Regulations"), which sets a policy goal

EDWARD J. O'NEILL
TRACY M. COLLINS
PHILIP M. JARVIS
CHARLES J. ANDERSON
KEVIN J. WOOLFE
EILEEN C. BROWN
MARK S. ZATANKA
CATHERINE A. MARRION
TIMOTHY D. BLEASDALE
RACHAEL M. GAUDION

OF COUNSEL
ROBERT W. MARRION
ROBERT P. ANDERSON JR.
FREDERICK B. GAHAGAN

+ ALSO ADMITTED IN RI
ALSO ADMITTED IN MA

of having total contiguous zones contain at least 10 acres. At present, the LI District does not meet this policy goal.

The Property

The Property that is the subject of this application is located at 543 Wauregan Road. See Exhibit 1 attached to this letter for a legal description of the Property. The Property is approximately 2.1 acres and has frontage on both Lucienne Avenue and Wauregan Road. It is presently in the GC District and this application would change the zone to the LI District. The Property has approximately 75 feet of its western boundary directly abutting the LI District. Adding the Property to the LI District would therefore create a contiguous zone of approximately 11.47 acres encompassing 543 Wauregan Road, 17 Lucienne Avenue, and 583 Wauregan Road.

The site is fully developed being occupied by an approximately 22,000 square foot building and associated parking lot. The Property is the former site of a Benny's store and it is the applicant's understanding that the site has been unoccupied and underutilized since sometime in late 2017. This application presents an opportunity to revitalize the Property and return it to productive economic use as described more herein.

At present, the Property has very little vegetative screening from residential properties located to the east across Wauregan Road and to the north across Lucienne Avenue. If this application is granted, any future application for a new use located at the Property would be required to meet the requirements of the LI District. Among other things, Sec. 430.2.5 requires a vegetative buffer of a minimum of 25 feet in width wherever an industrial property abuts a residential or commercial district. This means future industrial use of the Property would result in improved screening for neighboring properties.

The Purpose of this Application

The applicant, Weld, LLC, is currently under contract to purchase 543 Wauregan Road, contingent upon, among other things, the granting of this zone change application. At present, the applicant's intention is to relocate an associated business, Melting Point Welding & Fabrication, LLC, from its present location in Plainfield to this Property in Killingly. The zone change is necessary due to the nature of Melting Point's business. It is engaged in the fabrication or manufacturing of welded metal products, such as wrought iron staircases and railings. The Regulations classify such uses as manufacturing, which is a permissible use in the LI District, but not the GC District. This application presents an opportunity for the Commission to revitalize an underutilized property and return it to productive economic use by helping bring a new business to Killingly. See Exhibit 2 to this letter for more information regarding Melting Point Welding & Fabrication, LLC and to see photographs of examples of their work products.

Regulatory Requirements for Zone Change

The Commission's consideration of this application is governed by criteria set forth in Article IX of the Regulations. In particular, Sec. 902 of Article IX sets forth the decision criteria the Commission must consider in deciding whether to grant the application. This section contains three subsections, 902.1, 902.2, and 902.3, each of which will be addressed in turn.

a. Sec. 902.1 Criteria

This section requires the Commission to consider various issues related to the Town's patterns of land use and development, nature of the land at issue, potential impacts on the surrounding area, and whether the proposed change is consistent with the purposes of zoning and the objectives of the Town's Plan of Conservation and Development. This letter will address these considerations, and it is respectfully submitted that the Commission may adopt the analysis contained in this letter as its findings of fact on the application.

The change proposed by this application is consistent with the Town's patterns of land use and development in this area. The immediate area around this property is made up of interwoven pockets of industrial, commercial, residential and rural zones. This proposal would not substantially change this pattern of land use and development in the area. Moreover, Sec. 403.2 specifically describes the LI District as an industrial district that is designed to be able to be located adjacent to residential districts.

The land at issue is well-suited to be rezoned from the GC District to the LI District. It is a fully developed property with an approximately 22,000 square foot building and large parking lot that can readily be put to light industrial use. The Property is adjacent to existing LI District lands, with approximately 75 feet of its western boundary directly abutting the LI District. The Property also abuts Wauregan Road/Route 12, providing it easy access to a main thoroughfare. Additionally, the size of the building on the Property – approximately 22,000 square feet – triggers a requirement in Sec. 430.2.2.b that any future use proposal be presented to the Commission as a special permit and site plan application rather than just a site plan. This gives the Commission a greater degree of control and discretion in permitting future use of the Property as an LI District property.

This zone change is expected to produce minimal, if any, negative impacts on the surrounding area. The LI District regulations restrict use of land in the LI District to only those uses that are "clean, quiet and free of hazardous or objectionable elements such as noise, odor, dust, smoke, and glare." See Sec. 430.2. Regarding this applicant in particular, if this application is granted, the applicant is planning to relocate to the Property an associated metal products fabrication business, Melting Point Welding & Fabrication, LLC. This sort of business could reasonably be expected to generate less traffic than when this Property was used as a Benny's store. The work performed by this

business would be conducted entirely in-doors, is quiet, employs no hazardous materials, and produces no offensive odors or loud noises. As noted above, the size of the building here requires a special permit application, which will give the Commission greater flexibility and discretion in managing any concerns it may have regarding adverse impacts on the surrounding area.

More importantly, this proposal can be expected to have a positive impact on the surrounding area. This zone change will help facilitate the revitalization of this underutilized property. It is the applicant's understanding that the Property has been unoccupied for some years now, appearing to passersby to be a large abandoned commercial property. Such properties are sometimes referred to as "greyfields," due to their negative impact on the surrounding area. Greyfields give an area a somewhat abandoned and outdated feel, and can depress interest in investing in the area. The applicants intend to give new life to the Property. This will be good for the Town's tax rolls and local economy.

Additionally, as noted above, changing the zone to the LI District will mean that any future use proposal for this site will be required to meet regulations applicable to the LI District. This will also have a positive effect on the surrounding area. As is particularly relevant to the neighboring residential areas, Sec. 430.2.5 requires a vegetative buffer of a minimum of 25 feet in width wherever an industrial property abuts a residential district. This will provide improved screening to the neighboring residential properties compared to the present screening, which is almost nonexistent. In order to create such a wide buffer, the parking lot will likely need to be reduced thereby decreasing the impervious surfaces on the Property. This decrease in impervious surfaces will allow more stormwater to infiltrate into the ground on site and reduce the amount of stormwater flowing off the Property into the public roadways or onto neighboring properties.

This zone change is also consistent with the purposes of the Town's Regulations. Sec. 120 of the Regulations describes the goals and purposes of the Regulations to include considerations such as promoting an orderly development in Town, to protect the public health and safety, to minimize conflicts among various land uses, and promote the general welfare of the community. The issues discussed in the preceding paragraphs concerning the Sec. 902.1 criteria demonstrate the consistency of this proposal with these purposes of zoning. The applicant believes this proposal will help further the purposes of the Regulations and will make a positive contribution to the Town of Killingly.

The proposal is also consistent with the objectives of the Town's Plan of Conservation and Development ("POCD"). Killingly's POCD identifies numerous policy goals for the future of the Town. Three areas of focus are particularly relevant to this application: Sec. 3.2 Economics; Section 3.5 Land Use; and, Sec. 3.6 Natural Resources.

First, Sec. 3.2 (economics) sets forth a series of economic goals and policies intended to help Killingly be competitive with other area towns and to increase the quantity, quality, and diversification of employers. One policy identified to achieve this is an action item on page 19 directing the Town to make efforts to attract new businesses to Town. Granting this application will directly contribute to this action item by facilitating the relocation of a business from the neighboring town of Plainfield to Killingly. This will also contribute to improving the quantity, quality, and diversity of employers in Killingly.

Second, Sec. 3.5 (land use) makes clear that Killingly's zoning policies should be moving toward encouraging redevelopment and revitalization of existing economic, industrial, and commercial areas rather than expanding development into less developed rural areas. The POCD describes these goals as implementing Smart Growth Principles to managing the development or redevelopment of the Town in a way that does not destroy the unique character of the Town or reduce the rural areas of Town. Page 35 of the POCD sets two objectives that are relevant here. First, the POCD directs the Town to plan and implement responsible redevelopment. Second, the POCD directs the Town to encourage and promote business development within the existing commercial and industrial areas rather than expanding into residential or rural areas. This application contributes to both goals by allowing the applicants to revitalize an underutilized existing commercial property in an area of mixed commercial and industrial uses. This application will not fundamentally change the character or nature of the neighborhood, but will promote new business growth and responsible redevelopment.

Finally, Sec. 3.6 (natural resources) sets forth Killingly's goals of protecting and maintaining the undeveloped natural resources it has at present. Page 45 of the POCD directs the Town to do this by encouraging development projects involving revitalization and redevelopment rather than new development on previously untouched lands. This application seeks to do just that – revitalize an existing underutilized property rather than break new ground in undeveloped areas. Page 45 also directs the Town to protect its natural resources by encouraging the reduction of stormwater runoff by reducing the amount of impervious parking areas in the Town. This application will contribute to this goal because, as noted on page 4 of this letter, any future special permit application to use this property will necessarily involve a reduction in impervious surfaces to achieve the required 25 foot wide vegetative buffer in the LI District.

It is respectfully submitted that the Commission can make a finding that this application is consistent with the requirements of Sec. 902.1 of the Regulations.

b. Sec. 902.2 Criteria

Sec. 902.2 requires the Commission to consider the legality of the proposed zone change. State law and the Commission's own Regulations grant the Commission

the authority to change zones within the Town. By state law, General Statutes § 8-3, the Commission must hold a public hearing, consider the consistency of the application with the POCD, and make findings on the record regarding the application before voting to grant the application. As discussed above, the Regulations set forth additional considerations. So long as the Commission complies with the requirements of § 8-3 and the Regulations, it has the legal authority to grant this application for a zone change.

Connecticut courts view a Commission's decision to grant a zone change application very deferentially and have determined that such amendment decisions are valid where reasonably supported by the record. The Commission must state for the record the reasons for its decision, tied to the criteria cited above, and if those reasons are supported by the record, then the Commission's decision will withstand scrutiny by the Courts. We respectfully submit that the analysis provided in this letter as well as the attached exhibits and maps provide the Commission with a record that would reasonably support its decision to adopt the proposed zone change.

It is respectfully submitted that the Commission can make a finding that this application is consistent with the requirements of Sec. 902.2 of the Regulations.

c. Sec. 902.3 Criteria

Sec. 902.3 requires the Commission to consider the size of the Property and the size of the total contiguous zone that will result from the granting of this application. It specifically discourages the Commission from granting applications that will result in total contiguous zones of less than 10 acres. This application will not result in a total contiguous zone of less than 10 acres and will bring the existing LI District into effective compliance with this section.

As noted at the outset of this letter, the current LI District in this area consists of less than 10 acres. The two properties currently in the LI District (17 Lucienne Avenue & 583 Wauregan Road) collectively contribute approximately 9.37 acres to the district. The acreage cited here is approximate and is calculated using the Killingly GIS maps as follows:

- 17 Lucienne Avenue contributes approximately 3.97 acres to the LI District.
- 583 Wauregan Road is an approximately 9.6 acre property that is split zoned with approximately 5.45 acres lying in the LI District and the remaining 4.23 acres lying in the GC District. The usable portion of this property in the LI District is further reduced by an approximately 3 acre pond or impoundment of water on the Quandock Brook.

If granted, this application would increase the total gross area of the LI District to approximately 11.47 acres. Such a change would bring the LI District into compliance with Sec. 902.3 of the Regulations. This issue alone should be considered a strong reason to grant the application.

It is respectfully submitted that the Commission can make a finding that this application is consistent with the requirements of Sec. 902.3. of the Regulations.

Statutory Requirements for Zone Change

State statutes governing zoning regulations and amendments thereto also set forth criteria for the Commission to consider in deciding a zone change application. The state criteria are set forth in General Statutes § 8-3 and requires the Commission to consider whether the application is consistent with the Town's POCD. This requirement duplicates the requirement to consider the POCD contained in Sec. 902.1 of the Regulations. This issue is discussed on pages 4-5 of the letter and it is unnecessary to repeat the analysis here.

Maps and Plans Submitted with this Application

Sec. 900.2 of the Regulations requires the applicant to provide the Commission with certain information regarding the Property and surrounding area in the form of maps or plans. However, the Regulations do not require a site plan application, A2 survey, or the involvement of a civil engineer. This makes sense from a practical stand point as the Commission will receive those things on a site plan and/or special permit application once a zone change has been granted. The applicant consulted with the Killingly Director of Planning and Development, Ann-Marie L. Aubrey, on this point and learned that in the past the Commission has relied upon the Town's GIS maps when acting on its own applications to change zoning districts. In keeping with that practice, the applicant has provided the Commission with 8 maps from the Town's GIS program, which the applicant has annotated to provide the information required by Sec. 900.2.

In addition to the 8 maps from the Town's GIS system, the applicant has also located two maps recorded on the Killingly land records that may be relevant to the Commission's consideration of the application. The first is a site improvement survey dated September 3, 2004, that was prepared when a small addition was added to the North side of the building on site and the parking area was reconfigured. This map indicates that the storm drainage was updated at this time as well and indicates the presence of a septic tank and leaching field on the northwestern portion of the Property. The second map is dated July 12, 2004, and shows the boundary lines of the Property to the level of a Class A2 survey. It is unknown to the applicant whether changes have been made to the Property since the recording of these maps; however, the applicant must note that any future use of the Property will require a site plan and special permit application, which will involve producing detailed surveys and plans showing existing

and proposed site improvements. Such proposed site improvements would be required to meet the regulatory requirements of the LI District.


Conclusion

We believe that granting this application would be good for Killingly. It will help revitalize an underutilized property and help facilitate the relocation of a business to Town. These achievements also represent contributions to the economic, land use and natural resource preservation goals and policies identified in the POCD. We respectfully request that the Commission grant this application.

Thank you for your consideration of this proposal.

Very truly yours,

Weld, LLC

By 
Timothy D. Bleasdale, of
Waller, Smith & Palmer, P.C.
Its Attorneys.

List of Exhibits Attached to this Letter

1. Legal Description of Property
2. Brief Description of Melting Point Welding & Fabrication, LLC, and photographs showing examples of the types of products produced
3. Print Out from Google Maps showing location of 543 Wauregan Road
4. List of Neighboring Property Owners within 500 Feet of 543 Wauregan Road as reported by Town's GIS program

List of Exhibits Filed Herewith

1. Annotated GIS Maps (8 pages)
2. Improvement Location Survey dated Sept. 3, 2004
3. Class A2 Boundary Line Survey dated July 12, 2004

LEGAL DESCRIPTION

A certain parcel of land located on the westerly side of Wauregan Road (Route #12) in the Town of Killingly, County of Windham, State of Connecticut and being shown as Lot #20 on a plan titled "Property Survey Plan Prepared for WAUREGAN REALTY, INC., Wauregan Road (Route #12), Killingly, Connecticut, Scale 1"=30', Date 07/12/2004, KWP Associates Surveying, Engineering and Site Planning", said lot being bounded and described as follows:

Beginning at Connecticut Highway Department monument in the westerly line of Wauregan Road marking a corner of the herein described parcel, said monument being located 15 feet more or less southwesterly of the intersection of Wauregan Road, (Route #12) with Lucienne Avenue; thence N 35°17'37" E 14.84 feet along the westerly line of Wauregan Road (Route #12) to a point; thence N 58°59'34" W 328.29 feet to a point; thence N 63°49'36" W 5.15 feet to an iron pin; thence N 61°10'36" W 69.86 feet to an iron pin; the last three courses following the southerly line of Lucienne Avenue; thence S 28°03'55" W 253.20 feet to an iron pin; thence S 61°56'05" E 75.00 feet to an iron pin, the last two courses being bounded westerly southerly by land now or formerly of Deary Bros. II, L.L.C.; thence S 62°45'02" E 300.03 feet to an iron pin, the last course being bounded southerly by land now or formerly of Ronald Jacobs, Trustee; thence in a northeasterly direction 218.50 feet along a curve to the right having a radius of 1,950.10 feet (the chord of said curve being N 29°47'29" E 218.39 feet) to a point; thence S 56°57'51" E 19.49 feet to a Connecticut Highway Department monument and point of beginning, the last two courses following the westerly line of Wauregan Road (Route #12). The above described parcel contains 2.12 acres (92,395 square feet).

Together with a right of way over the northeasterly corner of land now or formerly of Ronald Jacobs, Trustee as shown on the above referenced plan. See Volume 136, Page 193 and Volume 299, Page 18 of the Town of Killingly Land Records.





9-10-2021

Melting Point Welding is a miscellaneous metal fabricator. Miscellaneous metal fabricators are used for a large majority of construction jobs both large or small; the process usually begins by our two project manager Craig Saad and Justin LeBeau to create the necessary designs & measurements for the general contractors. Upon completion of drawings, our shop foreman Carl Smith then begins fabrication with his crew of three fabricators. Once the project is fabricated, we transport the materials to the jobsite. Upon delivery to the jobsite, it falls upon our field foreman Mark Cholewa and Jean Lajeunesse and their crews of 2-3 welders to connect the structural aspects of the job to the misc. metal. However, professionals are not the only individuals who utilize misc. metals, if you are a hobbyist that frequently works with metal and need a specific cut for a project, most fabricators will be able to assist in creating exactly what you need.

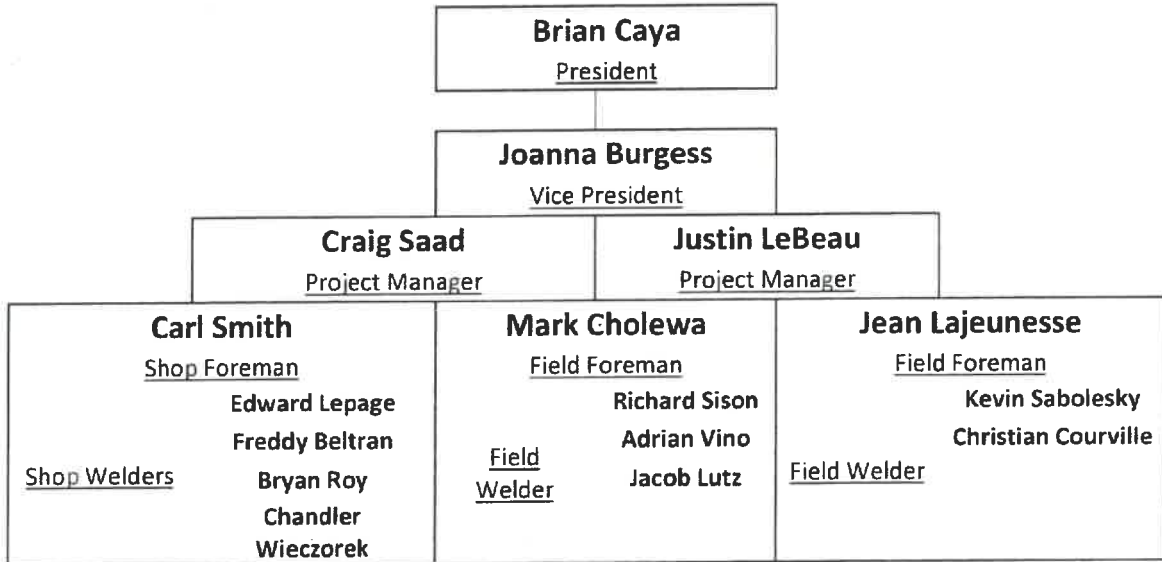
Our office hours are 7:30-5:00

Our shop hours are 6:00-2:30

Our field hours are 7:00-4:30

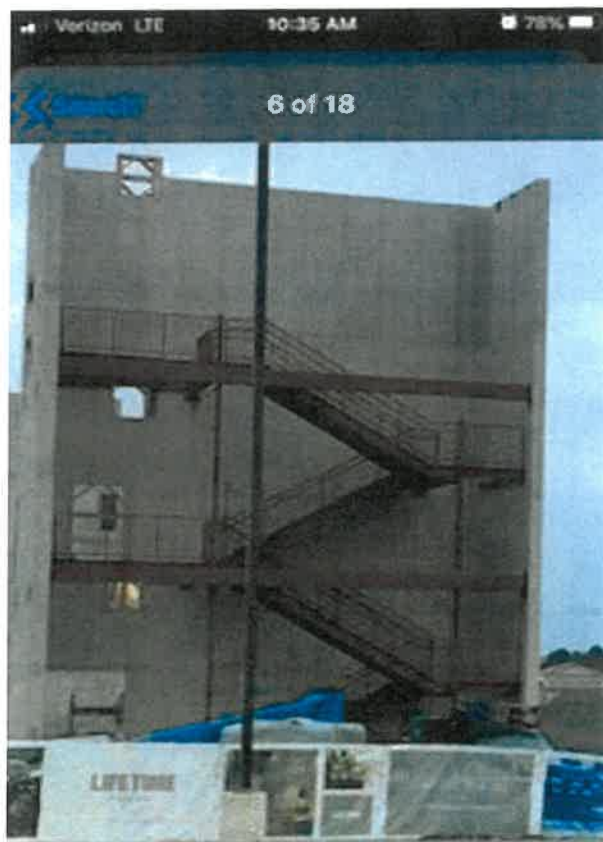
Hours can change due to job schedules.



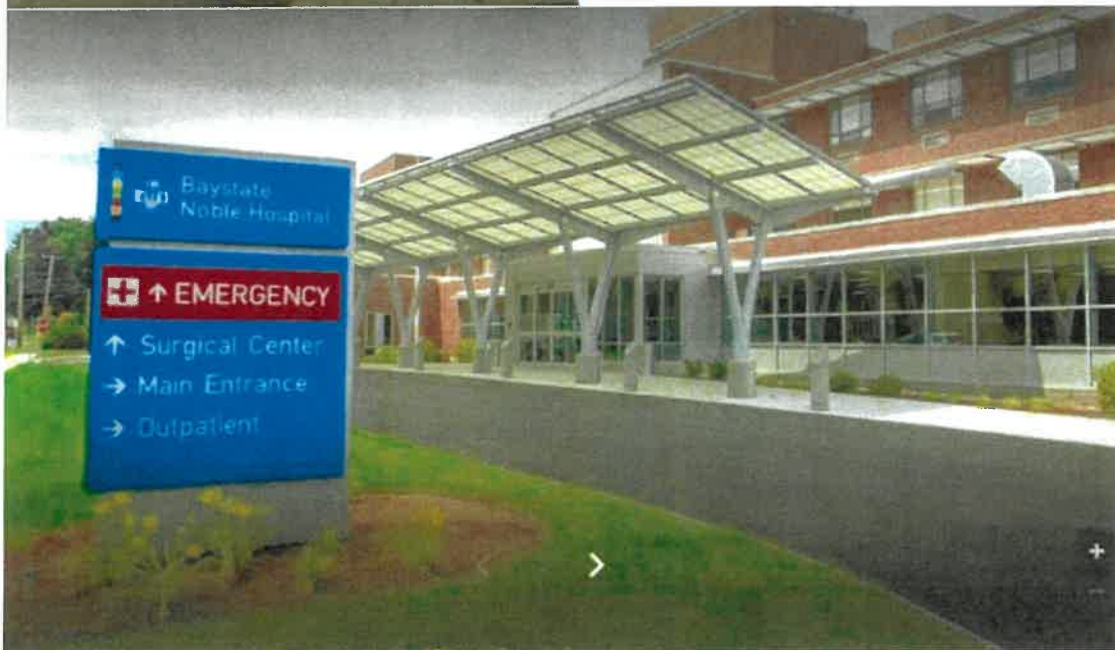




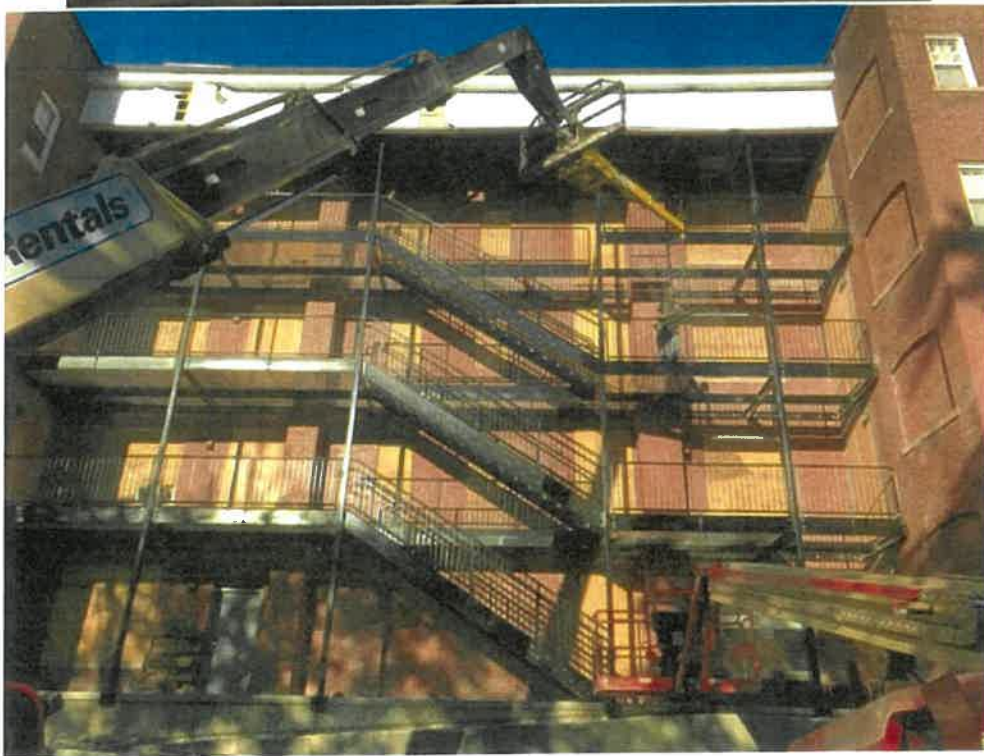
Rhode Island Public Transit Authority



Lifetime Fitness



Baystate Noble Hospital



Maple Commons

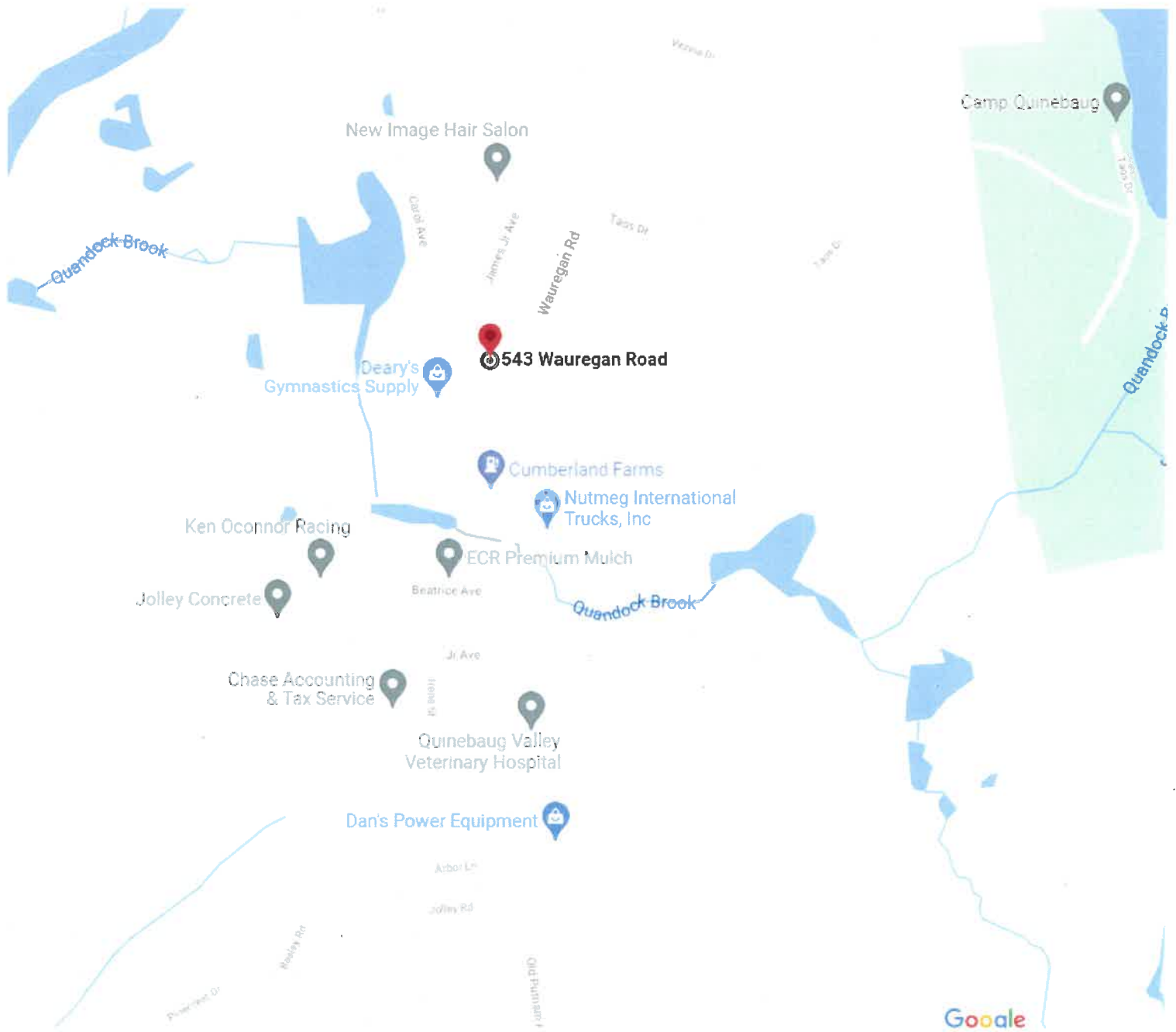


U.S Coast Guard



60 Tupelo RD, Swampscott, MA







RECEIVED

OCT - 8 2021

PLANNING & ZONING DEPT.
TOWN OF KILLINGLY

October 5, 2021

Planning and Zoning Commission, App. #21-1274
ATTN: Ann-Marie L. Aubrey, Director of Planning and Development
Killingly Town Hall
172 Main Street
Killingly, CT 06239

Dear Members of the Planning and Zoning Commission,

My name is Raylette Burkhardt, and I work for Plainfield Renewable Energy, and I am writing in support of Application #21-1274 to change the zone of 543 Wauregan Road to the Light Industrial District. Please add this letter to the Commission's record at the public hearing on this application.

I support this application because I believe it would be good for Killingly and the neighborhood. This application will help a new business, Melting Point Welding and Fabrication, LLC, relocate to Killingly and this will help revitalize the long vacant building at 543 Wauregan Road.

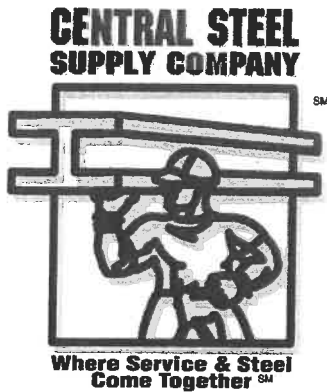
Plainfield Renewable Energy has done business with Melting Point Welding & Fabrication, LLC, for many years and have always found them to be professional and courteous.

Thank you for considering my comments and I ask that you please grant application #21-1274.

Sincerely,

A handwritten signature in dark ink, appearing to read "Raylette Burkhardt".
Raylette Burkhardt

Support for Killingly Applicat⁶
#21-1274



Melting Point Welding & Fabrication
954 Norwich Rd
Plainfield, CT 06374

Member:  NORTH AMERICAN
STEEL ALLIANCE
The Independent Advantage.

RECEIVED

OCT 14 2021

PLANNING & ZONING DEPT.
TOWN OF KILLINGLY

To Whom it May Concern:

This letter confirms that the account of Melting Point Welding & Fabrication is in good standing with all balances paid in full through 10.1.2021. They have been a customer of ours since 2011 and an absolute pleasure to work with. I can attest to their professionalism, work ethic, and overall merit.

Please feel to reach out to me directly with any questions you may have.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Algieri'.

Signature

10.06.2021
Date

Christian Algieri
Credit Manager
978.460.2588
calgieri@centralsteelsupply.com

Serving the Steel needs of New England Industry Since 1945!

Central Steel Supply Co., Inc.
85 Ames Street, Marlborough, MA 01752
508.573.5300 800.345.3232

Fax 508.460.2014

Dear Members of the Planning and Zoning Commission,

My name is Gil C. Addo and I am writing in support of Application #21-1274 to change the zone of 543 Wauregan Road to the Light Industrial District. Please add this letter to the Commission's record at the public hearing on this application.

I support this application because I believe it would be good for Killingly and the neighborhood. This application will help a new business, Melting Point Welding and Fabrication, LLC, relocate to Killingly and this will help revitalize the long vacant building at 543 Wauregan Road.

I am the owner of a small consulting firm in Coventry, Connecticut. Melting Point Welding & Fabrication is our client and I can attest to their competence and integrity. My personal experience with the owner and personnel of Melting Point has been very positive and it is indeed an honor to support their relocation to Killingly, Connecticut.

Thank you for considering my comments and I ask that you please grant application #21-1274.

Sincerely,

Gilbert C Addo

Gilbert C Addo

RECEIVED

OCT 14 2021

PLANNING & ZONING DEPT.
TOWN OF KILLINGLY

RECEIVED

OCT 14 2021

Dear Members of the Planning and Zoning Commission,

PLANNING & ZONING DEPT.
TOWN OF KILLINGLY

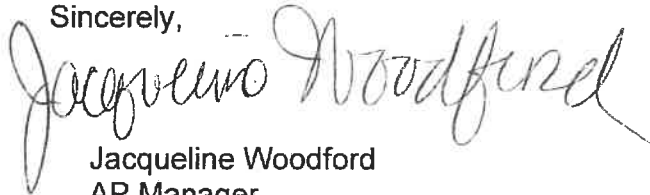
My name is Jacqueline Woodford and I am writing in support of Application #21-1274 to change the zone of 543 Wauregan Road to the Light Industrial District. Please add this letter to the Commission's record at the public hearing on this application.

I support this application because I believe it would be good for Killingly and the neighborhood. This application will help a new business, Melting Point Welding and Fabrication, LLC, relocate to Killingly and this will help revitalize the long vacant building at 543 Wauregan Road.

Melting Point Welding & Fabricating is a great team and their business will only help Killingly. Their expansion will add to the community and bring plenty of future business. I have had the pleasure of working with them for over 8 years and they would be a wonderful addition to your community.

Thank you for considering my comments and I ask that you please grant application #21-1274.

Sincerely,

A handwritten signature in cursive script that reads "Jacqueline Woodford". The signature is written in dark ink and is positioned above the printed name and title.

Jacqueline Woodford
AP Manager
NEI General Contracting, Inc.

RECEIVED

OCT 14 2021

PLANNING & ZONING DEPT.
TOWN OF KILLINGLY

Dear Members of the Planning and Zoning Commission,

My name is Edwin Adams and I am writing in support of Application #21-1274 to change the zone of 543 Wauregan Road to the Light Industrial District. Please add this letter to the Commission's record at the public hearing on this application.

I support this application because I believe it would be good for Killingly and the neighborhood. This application will help a new business, Melting Point Welding and Fabrication, LLC, relocate to Killingly and this will help revitalize the long vacant building at 543 Wauregan Road.

Thank you for considering my comments and I ask that you please grant application #21-1274.

Sincerely,



344 Tarbox Rd.

Plainfield CT 06374

owner of: Tazmanian Tree Devil llc.

P.S. Good group of people and have been very helpful with short notice of welding needs on our equipment

RECEIVED

OCT 14 2021

PLANNING & ZONING DEPT.
TOWN OF KILLINGLY

Dear Members of the Planning and Zoning Commission,

My name is Alyson Therrien and I am writing in support of Application #21-1274 to change the zone of 543 Wauregan Road to the Light Industrial District. Please add this letter to the Commission's record at the public hearing on this application.

I support this application because I believe it would be good for Killingly and the neighborhood. This application will help a new business, Melting Point Welding and Fabrication, LLC, relocate to Killingly and this will help revitalize the long vacant building at 543 Wauregan Road.

Thank you for considering my comments and I ask that you please grant application #21-1274.

Sincerely,

Alyson Therrien

RECEIVED

OCT 14 2021

Dear Members of the Planning and Zoning Commission,

PLANNING & ZONING DEPT.
TOWN OF KILLINGLY

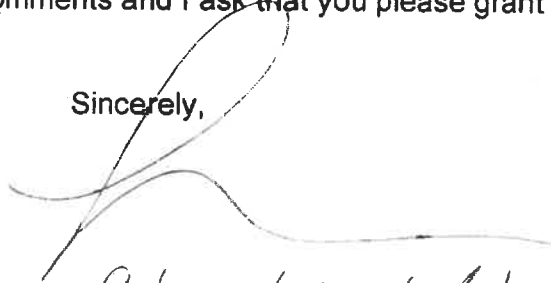
My name is Lois Dupointe and I am writing in support of Application #21-1274 to change the zone of 543 Wauregan Road to the Light Industrial District. Please add this letter to the Commission's record at the public hearing on this application.

I support this application because I believe it would be good for Killingly and the neighborhood. This application will help a new business, Melting Point Welding and Fabrication, LLC, relocate to Killingly and this will help revitalize the long vacant building at 543 Wauregan Road.

Good respectable neighbors

Thank you for considering my comments and I ask that you please grant application #21-1274.

Sincerely,



942 Norwich Rd
Plainfield CT 06374

RECEIVED

OCT 14 2021

Dear Members of the Planning and Zoning Commission,

PLANNING & ZONING DEPT.
TOWN OF KILLINGLY


My name is David Dupointe and I am writing in support of Application #21-1274 to change the zone of 543 Wauregan Road to the Light Industrial District. Please add this letter to the Commission's record at the public hearing on this application.

I support this application because I believe it would be good for Killingly and the neighborhood. This application will help a new business, Melting Point Welding and Fabrication, LLC, relocate to Killingly and this will help revitalize the long vacant building at 543 Wauregan Road.

Good quiet neighbor, takes care of lawn. Good people own Melting Point and work there..

Thank you for considering my comments and I ask that you please grant application #21-1274.

Sincerely,


942 Norwich Rd
Plainfield Ct 06374



SURVEYING - ENGINEERING - SITE PLANNING

09-961

Mr. Keith Thurlow, Chairman
Planning & Zoning Commission
Town of Killingly
172 Main Street
Danielson, Ct. 06239

RE: Tilcon Connecticut/Tilcon Inc. - Wauregan Rd, Killingly - Renewal - Earth Excavation -
Special Permit #09-961

Dear Mr. Thurlow and Commissioners,

This letter is to request an extension of the renewal of the above referenced Earth excavation permit.

As with the previous 2018 renewal, no substantial activities have taken place on this site in the last 3 years, and no activities are planned for the foreseeable future.

We ask that this item be placed on your agenda for the upcoming meeting for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read 'Bruce D. Woodis', is written over the word 'Respectfully,'.

Bruce D. Woodis, IIs
Agent for applicant - Tilcon Connecticut, Inc

RECEIVED

OCT 14 2021

PLANNING & ZONING DEPT.
TOWN OF KILLINGLY

Planning Zoning Comm.
10/18/2021 MEET.

ERNEST JOLY & SONS, INC.

32 BEATRICE AVENUE
DANIELSON, CT 06239
860-774-3755 or 860-774-6877
Fax: 860-774-7466

RECEIVED

SEP 20 2021

September 14, 2021

PLANNING & ZONING DEPT.
TOWN OF KILLINGLY

Town of Killingly Planning & Zoning
Attn: Ann-Marie Aubrey
172 Main Street
Danielson, CT 06239

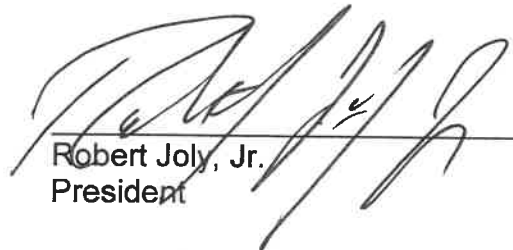
05-868

Dear Ms. Aubrey,

Please be advised that all phases of work have been completed for the 605 Providence Pike, Danielson, CT gravel removal operation.

Ernest Joly & Sons, Inc. is requesting a release of Bond #42904361 that has been required since the inception of this gravel removal project.

Cordially,



Robert Joly, Jr.
President

RJ, Jr/JLB

ENFIELD

#13-1068


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

1) Regular Meeting Minutes – Monday, November 16, 2020.

Motion was made by Virge Lorents to adopt the Minutes of the Regular Meeting of November 16, 2020. Second by Milburn Stone. No discussion.

Roll Call Vote: Milburn Stone- yes; Matthew Wendorf – yes; Brian Card – yes; Virge Lorents – yes; Keith Thurlow – yes. Motion carried unanimously (5-0-0).

X. OTHER / MISCELLANEOUS – (for informational purposes only)

 **1) Special Permit Application #13-1068 & Site Plan Application #13-1069** – Mill at Killingly Apartments, LLC (Women's Inst – WIHED); request for landscape bond reduction from \$60,000.00 surety bond to an \$18,356.00 cash bond; 42 Maple Street; GIS Map 198; Lot 48; ~4.1 acres; Mill Mixed Use Development District. (review/discussion/action)

Ms. Aubrey explained that there have been some issues with the landscaping and that most of them have been taken care of. At this point, the only thing that they have to landscape is the hill that is in front of the building as you are going into the center of Killingly. They are proposing to replace the surety bond of \$60,000.00 with a cash bond of \$18,356.00 which Staff is agreeable to. Staff has looked at the site. Estimates, which include a ten-percent surplus, have been received by Staff.

There were no questions from Commission Members.

Motion was made by Virge Lorents to approve **Special Permit Application #13-1068 & Site Plan Application #13-1069** – Mill at Killingly Apartments, LLC (Women's Inst – WIHED); request for landscape bond reduction from \$60,000.00 surety bond to an \$18,356.00 cash bond; 42 Maple Street; GIS Map 198; Lot 48; ~4.1 acres; Mill Mixed Use Development District.

Second by Milburn Stone. No discussion.

Roll Call Vote: Matthew Wendorf – yes; Brian Card – yes; Virge Lorents – yes; Milburn Stone – yes; Keith Thurlow – yes. Motion carried unanimously (5-0-0).

XI. CORRESPONDENCE – None.

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

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

B. Inland Wetlands and Watercourses Agent's Report – No discussion.

C. Building Office Report – No discussion.

XIII. ECONOMIC DEVELOPMENT DIRECTOR REPORT

Jill St. Clair reported:

- On December 16th Myoshi did a small ribbon cutting on their solar farm (842 kilowatt system) which will offset 38 percent of their utility costs.
- Brownfield applications can be submitted in April. Killingly will submit one or two applications to that program.
- Submitted a Department of Commerce Spring Challenge 2020 Grant for an entrepreneurial incubator program. She is working on a training program with the Killingly Library.
- Phase One for the Ballouville Mill has been completed. Ms. St. Clair will meet with the Engineering Company in January regarding the next steps to be taken.

XIV. TOWN COUNCIL LIAISON REPORT

Patti Larrow George reported:

- BOE request to transfer \$880,945 from their 2019-2020 budget cycle into the Unexpected Education Funds Account will be on the Town Council January 12, 2021 agenda for approval. Expecting a surplus of \$1,151,000. \$272,000 to go back into the Town's General Fund.
- Proclamation of Recognition for Trooper First Class, James Esposito, Resident Trooper, for over a decade of service to the Community.



TOWN OF KILLINGLY

PLANNING & DEVELOPMENT OFFICE

172 Main Street, Killingly, CT 06239
Tel: 860-779-5311 Fax: 860-779-5381

#13-1068

January 27, 2021

EMAILED TO THE FOLLOWING OFFICES

David Capacchione
Town Engineer
Killingly Town Hall
172 Main Street
Killingly, CT 06239
Dcapacchione@killinglyct.gov

Jennifer Hawkins
Director of Finance
Killingly Town Hall
172 Main Street
Killingly, CT 06239
jhawkins@killinglyct.gov

Dear Mr. Capacchione, Ms. Hawkins,

At its regularly scheduled meeting held on Monday, December 21, 2020 the Killingly Planning & Zoning Commission approved the following bond reduction request.

Special Permit Application #13-1068 & Site Plan Application #13-1069 – Mill at Killingly Apartments, LLC (Women's Inst. – WIHED); request for landscape bond reduction from a \$60,000.00 surety bond to an \$18,356.00 cash bond; 42 Maple Street; GIS Map 198; Lot 48; ~4.1 acres; Mill Mixed Use Development District.

Therefore, the Finance Office should be receiving a certified check in the amount of \$18,356.00 within the next few days (weeks). If you have not received said check within two weeks of the date of this letter, please let me know so I may follow up with the appropriate parties.

If you have any questions regarding this matter, please feel free to contact me at 860-779-5311 during our normal business hours - Monday, Wednesday, and Thursday 8:00 am to 5:00 pm; Tuesday 8:00 am to 6:00 pm; and Friday 8:00 am to 12:00 noon. Voicemail is available after hours if you need to leave a message.

Respectfully,

Ann-Marie L. Aubrey
Director of Planning & Development

cc: Jonathan Blake, Planner I (email)
Tracy Bragg, Building Official (email)
Diane Guertin, Adm. Secretary (email)

Marina Capraro, Asst. Planner (email)
Randy Burchard, Fire Marshal (email)
Tammy LaPlante, Adm. Secretary (email)



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

MONDAY – SEPTEMBER 20, 2021

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

MINUTES

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** – Acting Chair, Virge Lorents, called the meeting to order at 7:03 p.m.
- ROLL CALL** – Brian Card, Virge Lorents, John Sarantopoulos and Keith Thurlow (all were present in person).
Matthew Wendorf was absent.
- Staff Present** – Ann-Marie Aubrey, Director of Planning & Development; Jonathan Blake, Planner I/ZEO; Ken Slater, Town Attorney (all were present in person).
Allison Brady, Asst. Planner/Natural Resource Officer (present via Webex).
- Also Present** – Joseph Hammer, Attorney for Frito-Lay; Nicholas Durgarian, Paul Serabian, and Jim Rossman, Douglas Construction, Jim Vance (all were present in person in the audience).
David Kode, Haskell; Roger Gieseke, Frito-Lay; Syl Quenga, Frito-Lay (all were present via Webex).
J.S. Perreault, Recording Secretary (joined the meeting @ 7:05 p.m. via Webex).
- II. SEATING OF ALTERNATES** – None.
- 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)

NOTE: Pursuant to Governor's Executive Order, all public comments can be emailed to publiccomment@killinglyct.gov or mailed to the Town of Killingly, 172 Main Street, Killingly, CT 06239 on or before the meeting. 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.killingct.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 2634-499-9721 when prompted.

Ann-Marie Aubrey explained the above and stated that a letter had been received via e-mail earlier in the day that would be discussed during the public hearing.

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

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

NOTE: To participate in THE PUBLIC HEARINGS – 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 2634-499-3921 when prompted

Ann-Marie Aubrey read the above information aloud.

1) **Special Permit Ap #21-1273** – David Kode (Frito-Lay/Landowner); 1886 Upper Maple St; GIS MAP 62, LOT 53; 94 acres; Ind Zone; for portion of proposed building addition that will exceed the maximum height of 50 ft for said zone, with a proposed height of 86 ft, 8.5 inches. **APPLICANT HAS REQUESTED THAT THE START OF THE HEARING BE DELAYED UNTIL MONDAY, OCTOBER 18, 2021, TO ADDRESS NEIGHBORS' CONCERNS – SEE ATTACHED LETTER.**

Ann-Marie Aubrey explained that the Applicant requested that the start of the public hearing be delayed until Monday, November 15, 2021, per letter dated September 20, 2021 (copies were provided to Commission Members). The Applicant also requested that the review of the Site Plan Application be delayed until November 15, 2021, as well. She noted that Attorney Joseph Hammer was present (in person) and that others, representing Frito-Lay, were present via Webex.

Attorney Joseph Hammer, with Day Pitney, represented Frito Lay. He offered to answer any questions from the Commission.

There was discussion regarding timeline. Attorney Hammer explained that an extension may be necessary for the Site Plan Application if the hearing continues beyond November 15, 2021.

There were no objections voiced by Commission Members to delaying the start of the public hearing to November 15, 2021.

2) **Zone Text Change Ap #21-1264**; Town of Killingly; Special Permitted Use; Add Section 420.2.2. General Commercial Zone; Special Permitted Use; Self-Service Storage Facilities.

Ann-Marie Aubrey explained that the final, edited version with the Commission's comments incorporated. Brian Card clarified that this is the final, edited version that the Commission has reviewed and agreed that it to go to public hearing. There were no questions or comments from the public.

Motion was made by Virge Lorents to close the public hearing for **Zone Text Change Application #21-1264**; Town of Killingly; Special Permitted Use; Add Section 420.2.2. General Commercial Zone; Special Permitted Use; Self-Service Storage Facilities.

Second by John Sarantopoulos. No discussion.

Roll Call Vote: Brian Card – yes; Virge Lorents – yes; John Sarantopoulos – yes; Keith Thurlow – yes.

Motion carried unanimously (4-0-0).

3) **Zone Map Change Ap # 21-1271** – Douglas Const Co (J. Vance/Landowner); 605 Providence Pike & 200 Hubbard Hill Rd; GIS MAP 224, LOT 14; & GIS MAP 245, Lot 001; RD; change zone from RD to General Commercial on both parcels.

Nicholas Durgarian, Paul Serabian, and Jim Rossman, owners of Douglas Construction, were present in person. Mr. Durgarian explained that they are looking to change the zone from RD to General Commercial on both parcels.

Maps/plans were displayed as discussed.

Ann-Marie Aubrey stated the following for the record: 605 Providence Pike, GIS Map 224, Lot 14 is approximately 177 acres; 200 Hubbard Hill Road, GIS Map 245, Lot 001 is approximately 12 acres. Total of 189 acres.

QUESTIONS/COMMENTS FROM THE COMMISSION:

Brian Card asked about the following: current use of the property; historic uses; how long it has been a gravel pit; access; how they feel it is appropriate to be zoned General Commercial based on the POCD, if they felt that sewer would be necessary (the property is in the sewer avoidance area),

- Mr. Durgarian explained that they have other property under contract in Killingly which is what perpetuated the zone text change (not affiliated with this project now). They are a civil contractor, and this property was attractive to them due to it being used a gravel pit. It has been used for gravel mining for the last 20 plus years by Joly. They did a physical inspection of the property and found it to be fairly, well remediated. The grades show that there is still material there which is attractive to them. They are aware that there is a cemetery in the southwest corner of the larger lot. They are waiting for their surveyor to go out and he stated there are also other due diligence procedures that will be taking place.
Ms. Aubrey commented that she received a letter from Mr. Joly earlier in the day stating that they have shut down operations and have remediated (will be before the Commission next month). Staff will have to do a final inspection to verify that it has been done in accordance with their prior approval.
- Mr. Durgarian stated that the access that they utilize is off Route 6 and it is 50-feet wide.
- Mr. Durgarian stated that they have reviewed the POCD and by speaking with Staff and by doing their own research, they felt that it was worth coming in to see if they could get the zone change to GC.
- Mr. Durgarian stated that he did not know because they do not have a planned development of the lot. He explained that they do General Contractor work and 2 out of 5 projects that they have done, all sanitary was on site (no public utility was required for sanitary purposes).

Keith Thurlow asked if there were wetlands on the site, if there are any structures on the site, if the graveyard is identified

- Mr. Durgarian stated that there are wetlands on site.
Jonathan Blake referred to the map and explained about the wetlands. He stated that the maps and data that they have are related to the gravel operation and any further development on the property would require a full A-2 survey with wetland identification.
- There are no other structures on the site other than the graveyard. Mr. Blake indicated the location of the graveyard on the map and stated that he would research to get the name.

Virge Lorents asked whether this is the original Joly Sand & Gravel from the 1950's.

- Ms. Aubrey and Mr. Thurlow explained that it is not. Mr. Blake indicated the location of hydric soils/wetlands.

Keith Thurlow referred to Section 900.2.3 of the Regulations

- Town Attorney, Ken Slater explained that for any zoning text or district change, the Commission acts in its legislative capacity. In Section 900, the Commission has adopted a policy to see information, including a site plan. So, he explained that it would be within the PZC's discretion to adhere to Section 900. He noted that, since this regulation has been in play, there have been instances where the PZC has made text/district changes and has not always followed it. Attorney Slater stated that it would probably be upheld, but he could not say for sure. As a default, he suggested that, in ordinary circumstances, the information in Section 900 should be requested or required. But, he said, in some circumstances, the Commission may not think it is necessary.
- Attorney Slater explained that it could be more of a conceptual site plan. He said that the purpose of Section 900 is to gauge what is envisioned for the site.

Mr. Thurlow asked if the Applicant would be continuing with gravel operation after the zone change, and a general idea of what percentage of the area would be built on.

- Mr. Durgarian stated that they do not have a development plan for the site. He said that they are aware of the GC Zone because they are the ones that submitted the text change which is for a different property on Hartford Pike (behind Aldi's). He explained that what attracted them to the site from the aerial view is that it is a gravel operation on a large site. They are a civil contractor, and they move earth for a living, and they have projects in Connecticut. So, any development that they do, part of the plan would most likely be to re-grade that site, take the

steep cliff hills down (that have been created as part of the existing operation), and then, potentially, could develop the site with any of the potential uses in Village or GC.

- Regarding lot coverage, Mr. Durgarian explained that, based on their application for zone change to GC, they have not considered building on anything greater than the lot coverage percentages allowed within the zone.
- Mr. Durgarian stated that, if he had to guess (looking at the grades), mostly likely there would be an export on the site. He explained that, to acquire this property, they went through their due diligence process, and they see it as most valuable to them (with the most level of flexibility for development down the road) within the Village and GC Zone.

John Sarantopoulos asked how long the driveway is leading into the property, what would be allowed under GC.

- Mr. Blake stated the driveway is 1300 feet. Mr. Thurlow stated that it is an existing roadway that is paved up to the hill. It is a private road. The area is surrounded by residential.
- Ms. Aubrey and Mr. Blake explained about what uses would be allowed under GC (but not limited to 5,000 feet). If special permit use, it would have to go before the PZC. Any use that is in Village Commercial can be adopted in GC.

Mr. Sarantopoulos commented that he feels that some sort of conceptual plan would be in order, in fairness to abutting property owners, and he noted that the number of people in the audience shows that there is concern.

- Attorney Slater explained that the PZC can require what the zone change is for (a general idea of what they have in mind), and he referred to the Regulations for Zoning Map change. The default, under the Regulations, would be to show a conceptual plan.
- Ms. Aubrey asked if the Commission would want to allow the Applicant time to come up with a conceptual plan if the Applicant is willing. Mr. Thurlow stated that he preferred to hear from the public before deciding on that.
- Mr. Blake added that, in terms of potential development, the GC Zone allows for 65 percent lot coverage and under special permit you can go up to 75 percent. Certain special permitted uses provide further direction.
- Mr. Durgarian explained that he would not be able to speak tonight about any potential developments because they do not have any potential development ideas for the property at this time.
- Mr. Sarantopoulos suggested that the Applicant could purchase the property and then apply for a zone change when they determine that the use does not fall within the parameters of the current zone.

QUESTIONS/COMMENTS FROM THE PUBLIC:

William Jones, 597 Providence Pike, stated that the right-of-way is on the side of his property. He voiced concern about his property value being affected and potential increase in traffic. He suggested that equitable settlement would possibly be entertained.

Gill Simmons, 129 Snake Meadow Road, commented that he feels that the Commission should be able to have a straight answer regarding what will be on the property.

Melissa Phillips, 635 Providence Pike, commented that the unknown makes her concerned about what is going on that piece of property. She needs to know more before she can decide if she is for or against it. She is also concerned about property values as she may be looking to sell in a few years.

Linda Lamoureux, 175 Snake Meadow Road, is concerned that it may be a distribution center with trucks all night and lots of traffic. She said there are three access points. Her objections regarding a change to commercial zoning are: They live in the Last Green Valley/Quite Corner for a reason; negative effect on her property value and quality of life; she bought her property because of the property behind her being zoned residential; she would be surrounded by commercial because there is a 50-foot right-of-way on the side of her driveway, on the other side is a triangle-shaped piece of land that will be commercial, and all in the back of her property will be commercial. She voiced frustration as she feels that this is a done deal, and she feels that the Commission needs to get a better idea of what is going to be there and advocate for the property owners. She asked that, if the Application is approved, at another stage in the game, the Commission put measures in place (e.g., 600-foot perimeter around the place, walking trail, preserve some of the green space) to protect the property owners.

Eleanor Skumrow, 175 Snake Meadow Road, stated that she wonders about the transparency and care of Douglas Construction. She asked about the yellow sign that was supposed to be posted. She said that she checked for the sign as she travels along Route 6 all the time, but never saw a yellow sign. She said she had to drive into the driveway to see it because

it was not visible from Route 6. She said that when the quarry fence was open during the daytime, it could not be seen at all. She said that the first time they heard about this was when they received a letter from Douglas Construction, and she feel that maybe more people would have come if they knew this was going to happen in their backyard. There are so many questions left and Town officials should protect the property owners and their values. There is a reason why people want to come to this part of the State.

Edith Cote, 586 Providence Pike, voiced concern for wildlife, traffic, accidents. She asked why they just found out about this. She would like to know what is going to be there.

Russ Levigne, 171 Hubbard Hill Road, who abuts the property on the southwest side on the other side of the river, stated that he agrees with most of the others who spoke. He said that, without knowing what is really going in there, it is difficult. He stated that as an abutting property owner and a contractor himself, he likes the idea that it could be changed to commercial, but he would like to know what is going to go in there.

Christopher Perry, 575 Providence Pike, said they he moved there to get away from commercial and he would like to keep the peace and quiet.

Jim Vance, Landowner, who lives at 220 Snake Meadow Road, explained that he has owned the property for 30 years and he feels badly that he is going to sell it after all the work that his neighbors have done to help him with it. He stated that the Application that is before the Commission is for a change in zone to GC and he explained that Douglas Construction would not be able to put anything in that area that is not allowed in General Commercial. He explained about special permit and that the Commission would review the plans. He said that the questions that should be asked tonight is: How much GC property is in the Town of Killingly; and how much of it is available for someone like the Applicant to come in and put in a business. If there is enough GC already, then maybe you should frown upon this Application. If the Town needs GC, then it's a benefit for the whole Town and maybe a little discomfort for the neighbors. He said that we need to look at the bigger picture. Regarding real estate values, Mr. Vance stated that he believes that any GC piece is worth more money than any residential piece. He said that if a zoning application comes in and if any of these neighbors want to sell their property and change it to GC, they won't be getting less for their property, they will be getting more. He said that the PZC needs to decide for the Town whether we need more GC or not, it's that simple.

Mr. Thurlow asked the Commission Members which direction they would like to take.

Mr. Sarantopoulos stated that he would not object if the sale went through under the present zoning, but he would like to see a conceptual plan to consider a zone change.

Mr. Card clarified, for the record, that the PZC does not have anything to do with approving the sale or not. The PZC is only reviewing the Zone Map Change. He stated that he has no further questions or comments for the Applicant if they have no further information to provide. He stated that he is fine with the information on the record at this point.

Ms. Lorents commented that she does not recall focusing on that part of Town for the POCD. She suggested looking at the POCD to see what was decided for the vision for that part of Town.

Ann-Marie Aubrey read aloud an abbreviated version of a letter submitted by Paul Terwilliger, 63 Snake Meadow Road (full version was provided to Commission Members and is available on the website). Mr. Terwilliger stated that, on the surface, the subject property would seem appropriate for the GC Zone, however, he stated that some properties are better suited for certain uses than others and he included a list of items/questions for the Commission to consider. He stated that the property may only be suitable for a single use and thought that it may be considered spot zoning. Mr. Terwilliger stated that properly zoned property should be able to support whatever use would be allowed and should benefit the community in the future as well as the individual at present. Mr. Terwilliger's opinion is that it may not meet those criteria.

Mr. Card stated that he had reviewed the POCD prior to coming to this meeting. He commented that he would've expected the Applicant to come in and explain why they feel it is appropriate for the Town, why this area is suitable for GC, what potential impacts it may or may not have. Mr. Card stated that he feels that this is lacking in this Application, and he feels that this information is vital for the Commission to make an appropriate decision on this potential Zone Map Change Application. He recommended that if the Applicant can gather more information, that they do so and bring it before the Commission. He, again, stated that if what has been put on the record is what the Applicant wants on the record, he is okay with that.

Ms. Lorents suggested putting it on hold as she would like to visit the site. Mr. Card stated that that could be done when the time comes, and he stated that he feels there is enough information on the record.

Motion was made by Brian Card to close the public hearing for **Zone Map Change Application # 21-1271** – Douglas Const Co (J. Vance/Landowner); 605 Providence Pike & 200 Hubbard Hill Rd; GIS MAP 224, LOT 14; & GIS MAP 245, Lot 001; RD; change zone from RD to General Commercial on both parcels.

Motion failed as there was no second.

Mr. Sarantopoulos commented regarding access to Route 695. Ms. Aubrey clarified that Route 695 was just used as a reference point in the letter.

Ms. Aubrey explained the following:

- While looking through the Dimensional Regulations they found that the access strip would not count toward the total acreage of the property. So, it would not be a road or a street and would not require people to move their houses back 75 feet from the access strip.
- Regarding infrastructure (water/sewer/gas) – Lack of utilities could limit the potential uses. But Ms. Aubrey explained that it would either be allowed, or it would be a special permitted use through Village Commercial or GC. In either case, they would have to come back before the PZC.
- Regarding buffers, the Dimensional Regulations require that only a certain portion of the property can be built or become impervious surface. The Regulations do not allow anyone to build up to a property line.

Mr. Thurlow clarified that the 50-foot right-of-way could potentially allow them to put a road in.

Mr. Durgarian responded to comments:

- He explained that their goal is not to be deceptive. He said that they provided the information that they were asked to provide. He said that the placards' locations were collaborated on and were inspected and put up by the date that they were told that they needed to be.
- Regarding why GC, he explained that they found it on an aerial view and found out that it is, presently, and had been for many years, utilized as an active gravel pit. Regardless of what the zone definitions are, anyone would look at an active mining operation as something that would be considered commercial. Therefore, they felt that the lot may be applicable for the GC Zone because of its existing use.
- In response to some of the public's comments, Mr. Durgarian stated that he would like to convey that he understands that words like general commercial, industrial and development can be scary words to the rural public, and they are not here to ruin anybody's backyard or diminish property values. He said that they were genuine in their approach in writing the letter. He said that they are not proposing to create a concrete jungle in the middle of the woods of Killingly. He explained that as part of their due diligence process, before approaching Mr. Vance, they looked at what the soils look like, where are the wetlands, what would potential limitations be. Norton Brook and the wetland to the west were indicated on the map and Mr. Durgarian stated that, at no time, did they conceptualize accessing this property and going through wetlands to do it. He explained that one of the reasons why they figured Mr. Joly had been mining in that location is because it is a little bit "wet-locked" by wetlands. There are hydraulic soils in that area. He stated that they would not consider developing up against property lines and there is no ability for them to that.
Regarding wildlife, he explained that the wildlife has already been affected and that they looked at it because it is a disturbed site, it is not a green-fields site.
Regarding Mr. Vance's comments, he said that there is a process that we must go through before we can get to the point where we can put a shovel in the ground. He said that this is one of the steps in their acquisition process. He explained that for Douglas Construction to fully entertain the purchase of the site, knowing that they would have the ability to have the options within the GC Zone would enable them to move forward on that acquisition. He stated that there are multiple steps in the process where the public would have the ability to comment.
Mr. Durgarian requested that the Commission table the Application to the next meeting to allow Douglas Construction and their engineers to generate a loose conceptual plan to pictorially identify what area could be affected and what area would be able to adopt a GC use within the lot in question. Although they don't know what the use will be, he feels that anyone who has a concern would at least be able to identify the extents of where that concern could lie on the property.

Motion was made by John Sarantopoulos to continue the public hearing for **Zone Map Change Application # 21-1271** – Douglas Const Co (J. Vance/Landowner); 605 Providence Pike & 200 Hubbard Hill Rd; GIS MAP 224, LOT 14; & GIS MAP 245, Lot 001; RD; change zone from RD to General Commercial on both parcels to the next regularly scheduled meeting of the Planning and Zoning Commission on Monday, October 18, 2021, Town Meeting Room, 2nd Floor, 172 Main Street, at 7:00 p.m.

Second by Virge Lorents.

Discussion: Virge Lorents would like to know that the Applicant understands about the Town's dark-sky initiative and about what kind of refrigeration units might be going all night.

Roll Call Vote: John Sarantopoulos – yes; Brian Card – no; Virge Lorents – yes; Keith Thurlow – yes.

Motion carried (3-1-0).

There was discussion regarding whether the Commission would like to do a site walk. Mr. Sarantopoulos was in favor. Ms. Aubrey will post the site walk.

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

1) **Special Permit Ap #21-1273** – David Kode (Frito-Lay/Landowner); 1886 Upper Maple St; GIS MAP 62, LOT 53; 94 acres; Ind Zone; for portion of proposed building addition that will exceed the maximum height of 50 ft for said zone, with a proposed height of 86 ft, 8.5 inches. **APPLICANT HAS REQUESTED THAT THE START OF THE HEARING BE DELAYED UNTIL MONDAY, OCTOBER 18, 2021, TO ADDRESS NEIGHBORS' CONCERNS – SEE ATTACHED LETTER.**

The start of the hearing for this Application was delayed until Monday, November 15, 2021.

2) **Zone Text Change Ap #21-1264**; Town of Killingly; Special Permitted Use; Add Section 420.2.2. General Commercial Zone; Special Permitted Use; Self-Service Storage Facilities.

Motion was made by Brian Card to approve **Zone Text Change Application #21-1264**; Town of Killingly; Special Permitted Use; Add Section 420.2.2. General Commercial Zone; Special Permitted Use; Self-Service Storage Facilities, with an effective date of October 18, 2021, at 12:01 a.m.

Second by Virge Lorents. No discussion.

Roll Call Vote: John Sarantopoulos – yes; Brian Card – yes; Virge Lorents – yes; Keith Thurlow – yes.

Motion carried unanimously (4-0-0).

3) **Zone Map Change Ap # 21-1271** – Douglas Const Co (J. Vance/Landowner); 605 Providence Pike & 200 Hubbard Hill Rd; GIS MAP 224, LOT 14; & GIS MAP 245, Lot 001; RD; change zone from RD to General Commercial on both parcels.

Continued to Monday, October 18, 2021.

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

1) **Zone MAP Change Ap#21-1274**; Weld, LLC (CGCT Killingly LLC/Landowner); 543 Wauregan Road: GIS MAP 262, LOT 20: General Commercial Zone; application seeks to change the zone of the subject real estate from General Commercial Zone to Light Industrial Zone. **Receive, and if the application is complete, schedule for a public hearing on Monday, October 18, 2021 @ 7:00 PM.**

Ann-Marie Aubrey stated that the Application is complete.

Motion was made by Virge Lorents to receive and schedule a public hearing for **Zone MAP Change Ap#21-1274**; Weld, LLC (CGCT Killingly LLC/Landowner); 543 Wauregan Road: GIS MAP 262, LOT 20: General Commercial Zone; application seeks to change the zone of the subject real estate from General Commercial Zone to Light Industrial Zone, for the next regularly scheduled meeting of the Planning and Zoning Commission on Monday, October 18, 2021, Town Meeting Room, 2nd Floor, 172 Main Street, at 7:00 p.m.

Second by John Sarantopoulos. No discussion.

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

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

1) Regular Meeting Minutes – AUGUST 16, 2021.

Motion was made by Virge Lorents to approve the Minutes of the Regular Meeting of August 16, 2021.

Second by John Sarantopoulos. No discussion.

Motion failed by Voice Vote as Brian Card and Keith Thurlow abstained because they had not attended the meeting.

Ann-Marie Aubrey stated that this will be put on the agenda for the next meeting. Attorney Slater stated that, in a case where the Commission was in a bind over approving minutes, the Members that were not present could watch the video (or listen to the audio) of the meeting and could, then, participate in the vote.

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

1) WORKSHOP – Discussion – should the zoning regulations allow for an accessory structure to be constructed on a vacant parcel of real estate without the primary structure being in place?

Jonathan Blake explained that Staff had discussed how this could be implemented and they concluded that it would have to be implemented as its own use in the Residential Zone. For example, a garage or a shed would be a permitted use or maybe a special permitted use in a Residential Zone. For a text change application, Staff suggests defining language in terms of limit on size, limit it to residential use, etc.

There was discussion and Ms. Aubrey explained that this is a Right-To-Farm Community and that it is currently permitted under the Agricultural Regulations for an agricultural use, but not for a private use. Ms. Aubrey explained that the Commission would need to define what would be considered a private use and that they would need to consult with Attorney Slater. Attorney Slater stated agreement with Staff and explained that there should be language to limit it so that it would not become commercial.

Mr. Sarantopoulos expressed concern for enforcement. Mr. Blake explained that they would want clarifying language for enforcement purposes. Discussion continued. Mr. Thurlow stated agreement that it should be defined and include language regarding enforcement. Mr. Sarantopoulos suggested that the purpose for it cannot violate any existing zoning (e.g., vehicles). Mr. Thurlow stated agreement.

There was a consensus to move forward. Ms. Aubrey stated that Staff will have draft language prepared for the November meeting.

2) WORKSHOP – Discussion – Five Mile River Overlay District

Mr. Thurlow asked the Commission if they would like Staff to draft language.

Mr. Sarantopoulos stated that he looked at Inland Wetlands and then consulted with Mr. Blake and found that there isn't anything in the overlay that isn't in the Wetlands. He asked, why do we even have the overlay since Inland Wetlands controls the whole River and not just the small section in the overlay? Ms. Aubrey explained that someone had owned property where they could see the river from the residence and when they could no longer see the river, they thinned out the trees and some people thought it was a clear-cutting. Clear-cutting, as defined by the State, is very difficult to enforce because it is not very well defined. It is not clear why the Overlay goes along certain portions. She referred to it is a possible snob zoning situation.

The map was displayed, and Mr. Blake explained the hundred-year flood area as defined in the 1985 FEMA maps. New maps are due to come out shortly. He stated that they haven't changed much as this area still stays as a Zone A flood hazard which means there is no defined elevation. He indicated the boundary of the Five-Mile River Overlay which is not the entirety of the Five-Mile River which runs through about half of the Town. It follows the road in some areas, in other areas it does not. It does not appear to follow a longitude or latitude, or a contour line and it does not follow the hundred-year flood plain and it does not follow the 200-foot upland review area that we have with the wetlands. It was put into the record in 2001. Neither he nor Ms. Aubrey now its origin as they were not employed by the Town at that time.

Mr. Thurlow asked if a Wetland's permit would be required to cut trees in the area. Mr. Blake stated that, if you are inside of the wetlands, there are jurisdictional rulings under the Wetland's Regulations. You would have to go before the IWWC,

and they will let you know if it is as a right. Typically, if you are not disturbing the soils (filling or dredging) then it is as a right. You can clear-cut inside of a wetland under the Regulations, but you cannot remove the stumps without the proper permits. There was discussion regarding stump removal.

Mr. Thurlow asked about docks. He said there are residents on Stone Road who were never allowed to have access to the river. He asked if they could apply under Wetlands to put in a dock. Mr. Blake explained that they can, but there may be some things to consider such as deed restrictions.

Discussion continued regarding certain uses that are not allowed. Mr. Blake stated that there are some historical preservation areas and critical habitat (as defined by DEEP), and these things would need to be addressed if there were a special permit application for a gravel operation.

Ms. Aubrey spoke of options:

- They could make layer upon layer of maps and make an outline taking all those things into consideration. Then you would see what kind of configuration around the river those maps would create to determine what would be within the Five-Mile River Overlay that would need to be protected.
- It would make more sense to go along the whole length of the river rather than about 1/3 of the river.
- Mr. Blake stated that it could be looked at as an overlay, or a re-zone, or as an addition to the POCD.

Mr. Thurlow stated that you have to make it enforceable. He asked if we are duplicating what already exists. Ms. Aubrey explained that it is another way to educate the people of the critical areas around the river. It would give a total overview.

Mr. Card stated that he would like to get rid of it because he feels that it is duplicative. But, if we are going to use it and we want people to address something, he suggests that we put a district in that has some sort of criteria that makes sense and then say, if you're in this district, for whatever application you bring before the PZC, you must address the protection of whatever you are trying to protect.

Attorney Slater spoke about clear-cutting. He suggests going through the list of uses and getting rid of the stuff that doesn't seem to have anything to do with the protection of a sensitive area. Ms. Aubrey suggested labeling the different sensitive areas throughout the Town which she feels will help with enforcement because of all the research that has been done.

Ms. Aubrey stated that they can develop the different layers of maps to determine what it is that we are trying to protect and preserve in the area thinking of the residents there now and in the future.

Mr. Blake stated that, generally speaking, removable docks (plastic or metal) are an allowed use. State regulations will need to be checked. Ms. Aubrey stated that they will need to do a lot of research on this.

Mr. Sarantopoulos voiced his opinion to eliminate it because he feels it is redundant.

Mr. Blake spoke of the various tools that they utilize in terms of overlay. He displayed a portion of the Five-Mile River and explained/orientated the area along the river.

Mr. Thurlow asked the Commission Members what they want to do.

- Mr. Sarantopoulos stated that the PZC should select a few things to focus on to make a contribution. He is in favor of creating the layers of maps. He feels that the Five Mile River Overlay District should be eliminated.
- Mr. Card referenced the POCD and all the surveys from people who want to protect the environment/natural resources. He likes the idea of combining the maps to use as a reference tool. He is okay with excluding a few things but use it as a point of reference for people to address the environmental protection in the area.
- Ms. Lorents stated agreement.

Ms. Aubrey stated that to remove it from the Regulations, we need to have a public hearing. She feels that they need to create the map before the public hearing and replace the Overlay Zone with a protective corridor. It would be enforceable because it would be based upon State information. Discussion continued. Staff will start working on it.

Ms. Aubrey introduced Allison Brady to the Commission. Ms. Brady will also be working on this project.

XI. CORRESPONDENCE – None.

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

A. Zoning Enforcement Officer's & Zoning Board of Appeal's Report(s) – None.

B. Inland Wetlands and Watercourses Agent's Report – None.

C. Building Office Report – None.

XIII. ECONOMIC DEVELOPMENT DIRECTOR REPORT – No representation.

XIV. TOWN COUNCIL LIAISON REPORT - No representation.

XV. ADJOURNMENT

Motion was made by John Sarantopoulos to adjourn @ 9:15 p.m.

Second by Virge Lorents. No discussion.

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

Respectfully submitted,

J.S. Perreault
Recording Clerk

ZONING PRACTICE

OCTOBER 2021



AMERICAN PLANNING ASSOCIATION

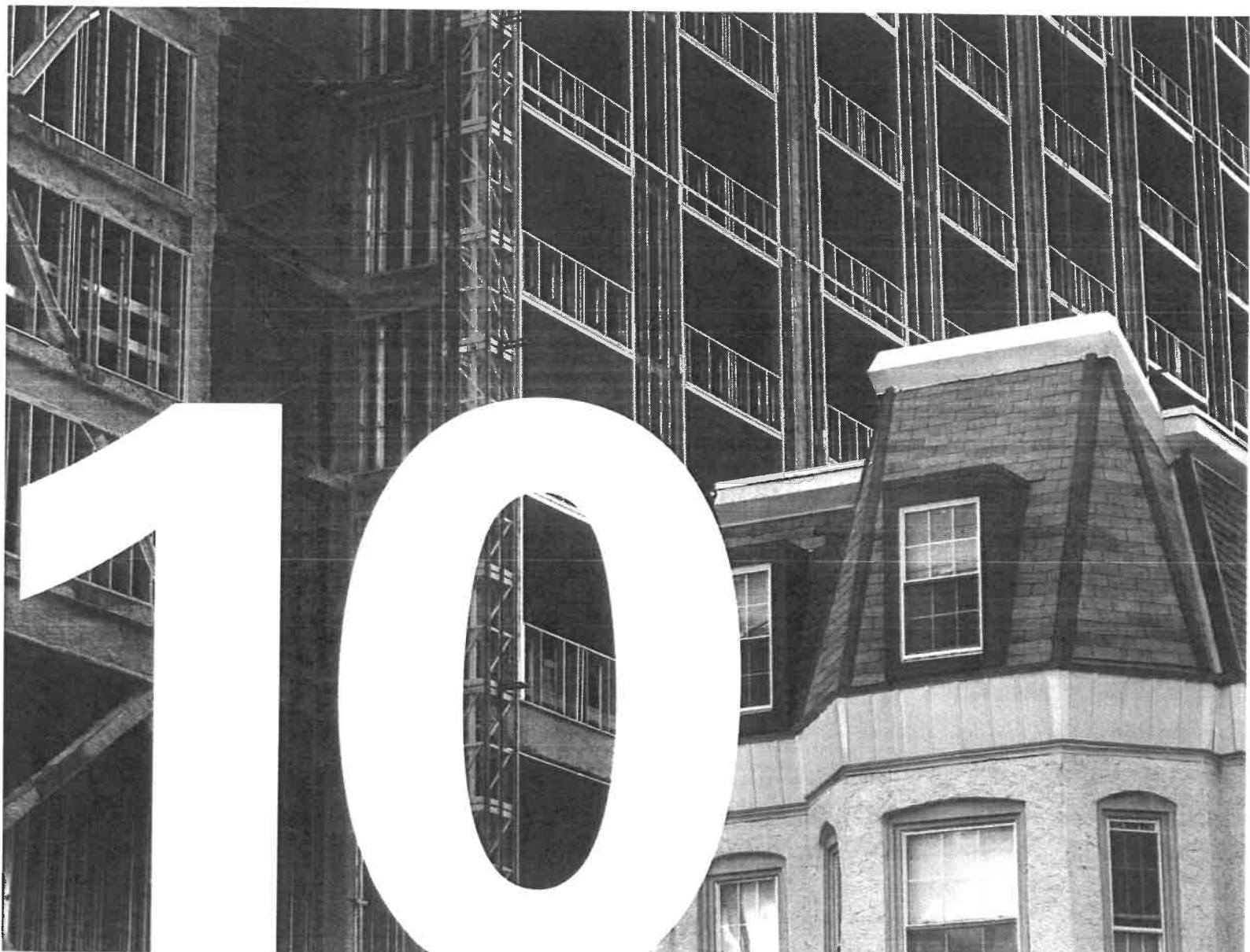
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TOWN OF KILLINGLY

➡ ISSUE NUMBER 10

PRACTICE DYNAMIC ZONING



Dynamic Zoning

By Patrick Braga

The city of the future will not be one that adheres to a pre-designed projection of future urbanism. It will be one whose rules for managing change (whether growth, shrinkage, or stagnation) are best equipped to respond to a variety of potential outcomes. As American cities' demographics continue to change, zoning and development regulations have not always kept pace. By suppressing the production of new housing, many American cities are making existing housing options less affordable or typologically inadequate for different household preferences. In response, this article proposes *dynamic zoning* as a new framework for amending existing and designing new land-use ordinances and development regulations.

Dynamic zoning assembles and conceptualizes emerging land-use practices as a coherent palette of tools to make land-use change predictable and data driven. In the prevailing approach to zoning, adopted local laws either adhere to a singular, static vision of the future or create opportunities for local elected and appointed officials to implement standards unevenly. In contrast, dynamic zoning proposes that communities predetermine the *mechanisms* of zoning change based on agreed-upon indicators or decision triggers. Building on both contemporary and historic planning practices, this article will explain the need for dynamic zoning as a unified zoning practice, survey intellectual precedents, and outline categories of land-use planning tools to transform zoning into an increasingly dynamic toolkit for managing urban change.

THE NEED FOR DYNAMIC ZONING

Despite increases in economic opportunity and population, many cities across the United States have struggled since the Great Recession to allow housing supply to respond swiftly to demographic change. Old zoning codes may offer limited options for new construction, and they often project a static view of how future buildout will look.

Established neighborhood groups interested in preserving and increasing property values may oppose construction of different, denser housing types on the purported basis of neighborhood character. By shifting attention to potential formal contrasts between old and new buildings, the notion of character often appears as a shield to obscure current residents' apprehensions about how social behavior in the neighborhood might change (for instance, whether the introduction of affordable housing will attract crime, or whether student-oriented housing will generate late-night noise). Rezoning a district or even a parcel, therefore, becomes an energy-intensive prospect for a community, even where land uses have already changed, such as where formerly single-unit houses for families have largely become homes for unrelated adult tenants.

On the other hand, consider a city experiencing population decline but whose zoning code aimed to accommodate thousands more residents than the present reality. Loss in population, though, does not mean complete loss in demand for new housing because shrinking cities continue to experience economic and demographic change. Yet zoning may not adequately reflect strategies to link or stabilize neighborhoods in a shrinking city.

Zoning, as a local-government legal practice, frequently intends to implement a single scenario envisioned in a comprehensive plan. Yet in cities with extensive design review, site plan review, and environmental review processes, zoning almost becomes a contractual negotiation. In cities like Boston or Cambridge, Massachusetts, zoning variances have lost their original meaning of relieving hardship, a fact which even city councilors have bemoaned (Levy 2019). In many cities, variances instead become vehicles for granting discretionary waivers. Even in small cities like Ithaca, New York, projects that fully conform to zoning regulations and comprehensive plan visions are frequently encouraged to downsize in response to fear

of change in a densifying urban core (Crandall 2019).

In many places, then, zoning has become either a static set of laws controlling private property decisions or an unpredictable adventure in city hall negotiations. Dynamic zoning proposes a new attitude to zoning: a recognition that cities and their zoning districts can and should change in appropriate ways, that a shortage of baseline-quality housing has been a perennial struggle of the planning profession, and that scenario planning can become more action oriented.

THE DYNAMIC ZONING PROPOSITION

Consider if zoning ordinances responded actively to demographic indicators. What if certain neighborhoods or zoning districts could rezone automatically or systematically if certain conditions were met, such as if a summary statistic from the Census Bureau passes a certain threshold? What if more cities were required to revisit their land-use laws on a regular basis against stated comprehensive planning goals? What if zoning ordinances created built-in opportunities for learning from recent decision-making patterns? Or imagine if zoning treated shrinking cities not as *tabulae rasae*, but as vehicles of opportunity where the limited demand for new development can be sited in appropriate ways.

To achieve these goals, more zoning ordinances should adopt the techniques of automatic rezoning, threshold-based decision-making, and mandatory periodic review.

Several jurisdictions have already experimented with these practices across the United States. Yet heretofore few urban planners have approached zoning as an explicitly dynamic and data-responsive policy tool. In the same way that *growth management* has become a term of art in the profession, my aim is to assemble an umbrella term of *dynamic zoning*—a palette of tools, strategies, and precedents that deliberately make zoning codes more flexible

and responsive to market data and demographic data. As ruled in the 1954 Florida Supreme Court decision in *City of Miami v. Ross et ux.*, “in view of the change in character in the area, a change in zoning is no longer a discretionary matter; it becomes the duty of the city to do so” (ASPO 1955b).

Other authors have also arrived at the term “dynamic zoning” to describe distinct yet related concepts. Don Elliott (2009) suggested zoning methods that do not prescribe a goal-oriented future form *per se*, but rather allow for incrementally larger buildings in response to their physical context. Todd Litman at the Victoria Transport Policy Institute has approached the idea of a “dynamic city” specifically within the goal of providing more affordable housing (2021). Other authors have also used the term in different contexts, such as electric power operation (Yang, Wan, and Tang 2008) or responsive changes to forest management practices (Zollner et al. 2005). [Editor’s Note: Previous *Zoning Practice* authors have also proposed dynamic approaches to zoning. See the September 2011 and March 2020 issues for examples.]

Other intellectual precedents include the practice of scenario planning, which may inform a comprehensive plan but seldom translates into adopted language in the zoning ordinance; graduated density zoning as proposed by Donald Shoup, in which densification is contingent on landowner cooperation (2008); and performance zoning, which arose out of mid-twentieth-century critiques of whether zoning had lived up to its intended promises (e.g., Bair 1962).

AUTOMATIC REZONING

Automatic rezoning has three primary approaches: predetermined succession, automatic rezoning by petition, and data-driven rezoning.

Predetermined Succession

Predetermined succession establishes rules for a parcel’s zoning district to move up or down in measures of intensity over time. Succession clauses may establish a timeframe within which a neighborhood or corridor’s zoning district may increase in density, height, or lot coverage in a predetermined sequence at a particular future moment. This approach to automatic rezoning may offer a favorable alternative

to moratoria. Succession clauses in zoning codes are particularly applicable in cases where zoning codes have successional land-use intensities, such as codes where a “Business-2” district incorporates all uses in “Business-1” and “Residential-3”, and where “Residential-3” incorporates uses allowed in “Residential-2” and “Residential-1,” and so on.

Automatic Rezoning by Petition

To allow automatic rezoning by petition, a city would adopt rules by which a property owner may request that their parcel be allowed to transition across zoning districts by staff review and without a vote of the city council. In cities with a large number of zoning districts, this technique recognizes that more than one zoning district may be suitable for meeting a comprehensive land-use planning goal, and it may allow for an organic extension of prevailing development patterns over time.

In the 1950s, for instance, North Carolina General Statutes §160-173 used to “provide that [...] at any intersection of streets within a city or town [...] property owners may petition the city] to rezone the remaining corners in the same manner as the other corners for a distance not to exceed more than 150 feet from the property line of the intersecting additional corners” (ASPO 1955a). It would be wise for cities to establish clear boundaries within which automatic rezoning by petition may occur, such as by defining bounding parcels or intersections along a corridor.

Similarly, Oakland, California, in 1931 had a provision in its zoning code that would allow residential-zoned parcels located directly across from business parcels to be rezoned by petition of the property owner to be within the business zone (Comey 1933).

Data-Based Automatic Rezoning and Data-Based Rule-Making

With data-based automatic rezoning, planners would define a decision-making procedure for evaluating data and administratively modifying zoning districts. Ideally, these decision-making systems should not dramatically increase regulatory burden on planning staff implementing a land-use ordinance. However, because most urban planners in the United States are familiar

with data collected and communicated by the Census Bureau, referencing five-year American Community Survey (ACS) data may be a reasonable approach to measure intertemporal trends in a community’s share of renters and owners, vacancy rates, household composition, and rent burden.

Beyond housing units, a data-based approach can also be woven into other development regulations, such as parking requirements. After all, one perennial concern in older cities facing housing pressures is on-street parking availability versus how much off-street parking the city should require from new development. Here are two examples of building data-responsiveness into parking requirements. First, a planning commission may waive parking requirements if an applicant presents empirical evidence that car ownership is lower for a certain demographic group or in a certain part of the city than the zoning-prescribed standard (ACS table B25044 captures this). Alternatively, the developer can measure the existing parking capacity of a street by counting on- and off-street parking spaces, and then compare that to the number of housing units on the block. If the additional number of units the developer proposes can have their parking requirements accommodated by existing on-street parking capacity (if, given the ratio of cars per household, there are more on-street parking spaces than number of units), then less on-site parking might be required.

Suppose a city uses a zoning code similar to Cincinnati’s, with these zones of successive intensity: T3 Neighborhood (T3N, primarily detached residential), T4 Neighborhood Medium Footprint (T4N.MF, medium density, with an “open” subzone that allows more commercial uses), and T5 Neighborhood Shallow Setback (an even denser zone). Under a hypothetical automatic rezoning system, once a block (figure 1-A) reaches a target physical buildout (e.g., 70 percent of the maximum allowed by zoning) or a certain demographic indicator from the Census Bureau, it is automatically rezoned up the intensity ladder (figure 1-B). Parcels within a certain radius of the upzoned district can also be upzoned, whether according to a rule or by petition of the property owners (figure 1-C).



SUNRISES, SUNSETS, AND THRESHOLDS

To recognize the temporal nature of urban change, zoning codes should establish rules that are dependent on time-based boundaries (e.g., a specific policy beginning or ending on a certain date) and numeric thresholds (e.g., responding to the number of permits issued or an increase in vacancy rates).

Sunset Clauses With Thresholds

Sunset clauses are an effective regulatory strategy to pilot a land-use rule or in response to a public policy target. An effective example of this strategy is the Rosemary District of Sarasota, Florida. This district adjacent to the city's downtown core had been zoned for moderately low density (25 units per acre, which generates the residential density of a townhouse neighborhood) for some time. However, private development interest lagged, and vacancies were high. To incentivize development in an otherwise desirably located area, the city allowed a temporary increase in residential density to 75 units per acre until the neighborhood reached the earliest of 1,775 permitted units or the end of 2018. Thus, this sunset clause employed both temporal limits typically associated with sunsets as well as a data-driven threshold.

As a result of this experiment, the city learned that 75 units per acre can be desirable for the area. However, the absence of public space and other amenities in this neighborhood suddenly became noticeable, since the Rosemary District previously did not have as much of a residential presence. As a result, the city began exploring trading the higher per-acre unit density in return for public benefits. Thus, by deploying a dynamic zoning strategy, Sarasota was able to pilot a land-use strategy while creating an opportunity for more nuance in the city's development regulations.

Sunrise Clauses With Thresholds

In December 2020, I was invited to present to the City of Detroit's Housing Equity Council a vision for how the city government and the autonomous Detroit Housing Commission (the local housing authority) could collaborate to create high-quality housing in the city. Though Detroit is commonly known as a quintessential shrinking city with high poverty, shrinking cities do not immediately

indicate an absence of demand for new housing units. In fact, the contrary is true: in the face of dramatic demographic and economic change, much of Detroit's existing housing stock became increasingly unsuitable for meeting families' needs. According to 2019 ACS data, an estimated 68,000 families in Detroit are rent-burdened, and the housing quality in much of the city is not comparable to baseline modern standards set in other constituent cities of the metropolitan area.

Because an incredible amount of land in Detroit is publicly owned by a local land bank authority, I proposed an eight-part policy program that would encourage clustered disposition of land bank parcels along the city's highest-capacity and highest-frequency transit routes. I coupled this proposal with the notion that the city, housing commission, philanthropic partners, and private developers should partner to guarantee a certain level of housing units over time (implementing the idea of development guarantees from Owens, Rossi-Hansberg, and Sarte 2020). The land-owning public sector could contribute money or property directly into a project where private developers may otherwise hesitate to act, absent coordination among landowners to create a cohesive land-use vision.

Specifically, I proposed that once a certain percentage of parcels within a quarter-mile of bus stops received building permits, the next transit stop along the corridor would become "available" for

permitting and disposition, and affordable housing developers could have first pick of land to acquire. The ultimate goal was to use sunrise clauses (allowing disposition and permitting of public land at a specific moment in time) in response to data-based thresholds (a predetermined unit floor—a mirror of Sarasota's unit cap in the Rosemary District).

As demonstrated in both Sarasota and Detroit, the dynamic zoning practices of establishing temporal and numeric sunrises, sunsets, and thresholds can make local land-use laws more situationally responsive to a community's changing needs.

Implementation Suggestions

Table 2 presents a series of suggestions to help communities implement sunrises or sunsets with thresholds.

MANDATORY PERIODIC REVIEW

Within a dynamic zoning framework, laws may mandate that appointed commissions periodically review existing land-use laws or the results of discretionary and rule-based decision-making. The primary end goals of periodic land-use reviews should be to

- ensure that adopted land use legislation faithfully implements comprehensive plan goals or neighborhood area plans; and
- identify longstanding practices that merit reconsideration.

TABLE 2. KEY IMPLEMENTATION QUESTIONS FOR SUNRISES, SUNSETS, AND THRESHOLDS

Questions	Suggestions
Do you want to strengthen your community's automatic rezoning rules to produce more housing?	Consider using expiration dates or sunrise dates alongside housing production targets as thresholds for turning rules on and off.
Are there parts of your city where the community feels comfortable piloting a new density level or allowed use?	Consider using sunsets and threshold indicators to pilot a particular land use strategy without long-term commitment.
Is your community's economy not as strong, so that you want to avoid the risk of self-cannibalizing housing markets?	Use dynamic zoning strategies to encourage appropriately-timed new development around desirable amenities such as fixed transit routes, schools, job centers and shopping districts, or parks.
Does your comprehensive plan identify different outcome scenarios?	Use a combination of threshold indicators and automatic rezoning to make desirable scenarios legislatively possible.

For instance, a city could take advantage of a careful reading of its development regulations to interrogate whether its height limits, density controls, or required lot coverage hinder appropriate levels of housing production, or if these effectively create a proxy barrier to new housing. Either planning staff or outside consultants could conduct these reviews with the deliberate intention of identifying potential opportunities for zoning amendments to facilitate more housing production.

Reviewing Land-Use Laws

Currently, mandatory periodic reviews of land-use laws tend to emanate from the state level and are associated with state mandates for local comprehensive planning. Michigan, Florida, Minnesota, and Washington all require regular review of adopted land-use laws relative to policy established in the local comprehensive plan.

However, there are organic local government practices that offer reasonable examples of how municipalities can engage in periodic land-use review. For instance, when I served on the planning commission in Ferndale, Michigan, the board chair noted at a meeting how an increasing number of applications to the board of zoning appeals (BZA) is usually a good indicator that the comprehensive plan and zoning code need to be revisited. A staff planner in Ferndale in 2021 also convened a small working group of appointed volunteers from both the BZA and the planning commission to offer thoughts on potential amendments to and reviews of selected portions of the zoning ordinance with the explicit intent of identifying ordinance changes.

Dynamic zoning is particularly complementary to comprehensive or master land-use planning because it creates opportunities for multiple potential and desirable futures to become reality. Consider, for instance, how Michigan state statutes (§125.3833) define a master plan as projecting at least two decades into the future. Yet even within this long time horizon, the state requires that “At least every 5 years after adoption of a master plan, a planning commission shall review the master plan and determine whether to commence the procedure to amend the master plan or adopt a new master plan” (§125.3845). Similarly, Hawai‘i’s statutes require that land-use regulations

be reviewed every five years to determine whether to initiate amendments (§205-18).

Reviewing Land-Use Decisions

The goals of reviewing the results of decisions by appointed bodies should be to identify

- a. patterns in board-approved deviation from underlying zoning;
- b. patterns in the kinds of deviation that applicants request; and
- c. spatial distribution of requests for zoning waivers or variances.

Commenting on zoning practice in Indianapolis in the 1950s and early 1960s, an attorney once wrote that “[t]he variance problem is not going to disappear [...] antique ordinances give rise to some variances, but strict new ordinances can also cause a surge of variance applications” (Caldwell

1962). Mandatory periodic reviews create a structured means for communities to treat requests for zoning deviations as crowd-sourced ideation for zoning amendments. The corpus of decision-making records (e.g., zoning board meeting minutes) can also serve as a barometer of whether adopted laws are implementing local public policy goals faithfully. Ideally, patterns identified would be communicated from planning staff to elected officials as recommendations for zoning amendments.

This practice recognizes that, as well-intentioned as they may be, zoning laws and development standards may be creating unnecessary barriers to housing production, even when the results of decision-making bodies suggest that other standards successfully further the health, safety, morals, and welfare of a community.

TABLE 3. KEY IMPLEMENTATION QUESTIONS FOR MANDATORY PERIODIC REVIEWS

Questions	Suggestions
Has your community recently adopted a new comprehensive plan?	Consider whether a committee, with the support of planning staff, should meet once a year to review the land-use laws implementing your plan for a given district or neighborhood, and whether any ordinances warrant amendments to implement that vision more faithfully.
When was the last time your community's zoning ordinance was significantly updated? Is it time to reconsider longstanding provisions?	In either case, consider whether a mandatory periodic review process could help both make targeted changes to your zoning ordinance as well as reviewing the impact of ordinance changes after adoption.
Is your city council seeing more project-specific land-use petitions (e.g. planned unit development proposals) than district-scale discussions?	
Are you an elected official?	Consider requesting your planning staff to comb through recent BZA petitions or discretionary waivers by the planning board to identify recurring patterns. What kinds of zoning deviations do applicants request, and what kinds of deviations do the boards grant? Are these requests are originating in a certain part of your city?
Are you a staff planner or a citizen advocate?	Consider taking the initiative to do the above, and to report to elected officials any patterns observed and recommendations that emerged from your analysis.

Implementation Suggestions

When built into land-use law, the dynamic zoning practice of mandatory periodic review creates a statutorily required opportunity for cities to investigate a specific kind of data or data source (e.g. requests for PUDs and zoning waivers), which adds structure and legitimacy to the process of proposing zoning amendments. Table 3 presents a series of suggestions to help communities implement mandatory reviews.

CONCLUSION

Much like other emergent urban planning frameworks and techniques, dynamic zoning already has its roots in existing land-use practices. By assembling these strategies together and conceptualizing them as a palette of options, local governments can be more proactive about ensuring that cities are ready to respond to change dynamically. Cities that want to make their zoning more dynamic should adopt automatic rezoning, sunrises and sunsets, threshold-based rule changes, and mandatory periodic review of land-use and development regulations. These data- and practice-responsive tools, especially when combined with one another, have the potential to provide a framework for predictable urban change, implement scenario planning more directly, and ensure that data-driven decision-making is always at the core of local land-use planning.

ABOUT THE AUTHOR

Patrick Braga is an urban planner, real estate development professional, and classical composer based in metro Detroit. He earned undergraduate degrees at Cornell University, was a visiting student at the University of Oxford, and earned a Master in Urban Planning with Distinction at Harvard University. He currently works with Visum Development Group, a housing developer focused on urban infill in Upstate New York and Idaho, and he used to work for the Detroit Housing Commission. Braga has served on municipal boards in Ithaca, New York; Ferndale, Michigan; and Caroline, New York, and his music has been performed in four countries.

REFERENCES

- American Society of Planning Officials (ASPO). 1955a. "Corner Defined. Automatic Rezoning Denied." *Zoning Digest* 7(2): 34–35. bit.ly/2WHE97M
- . 1955b. "Rezoning by the Court. Change of Opinion on Rehearing." *Zoning Digest* 7(2): 35–37. bit.ly/2WHE97M
- Bair, Frederick H., Jr. 1962. "Is Zoning a Mistake?" *Zoning Digest* 14(9): 249–257. bit.ly/3kFEX54
- Caldwell, J. R. 1962. "Variances in the Planning Process: the Indianapolis System." *Zoning Digest* 14(10): 281–285. bit.ly/3yp0KTH
- Comey, Arthur. 1933. *Transition Zoning*. Cambridge, Mass.: Harvard University Press.
- Crandall, Brian. 2019. "Ithaca Planning Committee Preps Zoning Changes for West State Street." *The Ithaca Voice*, June 13. bit.ly/2WATyey
- Elliott, Don. 2009. "Towards 'Dynamic' Zoning." *Planetizen*, February 2. planetizen.com/node/36937
- Levy, Marc. 2019. "Massive CambridgeSide Project Is Approved, Transforming Mall Into Mini-Neighborhood." *Cambridge Day*, December 17. bit.ly/3gMNMIs
- Litman, Todd. 2021. "Affordable-Accessible Housing in a Dynamic City." Victoria, British Columbia: *Victoria Transport Policy Institute*. vtpi.org/aff_acc_hou.pdf
- Murdock, Zach. 2017. "Sarasota Looks to Keep Rosemary District Density Incentives." *Sarasota Herald-Tribune*, July 23. bit.ly/2WQ5nJt
- Owens, Raymond III, Esteban Rossi-Hansberg, and Pierre-Daniel Sarte. 2020. "Rethinking Detroit." *American Economic Journal: Economic Policy* 12(2): 258–305. bit.ly/3y5t5IM
- Shoup, Donald. 2008. "Graduated Density Zoning." *Journal of Planning Education and Research* 28(2): 161–179. bit.ly/3yvqXja
- Yang, Wen; Qiulan Wan; and Yi Tang. 2008. "Congestion Management Based on Dynamic Zoning and Coordinated Auctioning Method." *Third International Conference on Electric Utility Deregulation and Restructuring and Power Technologies*: 527–532. bit.ly/38tFiIT
- Zollner, Patrick, Eric J. Gustafson, Hong S. He, Volker C. Radeloff, and David J. Mladenoff. 2005. "Modeling the Influence of Dynamic Zoning of Forest Harvesting on Ecological Succession in a Northern Hardwoods Landscape." *Environmental Management* 35(4): 410–425. bit.ly/3DGuXkQ

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