



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

**MONDAY – MAY 17, 2021**

**Regular Meeting  
7:00 PM**

**TOWN MEETING ROOM – 2<sup>ND</sup> FLOOR**

**Killingly Town Hall**

**172 Main Street**

**Killingly, CT**

2021 MAY 14 AM 9:41  
KILLINGLY, CT  
PLANNING AND ZONING COMMISSION

**DUE TO COVID-19 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:** Pursuant to Governor's Executive Order 7B, all public comments can be emailed to [publiccomment@killinglyct.gov](mailto: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](http://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 132-433-9226 when prompted.

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

**NONE**

**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 132-433-9226 when prompted.

Hearings' segment closes.  
Meeting Business will continue.

**VII. UNFINISHED BUSINESS – (review / discussion / action)**  
NONE

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

1) **Site Plan Review Application #21-1261**; SimRay Real Estate Holdings, LLC; 75 Soap Street, Killingly, CT 06241; GIS MAP 80, LOT 2; ~84 acres total, only a 473' x 460' portion to be used for temporary parking of tractor trailers.

Receive, and if the application is complete, the applicant is requesting that the site plan approval be completed by staff.

2) **Site Plan Review Application #21-1262**; Kevin Crump/Frito-Lay; 1886 Upper Maple Street, Killingly, CT 06241; GIS MAP 62, LOT 53; ~79.0 acres; Industrial Zone; the project consists of a new building expansion with storm water and asphalt improvements. Receive, and if the application is complete, schedule for action at the next regularly scheduled meeting, Monday, June 21, 2021.

3) **Special Permit Application #21-1263**; Desmarais & Sons, Inc.(Landowner – 145 Alexander Parkway, LLC); 145 Alexander Parkway; GIS MAP 36, LOT 1; ~26.0 acres; Industrial Zone. Applicant proposes to modify grading from Previous Approval. Receive, and if the application is complete, schedule for a public hearing at the next regularly scheduled meeting, Monday, June 21, 2021.

4) **Zone Text Change #21-1264**; Town of Killingly; Special Permitted Use; Add Section 420.2.2.p General Commercial Zone; Special Permitted Use; Self-Service Storage Facilities. Receive, and if the application is complete, schedule for a public hearing at the next regularly scheduled meeting, Monday, June 21, 2021.

5) **Zone Text Change #21-1265**; Douglas Construction Company; Special Permitted Use; Add Section 420.2.2.q General Commercial Zone; Special Permitted Use; Distribution Center Facility. Receive, and if the application is complete, schedule for a public hearing at the next regularly scheduled meeting, Monday, June 21, 2021.

Applications submitted prior to 5:00 PM on MONDAY, MAY 10, 2021 will be on the agenda as New Business, with a "date of receipt" of MONDAY, MAY 17, 2021 and may be scheduled for action during the next regularly scheduled meeting of MONDAY, JUNE 21, 2021.

Applications submitted by 12:00 noon on FRIDAY, MAY 14, 2021 will be received by the Commission ("date of receipt") on MONDAY, MAY 17, 2021. However, these applications may not be scheduled for action on MONDAY, JUNE 21, 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 – March 15, 2021 (tabled from last meeting)
- 2) Regular Meeting Minutes – April 19, 2021

**X. OTHER / MISCELLANEOUS – (review / discussion / action)**  
NONE

**XI. CORRESPONDENCE**

1) **Environmental Land Use Restriction; 30 Rock Avenue, Killingly, CT.** Letter received 04/26/2021 from Murtha Cullina Attorneys at Law; regarding same. A full copy of the correspondence and restriction is in the Planning and Development Office if anyone wishes to read it.

**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**

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

1) **Site Plan Review Application #21-1261**; SimRay Real Estate Holdings, LLC; 75 Soap Street, Killingly, CT 06241; GIS MAP 80, LOT 2; ~84 acres total, only a 473' x 460' portion to be used for temporary parking of tractor trailers.

**Receive, and if the application is complete, the applicant is requesting that the site plan approval be completed by staff.**

- (\*) **Staff Comment:** This application is complete. This application is for the temporary parking of tractor trailers during the renovation/construction of the abutting parking approved at last month's meeting. As staff will be closely involved during construction of the above referenced parking lot, and this is only a temporary situation the applicant and staff request that the review/discussion/action on this application be done at staff level. Also, the Town Engineer will make sure that everything is MS4 compliant.

2) **Site Plan Review Application #21-1262**; Kevin Crump/Frito-Lay; 1886 Upper Maple Street, Killingly, CT 06241; GIS MAP 62, LOT 53; ~79.0 acres; Industrial Zone; the project consists of a new building expansion with storm water and asphalt improvements. **Receive, and if the application is complete, schedule for action at the next regularly scheduled meeting, Monday, June 21, 2021.**

- (\*) **Staff Comment:** This application is complete. As Commission Members may have heard, the Governor announced that Frito-Lay is going to expand their production at the Killingly site. This application is Phase I of that expansion.

3) **Special Permit Application #21-1263**; Desmarais & Sons, Inc.(Landowner – 145 Alexander Parkway, LLC); 145 Alexander Parkway; GIS MAP 36, LOT 1; ~26.0 acres; Industrial Zone. Applicant proposes to modify grading from Previous Approval.

**Receive, and if the application is complete, schedule for a public hearing at the next regularly scheduled meeting, Monday, June 21, 2021.**

- (\*) **Staff Comment:** This application is complete. The applicant proposes to modify the grading at the site from their previous approval. They wish to keep the same set back; however, they want to bring the "large berm" down to grade of the neighboring parcel.

4) **Zone Text Change #21-1264**; Town of Killingly; Special Permitted Use; Add Section 420.2.2.p General Commercial Zone; Special Permitted Use; Self-Service Storage Facilities. **Receive, and if the application is complete, schedule for a public hearing at the next regularly scheduled meeting, Monday, June 21, 2021.**

- (\*) **Staff Comment:** This application is complete. The application is being submitted by staff as staff realized we had no regulations regarding self-storage facilities, and we were getting several questions regarding same. Having a public hearing on June 21, 2021 will give staff enough time to notify NECCOG and do the proper notification to the public. A copy of the proposed regulation was enclosed in your packet.

5) **Zone Text Change #21-1265**; Douglas Construction Company; Special Permitted Use; Add Section 420.2.2.q General Commercial Zone; Special Permitted Use; Distribution Center Facility. **Receive, and if the application is complete, schedule for a public hearing at the next regularly scheduled meeting, Monday, June 21, 2021.**

- (\*) **Staff Comment:** This application is complete. An applicant (not staff) submitted this proposed text change. The applicant followed the form the staff used for self-storage facilities. Having a public hearing on June 21, 2021 will give staff enough time to notify NECCOG and do the proper notification to the public.  
A copy of the proposed regulation was enclosed in your packet.

**Proposed Special Permit Use**

**Add Section 420.2.2.p General Commercial Zone (Special Permit Use)**

**P. Self-Service Storage Facilities:**

**1. Definitions (NOTE: Definitions will also be added to Section 310 of the Regulations)**

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

**b. Recreational Vehicles:** For the purposes of this regulation only; a vehicle used primarily for recreational pleasure and all vehicles must have current registrations. Examples motor homes, travel trailers, camping trailers, truck trailers, boats, snow mobiles, motorcycles. Recreational Vehicle does not include manufactured homes.

**2. Conditions:**

- a. The facility itself must have security fencing and controlled access.
- b. A logbook of all renters shall be kept onsite and available for inspection.
- c. Outdoor storage of motorized and recreational vehicles may be provided; however, that area must be surrounded by its own security fence, have controlled access, and must be screened from abutting uses. Vehicles must be in good condition and free of leaking fluids.
- d. The facility owner or operator may conduct periodic auctions or sales to dispose of any unclaimed storage unit(s) contents.
- e. The Commission, totally at its own discretion, may require additional conditions of approval.
- f. A copy of all State of Connecticut Licensing must be submitted to Planning & Development Office. All originals of said licensing must be displayed in the office at the location of the facility.
- g. Accessory uses such as the rental office or the rental of trucks, trailers or moving equipment (hand cars, jacks, and lifts, etc.), the installation of trailer hitches, or the sale of boxes or packing materials are permitted only if they are otherwise permitted in the zone in which the facility is located and meet all use and development standards of the zone.
- h. Electrical service to storage units shall be for lighting and climate control only. No electrical outlets are permitted inside individual storage units.
- i. No plumbing facilities or floor drains shall be allowed inside the storage units.
- j. All goods and property stored in the self-storage facility shall be contained within the building interior except that recreational vehicles (as defined above) may be parked in designated outdoor storage areas which are screened from view from

PROPOSED - SPEC. PERM. STORAGE

adjacent streets and property by walls, fences, or landscaping. Outdoor storage areas shall not exceed fifteen percent (15%) of the enclosed site area, shall be located on the rear or side of the buildings and shall not count toward meeting parking requirements. No outdoor storage of storage pods or shipping containers is permitted.

- k. Truck loading docks shall not be located on the street facing side of the building or be located on the building side that abuts residential property without adequate buffer and screening.
- l. All parts of the perimeter which are adjacent to a residential zone shall be screened by a fence or wall and with a landscaped buffer area at least fifteen (15) feet wide. Additional setback and the reorientation of the buildings may be required to ensure compatibility with surrounding properties.
- m. As an incentive to encourage the more efficient use of land, more commercial activity the Commission may increase the maximum building coverage and building height requirement a maximum of 10% above the underlying zoning requirements for self-storage facilities.
- n. Existing self-service storage facilities may be permitted to expand or construct new buildings on parcels being used for self-storage after the date of adoption of this regulation. The expansion or new construction shall be consistent with and meet all applicable standards of the zoning district in which the facility exists.
- o. All outdoor lighting shall be night sky compliant.

### **3. Prohibited Uses:**

- a. Sales or auctions by private parties.
- b. The operation or use of power tools, spray-painting equipment, table saws, lathes, compressors, welding equipment, kilns, refrigerators, freezers, or other similar equipment or appliances.
- c. Any use that is noxious or offensive because of odors, dust, noise, chemicals, gas, fumes, or vibrations.
- d. Kenneling of animals or pets.
- e. Individual storage units shall not be used for: residential, office, retail, workshops, studios, rehearsal areas, manufacturing, fabrication, industrial or the processing of goods or services, or the repair of vehicles, engines, appliances, or any other similar activities.
- f. Storage of any material or thing considered "hazardous" or "extra hazardous" by any governmental agency or responsible insurance company.
- g. Repair or service work on motorized or recreational vehicles.
- h. No outdoor storage of storage pods or shipping containers.

**Add the following definitions to Section 310 DEFINITIONS – of the Town of Killingly Zoning Regulations**

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

**Recreational Vehicles:** For purposes of these regulations only; a vehicle used primarily for recreational pleasure. Examples motor homes, travel trailers, camping trailers, truck trailers, boats, snow mobiles, motorcycles. Recreational Vehicles does not include manufactured homes.



#21-1265

**Proposed Special Permit Use**

Add Section 420.2.2.q General Commercial Zone (Special Permit Use)

Q. Distribution Center Facility

1. Definitions:

- a. A building or group of buildings used to meet the temporary and long-term needs of storage and fulfillment for goods and products between a vendor and end user, owned or leased by businesses, organizations or logistics operators for the purpose of serving the regional community in processing, storage and delivery of goods and products.
- b. For the purpose of this regulation only, fulfillment shall include the warehousing, order processing, picking, packing and shipping of clients' goods and products to be delivered to the end user.

2. Conditions:

- a. The facility shall have controlled gate access for distribution vehicular traffic, though employee vehicle traffic for parking purposes shall not required gated access.
- b. Outdoor storage of shipping trailers may be provided; however, this area must be landscape screened from abutting uses if they differ in zoning or a use not provided within the General Commercial Zoning Regulation.
- c. A copy of all State of Connecticut Licensing must be submitted to the Planning & Development Office. Copies of the originals of said licensing must be displayed in the office at the location of the facility.
- d. Accessory uses such as the field organization of trailers, ancillary trailer or truck repairs, trailer parking and others may be permitted only if they are otherwise permitted uses in the zone in which the facility is located, meet the development standards of the zone, or are uses currently being performed within the zone.
- e. All goods and products stored or packaged in the Distribution Center Facility shall be contained within the facility except for those items that are contained within a trailer stored outside of the facility.
- f. Truck loading docks shall not be located on the street facing side of the building, if that side of the build is directly opposite of the street with no other landscape or building buffer, or be located on the building side that abuts a residentially zoned parcel without adequate landscape buffer and screening.
- g. All parts of the perimeter which are adjacent to a residential zone shall be screened by a fence or wall or with a landscape buffer at least fifteen (15) feet wide. Additional setback and the reorientation of the buildings may be required to ensure compatibility with surrounding properties.
- h. As an incentive to encourage the more efficient use of land and commercial activity, the Commission may increase the maximum building coverage an additional 10% and building height an additional 10 feet above the underlying zoning requirements for Distribution Center Facility.
- i. Existing Distribution Center Facilities may be permitted to expand or construct new buildings on parcels being zoned as General Commercial after the date of adoption of this regulation. The expansion or new construction shall be consistent with and meet the applicable standards of the zoning district in which the facility exists.

#21-1265

- j. All outdoor lighting shall be night sky compliant.

3. Prohibited Uses:

- a. Sale or auction to the public by private parties of any goods or products contained at the location.
- b. The operation or use of power tools, spray-painting equipment, table saws, lathes, compressors, welding equipment, or other similar equipment or appliances other than to support the uses and minimal maintenance needs as prescribed above.
- c. Any use that is noxious or offensive because of odors, dust, noise, chemicals, gas, fumes, or vibrations.
- d. Kenneling or storage of animals or live pets.
- e. The facility may not be used for any manufacturing or fabrication purposes that fall outside of the use of a Distribution Center Facility.
- f. The facility may not be used for the storage or fulfillment of any goods or products that are considered unstable, hazardous, or extra hazardous by any governmental agency or responsible insurance agency.
- g. Repair or service work on motorized vehicles other than minimal or modest repairs to trucks or trailers in an emergency capacity.
- h. No outdoor storage of storage pods or shipping containers.



TOWN OF KILLINGLY, CT  
PLANNING AND ZONING COMMISSION

**MONDAY – MARCH 15, 2021**

**Regular Meeting**

**7:00 PM**

**DUE TO RENOVATIONS HAPPENING IN THE TOWN MEETING ROOM**  
**THIS MEETING WILL BE HELD VIA WEBEX**

**DUE TO COVID-19 THE PUBLIC MAY VIEW THIS MEETING AS DESCRIBED BELOW**

**MINUTES**

**THE PUBLIC CAN VIEW THIS MEETING ON FACEBOOK LIVE.**

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- I. **CALL TO ORDER** – Chair, Keith Thurlow, called the meeting to order at 7:14 pm.  
  
**ROLL CALL** – Brian Card, Virge Lorents, Matthew Wendorf, John Sarantopoulos, Keith Thurlow.  
  
**Staff Present** – Ann-Marie Aubrey, Director of Planning & Development; Jonathan Blake, Planner I/ZEO; David Capacchione; Town Engineer; Jill St. Clair, Director of Economic Development.  
  
**Also, Present** – Brian Dotolo, Project Director, Scott Lyons and Steven Cole, Civil Engineers, Greg Smith, and Yovannia Gamez, Electrical Engineers, from the Haskell Corporation; Roger Gieseke and Silvino Quenga from Frito-Lay; Patti Larrow George, Town Council Liaison.
- II. **SEATING OF ALTERNATES** – Mr. Thurlow noted that, currently, there are no Alternate Members. There are three vacancies.
- 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)

There are written comments to be introduced into the record.

As of 03/12/2021: 1) Laurie LeClerc re: Westview; 2) Joshua Lawton re: Westview; and 3) Karen Johnson re: Frito-Lay

Ann-Marie Aubrey summarized the comments and noted that the above comments received regarding Westview had been received after action had already been taken by the Commission. Copies were posted on the website.

Ms. Aubrey summarized the comments received regarding the Frito-Lay Site Plan Review. These were presented to the Commission at the last meeting and a copy was also sent to Frito-Lay and Haskell so that they could respond at this meeting. Ms. Johnson's concerns included the following: internal circulation and other site impacts; existing lot access; purpose of the lot; if it is necessary for 40-foot high light poles; requesting an increase in vegetation buffer; management plan. A copy was posted to the website as well.

Ms. Aubrey stated that no further public comments had been received by the Town Manager's Office as of 3:00 p.m. today.

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There were no callers for public comment.

#### **V. COMMISSION/STAFF RESPONSES TO CITIZENS' COMMENTS**

Virge Lorents commented that Route 21 is a State Highway, therefore, it would not be up to the Planning & Zoning Commission to put a stop light there. Ms. Aubrey stated that this had been discussed with the Town Engineer at the last meeting. John Sarantopoulos suggested that the Town request that State conduct a study to see if the traffic pattern at that intersection warrants a light. Mr. Capacchione, Town Engineer, will have a conversation, but he does not believe that it will meet the State's criteria.

At this time, Ms. Aubrey stated that there is an abutter to the 628 Wildwood Way property who believes that he has an ingress and egress access easement over the property and he wants to make sure that Frito-Lay does not block his access. The gate through the fence is still there and still on site and that is where his access easement would be. The only thing she sees missing, at this point, would be drawing on the plan, itself, where his access easement is supposed to be and if they cannot provide the exact one, how are they going to allow him to use that access easement. She asked that Frito-Lay and Haskell research this and respond at the April meeting. She will forward copies of the deed.

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

NONE

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

1) **Site Plan Review Application #21-1258** – Kevin J. Crump (Frito-Lay, Inc./Landowner); the project consists of new construction of an asphalt truck trailer storage lot with lighting and storm water improvements; 628 Wildwood Way; GIS MAP 81; Lot 20; ~15 acres; Industrial Zone. **(NOTE: This application is still before the IWWC; therefore, the PZC may begin to hear Frito-Lay's presentation and commission members may ask questions of the applicant; however, the PZC cannot make a decision at this time.)**

Ann-Marie Aubrey read aloud the procedure to dial in for public comment. There were no callers.

Brian Dotolo, Project Director for Haskell Corporation, introduced the Haskell Team and stated that Haskell has had a relationship with Frito-Lay for 25 plus years, working with this particular site for over ten years. He said that they are very sensitive to how their design impacts environmental conditions. The purpose of the trailer parking lot: they are improving what is already out there adding asphalt/concrete to existing conditions; the parking lot is being used to store empty trailers as well as trailers with product to be shipped to retail stores. The current operations will remain going forward after the work is complete. Mr. Dotolo displayed plans as areas were discussed during Haskell's presentation.

Steven Cole, Civil Engineer for Haskell Corporation, presented the Civil Design:

- Currently, the trailer lot (Yellin property) is a gravel pavement area which they will put a mix of heavy-duty asphalt over drive isles. Medium-duty asphalt where the trailers would reside.
- Concrete dolly pads for landing gear.

- There is a slight expansion of the gravel lot to the east towards the Five-Mile River. They are doing their best to match existing grades.
- They are proposing storm sewer for the Yellin lot. He referred to and displayed Sheet 120 and indicated the areas as he discussed/explained.
- They are maintaining an existing access along the gravel road to the northwest that runs along the west side of the Frito-Lay property.
- He indicated where they are proposing a new storm water management facility.
- They will be providing new 20-foot access gates along the south property line (in-between the pond and the paving) for an Eversource easement as well as access for the property owner to the south of the Facility. That access continues to the north onto Frito-Lay property by means of an existing gate.
- Storm Water Management Facility: Not proposing any discharge to the Five-Mile River; Strictly an infiltration basin; Prior to infiltration in the main part of the pond there is a sediment fore-bay with an overflow and a trash plate and low-flow pipe to the infiltration basin; Upstream, (he referred to Sheet C-140) they are proposing two water-quality units (hydro-dynamic separators specifically downstream defender units that will collect trash, oils, debris, fuel) prior to entrance into the fore-bay. This is an effective treatment prior to any infiltration practices downstream. The fore-bay will be wide.
- They are proposing to fill in the existing pond to the north, so the new Storm Water Management Facility includes all treatment and storm water attenuation that was managed previously by that pond.
- He referred to Sheet 120 – Maintaining the existing tree buffer along the west side of the trailer stalls as well as proposing new trees within that area for screening.

Mr. Dotolo indicated existing conditions regarding trees. He stated that they will not be disturbing the existing trees during construction of the parking lot. He stated that the parked trailers will not be visible from the view of the location of the former Tavern restaurant.

Ann-Marie Aubrey noted that the parking lot and retention pond seemed to be shaped differently on the plan that was displayed. Mr. Dotolo stated that she is correct and he explained that the plan was the previous plan that had been submitted to IWWC, but it was modified and submitted last Friday. Ms. Aubrey asked about the access easement that the neighbor would be able to use. Mr. Dotolo indicated that the gate to the south is what the neighbor would use and the gate to the north would be used primarily by Eversource to maintain their power lines.

Silvino Quenga, Frito-Lay, commented that Mr. Simpson currently gets access to the dam by crossing over his property and goes over the existing city sewer line. There is roadway access to the dam for maintenance. It is along the nature trail walkway.

Virge Lorents asked about the amount of impervious surface/lot coverage and if it meets the Town's requirements. Mr. Thurlow stated that it has to do with MS4. Ms. Aubrey commented that that is why they redesigned the retention pond to increase the retention. Mr. Quenga explained that they re-platted upon purchase of the south lot. Where the site was in multiple chunks, the entire Frito-Lay property area is one lot. Jonathan Blake stated that this is an Industrial-Zoned property and the percentage allowed for pavement is 70 percent. Ms. Aubrey stated that it meets the requirement, but will verify it for the next meeting.

Keith Thurlow asked about the following:

- Fencing. Mr. Cole stated that it is chain-link fence matching existing.
- Proposed curbing. Mr. Cole stated that it will be curbing gutter, as it is asphalt. It will help convey flow to the curb inlets. They recommend/propose a six-inch curb there.
- Snow removal. Mr. Cole stated that they had discussed, with Frito-Lay, a plan to utilize the south curb line. The primary snow storage will be along the south and west sides of the parking lot. During large storm events some trailer stalls would need to be used for snow storage.
- Anthony Simpson's right-of-way. Regarding access to the utility easement, Mr. Cole stated that they are providing gate access there, as well as the western gravel road - that will remain.
- Islands at the end of parking strips. Mr. Cole stated that they are just gore striped areas.
- Eastern parking lot just above the storm drainage area. Mr. Cole explained that the gravel area has been dedicated for existing Eversource power lines.

- All drainage going to the drainage retention area. Mr. Cole stated that is correct and that they are capturing 100 percent of the run-off and treating 100 percent of the run-off per the State of CT requirements.
- Sediment area to the left. Mr. Cole explained that the sediment fore-bays are sized for 25 percent of the calculated water quality volume to be treated. That area is lined to prevent infiltration into the soil and it also allows maintenance and cleaning operations. A buildup of sediment won't fill up the main basin. It makes trash removal easier as it is contained to that area.
- Spillway details (far northeast side of the large pond). Mr. Cole stated that it is strictly an emergency overflow designed to eliminate any potential risk for the bank deteriorating, so they could give a defined overflow path. There will be rip-rap, sized appropriately. Anything over the hundred-year storm could potentially discharge there. He explained that there is enough storage for up to a hundred-year storm (the pond is designed to have one foot of free board underneath the emergency spillway crest elevation for the one hundred year, 24-hour event).
- Karen Johnson's letter. Mr. Cole has read the letter and said that a lot of it is not specific to the Civil Site Design. They are maintaining access to the lot. As previously discussed, they are maintaining and adding to the tree buffer along the west side of the property. Most likely an evergreen-type tree to fill in the gaps during cold weather.
- Curb around the entire pond area (off the edge of the pavement). Mr. Cole explained that the north side of the pond is all curbing gutter as well as the west side along the paving.

Ann-Marie Aubrey referred to Sheet 1C-120 (displayed) and asked about the easement that Mr. Simpson would be using (along the sewer easement to the spill way). Mr. Dotolo stated that is correct. Ms. Aubrey asked how far apart the Douglas Firs would be on the western side. Mr. Dotolo stated that the plan shows 20-foot on center.

Jonathan Blake asked about the Haskell Team's exhibit that illustrates the light levels to the exterior of the site. Greg Smith, Electrical Engineer, displayed the Lighting Layout and stated that it has been updated with the change due to the Eversource easement. The light levels don't change based on the minor light layout that they changed. He gave an overview:

- 35-foot poles on four-foot bases.
- The light fixtures achieve light levels that meet Frito-Lay standards for safety and security.
- The CCTV cameras that are laid out are also based on these light levels.
- He explained that the light levels (not showing any trees) are showing that, by the time you get to the railroad, it is all zeros on ground level.
- Each of the lights has a shield which is specified.

Brian Card asked about the Frito-Lay standards. Mr. Smith explained that they have a corporate lighting standard (an average of one candle along the western boundary) depending on where you have the parking lot (entrance or parking stall). They are trying to get the light to throw over the 13'6" trailer because you get some shadow effect off of those.

Virge Lorents asked if they are considering designing larger retention basins due to global warming. Mr. Cole stated that their code requirements are dictated by the State of CT.

There were no further questions from Commission Members or Staff.

Motion was made by Virge Lorents to continue Site Plan Review Application #21-1258 – Kevin J. Crump (Frito-Lay, Inc./Landowner); the project consists of new construction of an asphalt truck trailer storage lot with lighting and storm water improvements; 628 Wildwood Way; GIS Map 81; Lot 20; ~15 acres; Industrial Zone, to the next regular meeting of the Planning and Zoning Commission on Monday, April 19, 2021, Town Meeting Room, 2<sup>nd</sup> Floor, 172 Main Street, at 7:00 p.m.

Second by John Sarantopoulos. No discussion.

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

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

NONE

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

**1) Regular Meeting Minutes – February 16, 2021**

Motion was made by Matthew Wendorf to adopt the Minutes of the Regular Meeting of February 16, 2021.

Second by Virge Lorents. No discussion.

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

Motion carried unanimously (5-0-0).

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

**1) Subdivision Application #17-1184**; Request for Bond Reduction from Toutant Realty, Inc.; for 7 lot residential subdivision; extension of Cardinal Drive; GIS Map 112; Lot 30; ~16.0 acres; Low Density Zone. **(Engineering inspected the road extension and found : “The remaining bond of \$5,697.28 currently can be reduced to \$3,000.00 {and} this remaining amount {\$3,000.00} will be held for retainage on the project until Aug.1, 2021 then returned after final inspection.”)**

Ann-Marie Aubrey clarified that if retaining \$3,000, there would, at this point in time, be a refund to the bond of \$2,697.28.

Motion was made by Virge Lorents to approve the bond reduction request from Toutant Realty, Inc.; for 7 lot residential subdivision; extension of Cardinal Drive; GIS Map 112; Lot 30; ~16.0 acres; Low Density Zone. Refund of \$2,697.28 and the remaining amount of \$3,000.00 will be held for retainage on the project until Aug. 1, 2021, then returned after final inspection.

Second by Matthew Wendorf. No discussion.

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

**2) §8-24 Review; Town of Killingly Capital Budget Presentation for the 2021 – 2022 Fiscal Year**

Presentation by David Capacchione, Engineer for the Town of Killingly.

David Capacchione gave a brief overview. Nothing out of the ordinary, just routine maintenance.

Ms. Lorents asked about the historic bridge over Peeptoad Road and stated that she would like its character to be maintained. Mr. Capacchione explained that the intent would be to maintain the character, but there is currently no funding available.

Brian Card asked pointed out an error/typo on page 8 regarding the splash pad.

Matthew Wendorf asked about whether it is reactive maintenance or preventative maintenance. Mr. Capacchione explained that it is a little of both depending on what budgets allow. There was discussion regarding alternative paving/repairing methods.

Motion was made by John Sarantopoulos to accept the 8-24 Review; Town of Killingly Capital Budget Presentation for the 2021-2022 Fiscal Year.

Second by Virge Lorents. No discussion.

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

Motion carried unanimously (5-0-0).

**XI. CORRESPONDENCE**

**1) Transcend Wireless** – received a Notice of Exempt Modification for the tower located at 79 Putnam Pike, Dayville, CT – re: remove 6 existing antennas and replace with 6 new antennas that will support 5G services and will be installed at the same 148-foot level of the tower.

Ms. Aubrey stated that the rest of the Application to the Siting Council is in her office for viewing.

**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** – None.

Ms. Aubrey explained that they transferred to a new computer system and are still working on format.

**XIII. ECONOMIC DEVELOPMENT DIRECTOR REPORT**

Jill St. Clair reported:

- New to Me Gently Used Furniture Store and Pourings & Passages soft openings April 1<sup>st</sup>.
- Ribbon Cutting at Mandolay Spa on April 5<sup>th</sup>.
- Burnett & Company will be launching a mural project.
- Imperial Room has been sold and will be called the New Imperial Room – Chinese and Japanese menu with a full bar.
- Launching Small Business Academy at the Library Tuesdays from June 8<sup>th</sup> – July 13<sup>th</sup>.
- Preparing an RFP for pre-conceptual design proposals for the rear parking lots off Main Street to enhance the customer experience.

**XIV. TOWN COUNCIL LIAISON REPORT**

Patti Larrow George reported on the recent actions of the Town Council. She will announce at the next Town Council meeting that the PZC is in need of three Alternate Members.

Brian Card asked Ms. Aubrey for PDF's of the Frito-Lay plans. She will send them.

**XV. ADJOURNMENT**

Motion was made by Virge Lorents to adjourn at 8:21 p.m. Second by Brian Card. No discussion.  
Motion carried unanimously by voice vote (5-0-0).

Respectfully submitted,

J.S. Perreault  
Recording Clerk





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

**MONDAY – APRIL 19, 2021**

**Regular Meeting  
7:00 PM**

**TOWN MEETING ROOM – 2<sup>ND</sup> FLOOR**

**Killingly Town Hall**

**172 Main Street**

**Killingly, CT**

RECEIVED  
TOWN OF KILLINGLY  
APR 27 11:11:16  
Cynthia A. Card, Chair

**DUE TO COVID-19 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, Brian Card, called the meeting to order at 7:02 pm.  
  
**ROLL CALL** – Brian Card, Virge Lorents (via Webex), Matthew Wendorf (via Webex), John Sarantopoulos.  
Keith Thurlow was absent with notice.  
  
**Staff Present** – Ann-Marie Aubrey, Director of Planning & Development; Jonathan Blake, Planner I/ZEO.  
  
**Also Present** – Brian Dotolo, Project Director, Scott Lyons and Steven Cole, Civil Engineers from the Haskell Corporation; Roger Gieseke and Silvino Quenga from Frito-Lay; Carson Mislik; Ryan Cuevas; Rob Iacobucci.
- II. **SEATING OF ALTERNATES** – None.
- III. **AGENDA ADDENDUM** – None.
- III. **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)

Ann-Marie Aubrey stated that she had received comments regarding Site Plan Review Application #21-1258 which is coming up later on the Agenda.

There were no callers.

**NOTE:** Pursuant to Governor's Executive Order 7B, all public comments can be emailed to [publiccomment@killinglyct.gov](mailto: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.killinglyct.gov](http://www.killinglyct.gov).

There were no further questions or comments.

Motion was made by Virge Lorents to approve **Site Plan Review Application #21-1258** – Kevin J. Crump (Frito-Lay, Inc./Landowner); the project consists of new construction of an asphalt truck trailer storage lot with lighting and storm water improvements; 628 Wildwood Way; GIS MAP 81; Lot 20; ~15 acres; Industrial Zone.

Second by John Sarantopoulos noting that the Commission is accepting the revised Site Plans.

No discussion.

Roll Call Vote: Virge Lorents – yes; John Sarantopoulos – yes; Matthew Wendorf – yes; Brian Card – yes. Motion carried unanimously (4-0-0).

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

NONE

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

1) Regular Meeting Minutes – March 15, 2021

Motion was made by Virge Lorents to table the adoption of the Regular Meeting Minutes – March 15, 2021 (because they had not been included in packets to the Commission Members), to the next regularly scheduled meeting of the Planning and Zoning Commission on Monday, May 17, 2021, Town Meeting Room, 2<sup>nd</sup> Floor, 172 Main Street, at 7:00 p.m.

Second by John Sarantopoulos. No discussion.

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

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

1) **§8-24 Review; Town of Killingly**: Revised plans for a solar installation at the Killingly Central School; 60 Soap Street, Dayville, CT; was originally a roof mount installation changing to a carport(s) installation; GIS MAP 106, LOT 28, Low Density Zone.

Ann-Marie Aubrey explained that there was a design change as requested by Town Council and the Board of Education. Staff does not have any concerns regarding the changes.

Motion was made by John Sarantopoulos to move forward with **§8-24 Review; Town of Killingly**: Revised plans for a solar installation at the Killingly Central School; 60 Soap Street, Dayville, CT; was originally a roof mount installation changing to a carport(s) installation; GIS MAP 106, LOT 28, Low Density Zone.

Second by Matthew Wendorf. No discussion.

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

**XI. CORRESPONDENCE**

1) **SBA PROPERTIES, LLC. (T-MOBILE)**– received a Notice of Exempt Modification for the tower located at 246 East Franklin Street, Danielson, CT – re: remove 4 existing antennas and replace with 4 new antennas that will support 5G services and will be installed at the 137-foot level of the tower. (The full set of plans is in the P&D Office if anyone wishes to see it.)

No action required.

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

**A. Zoning Enforcement Officer's & Zoning Board of Appeal's Report(s)**

Jonathan Blake reported that Zoning, Building and Fire Staff are still in the process of adopting the new software. The goal is that it will launch live to the public next month.

**B. Inland Wetlands and Watercourses Agent's Report**

Mr. Blake stated that copies of decisions/approvals from last month were included in packets to PZC Members.

Ms. Aubrey stated that Staff has been working on some Zoning text changes (self-storage and warehouse) which will be presented to the PZC for review next month.

**C. Building Office Report – No discussion.**

**XIII. ECONOMIC DEVELOPMENT DIRECTOR REPORT – No representation.**

**XIV. TOWN COUNCIL LIAISON REPORT – No representation.**

**XV. ADJOURNMENT**

Motion was made by Virge Lorents to adjourn at 7:21 p.m. Second by Matthew Wendorf. No discussion.  
Motion carried unanimously by voice vote (4-0-0).

Respectfully submitted,

J.S. Perreault  
Recording Clerk

CHELSEY L. LOMBARDO  
BUSINESS AND FINANCE PARALEGAL  
860.240.6112 DIRECT TELEPHONE  
860.240.5882 DIRECT FACSIMILE  
CLOMBARDO@MURTHALAW.COM

**RECEIVED**

APR 26 2021

April 21, 2021

PLANNING & ZONING DEPT.  
TOWN OF KILLINGLY

**CERTIFIED MAIL RETURN RECEIPT REQUESTED**

Killingly Town Hall  
Attn: Keith Thurlow, Town Planning & Zoning Chair  
172 Main Street  
Killingly, CT 06239

Re: Environmental Land Use Restriction  
30 Rock Avenue, Killingly, Connecticut

Dear Mr. Thurlow:

DEEP has requested that we provide the municipality's Chair of Planning and Zoning with the enclosed documents. Enclosed please find one set of paper copies of the following documents in connection with the above-referenced property:

1. Copy of a certified recorded copy of the Declaration of Environmental Land Use Restriction and Grant of Easement and supporting documents recorded in Book 1381 at Page 1047 of the Killingly Land Records; and
2. Copy of the A-2 Survey which was recorded as Map 7263 of the Killingly Land Records which shows the subject property.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Chelsey L. Lombardo  
Business and Finance Paralegal

Enclosures

Cc: Ms. Amy Richardson, DEEP (w/o enclosures)

**Murtha Cullina LLP**  
280 Trumbull Street  
Hartford, CT 06103  
T 860.240.6000  
F 860.240.6150

Declaration of Environmental Land Use Restriction and Grant of Easement  
30 Rock Avenue, Killingly, CT

After Recording Return to:

Environmental Land Use Restriction Coordinator  
State of Connecticut Department of Energy and Environmental Protection  
Remediation Division  
Bureau of Water Protection and Land Reuse  
79 Elm Street  
Hartford, CT 06106

DECLARATION OF ENVIRONMENTAL LAND USE RESTRICTION  
AND GRANT OF EASEMENT

This Declaration of Environmental land use restriction and Grant of Easement is made this 19<sup>th</sup> day of March, 2021, between Spirol International Corporation (the "Grantor") and the Commissioner of Energy and Environmental Protection of the State of Connecticut (the "Grantee").

WITNESSETH:

WHEREAS, Grantor is the owner in fee simple of certain real property (the "Property") described below:

Street address: 30 Rock Avenue
City/Town: Killingly
State: Connecticut
Assessor's Map 137 Block 000 Lot 24 and/or Assessors' Account Number: 001175
Volume and Page of Deed: 679/316

A description of the property is attached hereto as Exhibit A, and which is made a part hereof; and

WHEREAS, the Grantee has the authority to enter into this declaration of environmental land use restriction pursuant to sections 22a-5, 22a-6, and 22a-133o *et seq.* of the General Statutes; and

Receipt # 95741 Instr # 2021-00915



**VOL 1381 PG 1047**  
03/31/2021 11:50:50 AM  
32 Pages  
DECLARATION  
TOWN OF KILLINGLY  
Elizabeth M. Wilson, Town Clerk

**Instructions - Select one of the two choices below by checking the applicable check box.**

☒ **If the Commissioner of Energy and Environmental Protection signs the environmental land use restriction:**

WHEREAS, the Grantee has determined that the environmental land use restriction set forth below is consistent with regulations adopted pursuant to section 22a-133k of the General Statutes; and

WHEREAS, the Grantee has determined that this environmental land use restriction will effectively protect human health and the environment from the hazards of pollution; and

WHEREAS, the Grantee's written approval of this environmental land use restriction is contained in the document attached hereto as Exhibit B (the Decision Document) which is made a part hereof; and

☐ **If a Licensed Environmental Professional signs the environmental land use restriction pursuant to section 22a-133y of the General Statutes:**

WHEREAS, remediation of the property has been conducted in accordance with section 22a-133y of the General Statutes; and

WHEREAS, the Licensed Environmental Professional whose signature appears below has determined that the environmental land use restriction set forth below is consistent with regulations adopted by the Commissioner of Energy and Environmental Protection pursuant to section 22a-133k of the General Statutes; and

WHEREAS, the Licensed Environmental Professional whose signature appears below has determined that this environmental land use restriction will effectively protect human health and the environment from the hazards of pollution; and

WHEREAS, the Grantee's written approval of this environmental land use restriction is contained in the document attached hereto as Exhibit B (the Decision Document) which is made a part hereof; and

WHEREAS, the property or portion thereof identified in the class A-2 survey (the "Subject Area") which survey is attached hereto as Exhibit C which is made a part hereof, contains pollutants; and

WHEREAS, to prevent exposure to or migration of such pollutants and to abate hazards to human health and the environment, and in accordance with the Decision Document, the Grantor desires to impose certain restrictions upon the use, occupancy, and activities of and at the Subject Area, and to grant this environmental land use restriction to the Grantee on the terms and conditions set forth below; and

WHEREAS, Grantor intends that such restrictions shall run with the land and be binding upon and enforceable against Grantor and Grantor's successors and assigns;

NOW, THEREFORE, Grantor agrees as follows:

1. Purpose. In accordance with the Decision Document, the purpose of this environmental land use restriction is to assure that the use and activity at the property and the Subject Area is restricted in accordance with the requirements of the Decision Document attached hereto as Exhibit B.
2. Restrictions Applicable to the Subject Area: In furtherance of the purposes of this environmental land use restriction, Grantor shall assure that use, occupancy, and activity of and at the Subject Area are restricted in accordance with the requirements of the Decision Document, attached hereto as Exhibit B. Such restrictions shall remain in effect unless and until a release is obtained under paragraph 5 below.
3. Except as provided in Paragraph 4 below, no action shall be taken, allowed, suffered, or omitted if such action or omission is reasonably likely to:
  - i. Create a risk of migration of pollutants or a potential hazard to human health or the environment; or
  - ii. Result in a disturbance of the structural integrity of any engineering controls designed or utilized at the Property to contain pollutants or limit human exposure to pollutants.
4. Emergencies. In the event of an emergency which presents a significant risk to human health or the environment, the application of Paragraphs 2 and 3 above may be suspended, provided such risk cannot be abated without suspending said Paragraphs and the Grantor:
  - i. Immediately notifies the Grantee of the emergency;
  - ii. Limits both the extent and duration of the suspension to the minimum reasonably necessary to adequately respond to the emergency;
  - iii. Implements all measures necessary to limit actual and potential present and future risk to human health and the environment resulting from such suspension; and
  - iv. After the emergency is abated, implements a plan approved in writing by the Grantee, on a schedule approved by the Grantee, to ensure that the Subject Area is remediated in accordance with R.C.S.A. sections 22a-133k-1 through 22a-133k-3, inclusive, or restored to its condition prior to such emergency.

Declaration of Environmental Land Use Restriction and Grant of Easement  
30 Rock Avenue, Killingly, CT

5. **Release of Restriction; Alterations of the Subject Area.** Grantor shall not make, or allow or suffer to be made, any alteration of any kind in, to, or about any portion of the Subject Area inconsistent with this environmental land use restriction until a release has been approved by the Commissioner and such release is either recorded on the land records in the municipality where such parcel is located or the requirement to record such a release is waived by the Commissioner pursuant to section 22a-133o of the General Statutes. The Grantee shall not approve any permanent release of the Property from the provisions of this environmental land use restriction unless the Grantor demonstrates to the Grantee's satisfaction that Grantor has remediated the Subject Area in accordance with R.C.S.A. sections 22a-133k-1 through 22a-133k-3, inclusive.

6. **Grant of Easement to the Grantee.** Grantor hereby grants and conveys to the Grantee, the Grantee's agents, contractors, and employees, and to any person performing pollution remediation activities under the direction thereof, a non-exclusive easement (the "Easement") over the Subject Area and over such other parts of the Property as are necessary for access to the Subject Area or for carrying out any actions to abate a threat to human health or the environment associated with the Subject Area. Pursuant to this Easement, the Grantee, the Grantee's agents, contractors, and employees, and any person performing pollution remediation activities under the direction thereof, may enter upon and inspect the Property and perform such investigations and actions as the Grantee deems necessary for any one or more of the following purposes:

- i. Ensuring that use, occupancy, and activities of and at the Property are consistent with this environmental land use restriction;
- ii. Ensuring that any remediation implemented complies with R.C.S.A. sections 22a-133k-1 through 22a-133k-3, inclusive;
- iii. Performing any additional investigations or remediation necessary to protect human health and the environment;
- iv. Ensuring the structural integrity of any engineering controls described in Exhibit B of this environmental land use restriction and Grant of Easement and their continuing effectiveness in containing pollutants and limiting human exposure to pollutants.

7. **Notice and Time of Entry onto Property.** Entry onto the Property by the Grantee pursuant to this Easement shall be upon reasonable notice and at reasonable times, provided that entry shall not be subject to these limitations if the Grantee determines that immediate entry is necessary to protect human health or the environment.

8. **Notice to Lessees and Other Holders of Interests in the Property.** Grantor, or any future holder of any interest in the property, shall cause any lease, grant, or other transfer of any interest in the Property to include a provision expressly requiring the lessee, grantee, or transferee to comply with this environmental land use restriction and Grant of Easement. The failure to include such provision shall not affect the validity or applicability to the Property of this environmental land use restriction and Grant of Easement.

9. **Persons Entitled to Enforce Restrictions.** The restrictions in this environmental land use restriction on use, occupancy, and activity of and at the Property shall be enforceable in accordance with section 22a-133p of the General Statutes.

10. **Severability and Termination.** If any court of competent jurisdiction determines that any provision of this environmental land use restriction or Grant of Easement is invalid or unenforceable, such provision shall be deemed to have been modified automatically to conform to the requirements for validity



Declaration of Environmental Land Use Restriction and Grant of Easement  
30 Rock Avenue, Killingly, CT

and enforceability as determined by such court. In the event that the provision invalidated is of such nature that it cannot be so modified, the provision shall be deemed deleted from this instrument as though it had never been included herein. In either case, the remaining provisions of this instrument shall remain in full force and effect. Further, in either case, the Grantor shall submit a copy of this restriction and of the Judgment of the Court to the Grantee in accordance with R.C.S.A. section 22a-133q-1(1). This environmental land use restriction shall be terminated if the Grantee provides notification pursuant to R.C.S.A. section 22a-133q-1(l).

11. Binding Effect. All of the terms, covenants and conditions of this environmental land use restriction and grant of easement shall run with the land and shall be binding on the Grantor, the Grantor's successors and assigns, and each owner and any other party entitled to possession or use of the Property during such period of ownership or possession.

12. Terms Used Herein. The definitions of terms used herein shall be the same as the definitions contained in sections 22a-133k-1 and 22a-133q-1 of the Regulations of Connecticut State Agencies as such sections existed on the date of execution of this environmental land use restriction.

Signature Page Follows

Declaration of Environmental Land Use Restriction and Grant of Easement  
30 Rock Avenue, Killingly, CT

In witness whereof, the undersigned has/have executed this Environmental Land Use Restriction this 4<sup>th</sup>  
day of FEBRUARY, 2021.

Witnessed by:

Spirol International Corporation

Kristina L. Elliott  
Printed/Typed Name Witness 1: Kristina L. Elliott

By: Jeffrey P. Kohl  
Jeffrey Kohl  
Its duly authorized Chairman

Jaime Shaw  
Printed/Typed Name Witness 2: Jaime Shaw

Mailing Address:

Street Address: 30 Rock Ave

City/Town: Killingly

State and Zip Code: CT

Declaration of Environmental Land Use Restriction and Grant of Easement  
30 Rock Avenue, Killingly, CT

**Instructions Notarization Language for Grantor Acknowledgement - select appropriate notarization language from one of the choices below by checking the applicable check box and providing the information required.**

☐ **If the Grantor is an individual:**

State of \_\_\_\_\_  
County of \_\_\_\_\_

On this Day day of Month, Year before me, Name of Notary Public or Commissioner of the Superior Court the undersigned officer, personally appeared Name of Individual or Individuals, known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged that he/she/they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand.

\_\_\_\_\_  
Notary Public or Commissioner of the Superior Court  
Date Commission Expires Date

OR

☒ **If the Grantor is a Corporation:**

State of Connecticut  
County of Windham

On this 4<sup>th</sup> day of February, 2021 before me, Jessica VanderSwag the undersigned officer, personally appeared Jeffrey Koehl, who acknowledged himself ~~himself~~ to be the Chairman of Spirol International Corporation, a corporation, and that he/~~she~~, as such Chairman, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself/~~herself~~ as Chairman.

In witness whereof I hereunto set my hand.



Jessica I. VanderSwag  
Date Commission Expires 1/31/2024

Declaration of Environmental Land Use Restriction and Grant of Easement  
30 Rock Avenue, Killingly, CT

OR

☐ **If the Grantor is a Limited Liability Company:**

State of \_\_\_\_\_  
County of \_\_\_\_\_

On this Day day of Month, Year before me, Name of Notary Public or Commissioner of the Superior Court, the undersigned officer, personally appeared Name of Officer, who acknowledged himself/herself to be the Title of Officer of Name of Limited Liability Company, a (member managed or manager managed) limited liability company, and that he/she, as such Title of Officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited liability company by himself/herself as Title of Officer.

In witness whereof I hereunto set my hand.

\_\_\_\_\_  
Notary Public or Commissioner of the Superior Court  
Date Commission Expires Date

OR

☐ **If the Grantor is any other type of entity, provide appropriate language for the Grantor Entity below:**

Unlimited space provided to insert appropriate certification language for an Acknowledgement as specified in Section 1-34 of the General Statutes

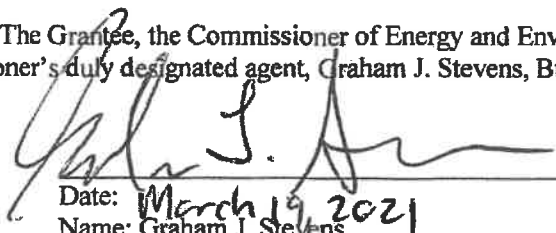
Declaration of Environmental Land Use Restriction and Grant of Easement  
30 Rock Avenue, Killingly, CT

**Instructions Grantee Signature Block - Select one of the two choices below, as applicable;**

☒ **This choice is used for all environmental land use restrictions except those approved pursuant to section 22a-133y of the General Statutes.**

**Grantee:** The Grantee, the Commissioner of Energy and Environmental Protection or by the Commissioner's duly designated agent, Graham J. Stevens, Bureau Chief.

By:

  
Date: March 19, 2021  
Name: Graham J. Stevens  
Its Duly Authorized: Bureau Chief

**Mailing Address:**

Bureau of Water Protection and Land Reuse  
Connecticut Department of Energy and Environmental Protection  
Street Address: 79 Elm Street  
City/Town: Hartford  
State and Zip Code: Connecticut 06106

☐ **This choice is used solely for environmental land use restrictions approved pursuant to section 22a-133y of the General Statutes.**

**Grantee:** The Grantee, the Commissioner of Energy and Environmental Protection, by the undersigned Licensed Environmental Professional authorized as a duly designated agent pursuant to section 22a-133y of the Connecticut General Statutes.

**Licensed Environmental Professional as Duly Authorized Agent for Grantee, the Commissioner of Energy and Environmental Protection:**

By:

\_\_\_\_\_  
Date:  
Name:  
Its Duly Authorized Agent: Licensed Environmental Professional authorized pursuant to section 22a-133y of the Connecticut General Statutes

**Grantee Mailing Address:**

Bureau of Water Protection and Land Reuse  
Connecticut Department of Energy and Environmental Protection  
Street Address: 79 Elm Street  
City/Town: Hartford  
State and Zip Code: Connecticut 06106

Declaration of Environmental Land Use Restriction and Grant of Easement  
30 Rock Avenue, Killingly, CT

Information for Duly Authorized Agent for Grantee (Licensed Environmental Professional):

Name: **Name of Licensed Environmental Professional**

License Number **License Number**

Title, if applicable **Title**

Company, if applicable **Name of Company**

Mailing Address:

Street Address: **Street Address**

City/Town, State, Zip Code: **City/Town, State, and Zip Code**

Witnesses:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed/Typed Name

\_\_\_\_\_  
Printed/typed name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed/Typed Name

\_\_\_\_\_  
Printed/typed name

Instructions Notarization Language for Duly Authorized Agent for Grantee (Licensed Environmental Professional):

State of \_\_\_\_\_

County of \_\_\_\_\_

On this Day day of Month, Year before me, Name of Notary Public or Commissioner of the Superior Court the undersigned officer, personally appeared Name of Individual or Individuals, known to me (or satisfactorily proven) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged that he/she/they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand.

\_\_\_\_\_  
Notary Public or Commissioner of the Superior Court  
Date Commission Expires Date

## **Exhibit A. Property Description (Metes and Bounds)**

Spirol International Corporation  
Spirol International Corporation  
30 Rock Avenue  
Killingly, CT

The Property Description (Metes and Bounds) is as follows:

Beginning at an iron pipe marked 'B' on the referenced survey plan which is located in the westerly line of North Main Street (Route #12), said iron pipe marks the southeasterly corner of the herein described parcel and northeasterly corner of land now or formerly of Jeannie Gardiner; thence proceeding N 89° 23' 46" W along the northerly boundary line of property now or formerly of Gardiner, a distance of 163.05 feet to an iron pipe; thence proceeding S 5° 53' 11" W along land of said Gardiner a distance of 103.29 feet to a brass pin; thence proceeding S 82° 49' 32" W along land now or formerly of Leonide J. Hubert & Jean D. Hubert, a distance of 70.57 feet to an iron pin at the easterly end of a stonewall; thence continuing S 82° 49' 32" W 98.00 feet along land now or formerly of said Hubert; thence proceeding S 88° 26' 03" W along land now or formerly of Lee J. Phillips & Joanne T. Phillips, a distance of 229.33 feet to an iron pin; thence proceeding S 27° 18' 53" W along land of said Phillips, a distance of 13.43 feet to an iron pin; thence proceeding S 3° 38' 37" W along land of said Phillips, a distance of 125.08 feet to an iron pin in the northerly line of Rock Avenue, the last four courses following a stonewall; thence proceeding S 82° 07' 54" W along the northerly street line of Rock Avenue (also known as Chicken Farm Road) a distance of 495.64 feet to an iron pin; thence proceeding N 5° 03' 48" E along land now or formerly of Edward A. Barry, et al., a distance of 504.91 feet to an iron pin; thence proceeding along the same course a distance of 1.50 feet to a point in a stone wall marking the northeasterly corner of property of said Barry, et al.; thence proceeding N 85° 14' 45" W along said stone wall, a distance of 130.04 feet to an iron pin marked 'A' on the referenced plan; thence continuing N 85° 14' 45" W along property of said Barry, et al., a distance of 60.00 feet to an iron pin; thence continuing along the same course 20 feet more or less to the center of the Five Mile River, so-called; thence proceeding northerly and northwesterly along said Five Mile River, a distance of 710 feet more or less to the point of confluence with the Whetstone Brook, so-called, the last course being bounded westerly by land now or formerly of Warren Family Limited Partnership; thence proceeding in a general easterly, southerly and southeasterly direction up the middle of said Whetstone Brook, a distance of approximately 1700 feet along land now or formerly of Bentley Realty Associates, LLC at a point in said brook which is 37 feet more or less distant from an iron pin set at the corner of a stone wall as measured along a course whose direction is S 89° 47' 05" W; thence proceeding S 89° 47' 05" W a distance of 15 feet more or less to the westerly bank of said Whetstone Brook; thence proceeding southerly and easterly along the westerly and southerly bank of said brook a distance of 675 feet more or less to the point in the westerly line of North Main Street (Route #12), the last two courses being bounded easterly and northerly by land now or formerly of said Bentley Realty Associates, LLC; thence S 01° 01' 01" E 36 feet more or less to a point; thence S 84° 38' 23" E 10.65 feet to a point; thence S 08° 44' 37" W 68.34 feet to an iron pipe marked 'B' on the referenced plan, (said iron pipe marked 'B' being located southeasterly from iron pin marked 'A' by the following course: S 81° 08' 41" E 1174.24), the last three courses being bounded easterly and northerly by said North Main Street (Route #12), the above described parcel containing 16.0 acres more or less.

The above described property is shown on plan titled "Easement Map Exhibit 'C' of the Declaration of ENVIRONMENTAL LAND USE RESTRICTION and Grant of Easement over the land of SPIROL INTERNATIONAL CORPORATION Map #137, Lot #24, #30 Rock Avenue and #965 North Main Street (Route #12), Killingly, Connecticut, Scale: 1" = 60' - Date: 8/12/2019, KWP Associates Surveying, Engineering and Site Planning".

## Exhibit B. Decision Document Overview

**Property/Facility Name ("Property"):** Spirol International Corporation

**Grantor Legal Name:** Spirol International Corporation

**Address:** 30 Rock Avenue

**City/Town:** Killingly

The purpose of this Decision Document is to describe:

1. The type and location of substances present in soil, groundwater or soil vapor on or underlying the Property or portion thereof ("Subject Area") which is the subject of the Environmental Land Use Restriction (ELUR);
2. The provisions of the ELUR and why such restrictions or limitations on the use of the Property or portion thereof are necessary to adequately protect human health and the environment; and
3. Description of the reason for the ELUR, including an explanation why such restriction is consistent with Sections 22a-133k-1 through 22a-133k-3, inclusive, of the Regulations of Connecticut State Agencies (RCSA).

This Decision Document consists of the following restriction(s), for which the applicable individual Restriction Forms are attached:

Restriction (Check box(es) that apply; enter Subject Area(s) designation.)	Subject Area(s)
<input checked="" type="checkbox"/> <u>Residential Activity Restriction - Soil</u>	A
<input type="checkbox"/> <u>Residential Activity Restriction - Soil (PCBs)</u>	
<input checked="" type="checkbox"/> <u>Exposure of Inaccessible Soil Restriction</u>	B, C
<input checked="" type="checkbox"/> <u>Exposure of Environmentally Isolated Soil to Infiltration of Water Restriction</u>	B
<input type="checkbox"/> <u>Disturbance of Engineered Control and Polluted Soil Restriction</u>	
<input checked="" type="checkbox"/> <u>Residential Activity Restriction - Groundwater</u>	A
<input checked="" type="checkbox"/> <u>Residential Activity Restriction - Soil Vapor</u>	A
<input type="checkbox"/> <u>Building Construction Restriction</u>	
<input type="checkbox"/> <u>Groundwater Use Restriction</u>	



Declaration of Environmental Land Use Restriction and Grant of Easement  
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Public Notice of Grantor's Intent to Record an Environmental Land Use Restriction

(Check box that applies.)

☐ Public Notice is not Required for Residential Activity Restriction ELUR

In accordance with Section 22a-133q-1(c)(2) of the RCSA, Public Notice need not be published if the proposed ELUR provides solely that the use of the subject Property, or portion thereof is restricted to industrial or commercial activities and the municipal zoning already limits the Property to such use.

or

☒ Public Notice is Required for Proposed ELUR

(Enter information as requested.)

Date Published: 03/20/2020

Name of Newspaper: Norwich Bulletin

and

(Check box that applies.)

☒ No public comments were received.

or

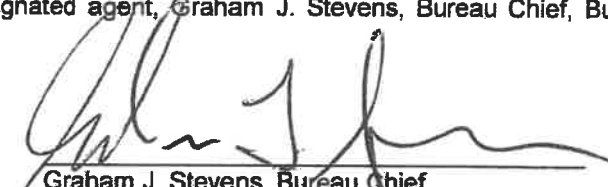
☐ A summary of all written public comments that were received within thirty (30) days after the date of publication of the Public Notice and a brief response to each comment is provided below:

NA.

Approval of this Decision Document is hereby granted.

**GRANTEE:** The Grantee, the Commissioner of the Department of Energy and Environmental Protection or by the Commissioner's duly designated agent, Graham J. Stevens, Bureau Chief, Bureau of Water Protection and Land Reuse.

March 19, 2021  
Date

  
Graham J. Stevens, Bureau Chief  
Bureau of Water Protection and Land Reuse  
Connecticut Department of Energy and Environmental Protection

## Exhibit B. Decision Document

### **Residential Activity Restriction - Soil Form**

In accordance with Section 22a-133k-2(b)(2)(A) of the Regulations of Connecticut State Agencies (RCSA) polluted soil may be remediated to the Industrial/Commercial Direct Exposure Criteria for each substance (except polychlorinated biphenyls (PCBs)) if access is limited to individuals working at or people temporarily visiting the subject Property and an Environmental Land Use Restriction is in effect which ensures that the Property or restricted portion thereof is not used for any residential activity in the future and that any future use is limited to an industrial or commercial activity.<sup>1</sup>

#### **Purpose:**

The purpose of this Environmental Land Use Restriction (ELUR) is to ensure that the Subject Area(s) ("Subject Area") designated below is not used for any residential activity (as defined in RCSA Section 22a-133k-1(58)) in the future and that any future use is limited to an industrial or commercial activity.

#### **Restrictions Applicable to the Subject Area:**

The Grantor shall ensure that use, occupancy, and activity of and at the Subject Area (as depicted on Exhibit C – Class A-2 Survey) are restricted as follows:

No residential activity shall be permitted at the Subject Area designated below in accordance with RCSA Section 22a-133k-2(b)(2)(A).

*(Check box that applies; enter Subject Area(s) designation.)*

☒ **Subject Area A** is the entire Property.

or

☐ Subject Area \_\_\_\_\_ is/are a portion or portions thereof the Property.

#### **Type and Location of Substances at Subject Area:**

(At concentrations greater than the Residential Direct Exposure Criteria and less than the Industrial/Commercial Direct Exposure Criteria for soil)

*(Enter the type of substances, e.g., by substance name or category, at each Subject Area.)*

Subject Area A: Metals – Cadmium; Extractable Total Petroleum Hydrocarbons

<sup>1</sup> For a complete description of the rationale for the restriction, see the referenced regulatory citation.

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AND

**Reasons Restriction or Limitation are Necessary to Adequately Protect Human Health and the Environment:**

If the Subject Area is used for residential activities, as defined in RCSA Section 22a-133k-1(58), the substance(s) present in the soil may pose an unacceptable risk to human health.

Provided the Subject Area is not used for residential activities, the substance(s) present do not pose an unacceptable risk to human health.

**Restriction or Limitation is Consistent with the Remediation Standard Regulations (RSRs) Sections 22a-133k-1 through 22a-133k-3, inclusive, of the RCSA, as amended, and as follows:**

*(Check both boxes; enter Subject Area(s) designation.)*

- ☒ Polluted soil is remediated to a concentration at which the Industrial/Commercial Direct Exposure Criteria for soil, as defined in RCSA Section 22a-133k-1(34), for each substance (except for PCBs) is met.

and

- ☒ The ELUR prohibits the use of **Subject Area A** for residential activities in accordance with RCSA Section 22a-133k-2(b)(2)(A). Any future use of **Subject Area A** is limited to an industrial or commercial activity.

## Exhibit B. Decision Document

### **Exposure of Inaccessible Soil Restriction Form**

In accordance with Section 22a-133k-2(b)(3) of the Regulations of Connecticut State Agencies (RCSA) the **Direct Exposure Criteria for substances other than polychlorinated biphenyls (PCBs) do not apply to inaccessible soil** at a release area provided that if such inaccessible soil is less than fifteen (15) feet below the ground surface an Environmental Land Use Restriction is in effect with respect to the subject Property or portion of such Property containing such release area, which ensures that such soils will not be exposed as a result of excavation, demolition or other activities and that any pavement which is necessary to render such soil inaccessible is maintained in good condition.<sup>1</sup>

In accordance with Section 22a-133k-2(b)(3) of the RCSA **inaccessible soil containing PCBs** (as indicated below) may be left in place at a release area provided that if such inaccessible soil is less than (15) feet below the ground surface an Environmental Land Use Restriction is in effect with respect to the subject Property or portion of such Property containing such release area, which ensures that such soils will not be exposed as a result of excavation, demolition or other activities and that any pavement which is necessary to render such soil inaccessible is maintained in good condition.

For inaccessible soil polluted with PCBs, the following Direct Exposure Criteria apply:

- An alternative criterion, as approved in accordance with Section 22a-133k-2(d)(7); or
- Ten (10) ppm PCBs by weight; or
- Twenty-five (25) ppm PCBs by weight if such inaccessible soil is located on a Property which is an other restricted access location, as defined in 40 Code of Federal Regulations Part 761.123 (40 CFR 761.123); or
- Twenty-five (25) ppm PCBs by weight if such inaccessible soil is located on a Property which is an outdoor electrical substation, as defined in 40 CFR 761.123; or
- Fifty (50) ppm PCBs by weight if such inaccessible soil is located on a Property which is an outdoor electrical substation, as defined in 40 CFR 761.123, and a label or notice is visibly placed in the area in accordance with 40 CFR Part 761.

**Purpose:**

The purpose of this Environmental Land Use Restriction (ELUR) is to ensure that polluted soil that is inaccessible (as defined in RCSA Section 22a-133k-1(32)) at the Subject Area(s) ("Subject Area") designated below will not be exposed as a result of excavation, demolition or other activities and that any pavement which is necessary to render such soil inaccessible is maintained in good condition.

***Check the applicable box(es) to identify the Property-specific approach(es) taken to render the polluted soil inaccessible pursuant to RCSA Section 22a-133k-1(32), or "NA" (not applicable), as follows:***

<sup>1</sup> For a complete description of the rationale for the restriction, see the referenced regulatory citation.

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**Pursuant to RCSA Section 22a-133k-1(32):**

☒ The inaccessible soil is polluted soil which is more than four (4) feet below the ground surface.

or

☐ NA

**Restrictions Applicable to the Subject Area:**

The Grantor shall ensure that use, occupancy, and activity of and at the Subject Area (as depicted on Exhibit C – Class A-2 Survey) are restricted as follows:

*(Check box(es) for Option A and Option B, as applicable; enter Subject Area(s) designation.)*

☐ **Option A – No Disturbance**  
*(Check applicable boxes.)*

or ☒ **NA**

- ☐ The polluted soil rendered inaccessible at Subject Area \_\_\_\_\_ will not be exposed as a result of excavation, demolition or other activities and any pavement which is necessary to render such soil inaccessible is maintained in good condition in accordance with RCSA Section 22a-133k-2(b)(3).

Excavation, demolition or other activities are prohibited below the ground surface ("No Disturbance").

and

- ☐ The ground surface at Subject Area \_\_\_\_\_ will be repaired when necessary to maintain the elevation and topography that existed prior to any disturbance caused by natural occurrences (such as erosion and frost heaves).

☒ **Option B – Allowable Limited Disturbance** or ☐ **NA**  
*(Check applicable boxes.)*

- ☒ The polluted soil rendered inaccessible at **Subject Area C** is at a depth of **10 feet** below the ground surface and will not be exposed as a result of excavation, demolition or other activities and any pavement which is necessary to render such soil inaccessible is maintained in good condition in accordance with RCSA Section 22a-133k-2(b)(3).

Excavation, demolition or other activities are prohibited at depths greater than **9 feet** below the ground surface ("Allowable Limited Disturbance").

and

- ☒ The ground surface at **Subject Area C** will be repaired when necessary to maintain the elevation and topography that existed prior to any Allowable Limited Disturbance or any disturbances by natural occurrences (such as erosion and frost heaves).

and/or

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**Pursuant to RCSA Section 22a-133k-1(32):**

☐ The inaccessible soil is polluted soil which is more than two (2) feet below a paved surface comprised of a minimum of three (3) inches of bituminous concrete or concrete, which two (2) feet may include the depth of any material used as sub-base for the pavement.

or

☒ NA

**Restrictions Applicable to the Subject Area:**

The Grantor shall ensure that use, occupancy, and activity of and at the Subject Area (as depicted on Exhibit C – Class A-2 Survey) are restricted as follows:

*(Check box(es) for Option A and Option B, as applicable; enter Subject Area(s) designation.)*

☐ **Option A – No Disturbance**

or ☐ NA

*(Check all boxes.)*

- ☐ The polluted soil rendered inaccessible at Subject Area \_\_\_\_\_ will not be exposed as a result of excavation, demolition or other activities and any pavement which is necessary to render such soil inaccessible is maintained in good condition in accordance with RCSA Section 22a-133k-2(b)(3).

Excavation, demolition or other activities are prohibited below the paved surface ("No Disturbance").

and

- ☐ The pavement at Subject Area \_\_\_\_\_ will be maintained in good condition in accordance with the maintenance and monitoring plan specified below.

Title and Date:

and, in addition

- ☐ The maintenance and monitoring plan includes provisions to repair the pavement at the Subject Area when necessary to maintain the elevation and topography that existed prior to any disturbance caused by natural occurrences (such as erosion and frost heaves).

☐ **Option B – Allowable Limited Disturbance** or ☐ NA

*(Check all boxes.)*

- ☐ The polluted soil rendered inaccessible at Subject Area \_\_\_\_\_ is at a depth of insert depth (feet) below a paved surface and will not be exposed as a result of excavation, demolition or other activities and any pavement which is necessary to render such soil inaccessible is maintained in good condition in accordance with RCSA Section 22a-133k-2(b)(3).

Excavation, demolition or other activities are prohibited at depths greater than insert depth of allowable disturbance (feet), see instructions for acceptable depths below the paved surface ("Allowable Limited Disturbance").

and

- ☐ The pavement at Subject Area \_\_\_\_\_ will be maintained in good condition in accordance with the maintenance and monitoring plan specified below.

Title and Date:

and, in addition

- ☐ The maintenance and monitoring plan includes provisions to repair the pavement at the Subject Area when necessary to maintain the elevation and topography that existed prior to any Allowable Limited Disturbance or any disturbance by natural occurrences (such as erosion and frost heaves).

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and/or

**Pursuant to RCSA Section 22a-133k-1(32):**

☐ The inaccessible soil is polluted soil which is polluted fill beneath a bituminous concrete or concrete surface comprised of a minimum of three (3) inches of bituminous concrete or concrete if such fill is (i) polluted in excess of applicable Direct Exposure Criteria only by semi-volatile substances or petroleum hydrocarbons that are normal constituents of bituminous concrete, (ii) polluted by metals in concentrations not in excess of two (2) times the applicable Direct Exposure Criteria, or (iii) any combination of the substances or limits identified in clause (i) or (ii).

or

☒ NA

**Restrictions Applicable to the Subject Area:**

The Grantor shall ensure that use, occupancy, and activity of and at the Subject Area (as depicted on Exhibit C – Class A-2 Survey) are restricted as follows:

*(Check box(es) for Option A and Option B, as applicable; enter Subject Area(s) designation.)*

☐ **Option A – No Disturbance** or ☐ **NA**  
*(Check all boxes.)*

☐ The polluted soil rendered inaccessible at Subject Area \_\_\_\_\_ will not be exposed as a result of excavation, demolition or other activities and any pavement which is necessary to render such soil inaccessible is maintained in good condition in accordance with RCSA Section 22a-133k-2(b)(3).

Excavation, demolition or other activities are prohibited below the paved surface ("No Disturbance").

and

☐ The pavement at Subject Area \_\_\_\_\_ will be maintained in good condition in accordance with the maintenance and monitoring plan specified below.

Title and Date:

and, in addition

☐ The maintenance and monitoring plan includes provisions to repair the pavement at the Subject Area when necessary to maintain the elevation and topography that existed prior to any disturbance caused by natural occurrences (such as erosion and frost heaves).

☐ **Option B – Allowable Limited Disturbance** or ☐ **NA**  
*(Check all boxes.)*

☐ The polluted soil rendered inaccessible at Subject Area \_\_\_\_\_ is at a depth of insert depth (feet) below a paved surface and will not be exposed as a result of excavation, demolition or other activities and any pavement which is necessary to render such soil inaccessible is maintained in good condition in accordance with RCSA Section 22a-133k-2(b)(3).

Excavation, demolition or other activities are prohibited at depths greater than insert depth of allowable disturbance (feet), see instructions for acceptable depths below the paved surface ("Allowable Limited Disturbance").

and

☐ The pavement at Subject Area \_\_\_\_\_ will be maintained in good condition in accordance with the maintenance and monitoring plan specified below.

Title and Date:

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and, in addition

- ☐ The maintenance and monitoring plan includes provisions to repair the pavement at the Subject Area when necessary to maintain the elevation and topography that existed prior to any Allowable Limited Disturbance or any disturbance by natural occurrences (such as erosion and frost heaves)

and/or

**Pursuant to RCSA Section 22a-133k-1(32):**

- ☒ The inaccessible soil is polluted soil which is beneath an existing building.

or

- ☐ NA

**Restrictions Applicable to the Subject Area:**

The Grantor shall ensure that use, occupancy, and activity of and at the Subject Area (as depicted on Exhibit C – Class A-2 Survey) are restricted as follows:

*(Check box(es) for Option A and Option B, as applicable; enter Subject Area(s) designation.)*

- ☒ **Option A – No Disturbance** or ☐ **NA**  
*(Check applicable boxes.)*

- ☒ The polluted soil rendered inaccessible at **Subject Area B** will not be exposed as a result of excavation, demolition or other activities in accordance with RCSA Section 22a-133k-2(b)(3). The concrete building slab or foundation shall not be disturbed in any manner by activities such as demolition, excavation or other intrusive activities ("No Disturbance").

and

- ☒ The concrete building slab or foundation at **Subject Area B** will be repaired when necessary to maintain the conditions that existed prior to any disturbance caused by natural occurrences.

and, in addition

*(Check box that applies.)*

- ☒ Demolition of the **building at the Subject Area** is not permitted.

or

- ☐ Demolition of the **entire building** (including portions outside the Subject Area) is not permitted.

- ☐ **Option B – Allowable Limited Disturbance** or ☐ **NA**  
*(Check applicable boxes.)*

- ☐ The polluted soil rendered inaccessible at Subject Area \_\_\_\_\_ is at a depth of insert depth (feet) beneath the concrete building slab or foundation and will not be exposed as a result of excavation, demolition or other activities in accordance with RCSA Section 22a-133k-2(b)(3).

Excavation, demolition or other activities are prohibited at depths greater than insert depth of allowable disturbance (feet), see instructions for acceptable depths beneath the concrete building slab or foundation ("Allowable Limited Disturbance").

and

- ☐ The concrete building slab or foundation at Subject Area \_\_\_\_\_ will be repaired when necessary to maintain the conditions that existed prior to any Allowable Limited Disturbance or any disturbance by natural occurrences.



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and, in addition

*(Check box that applies.)*

☐ Demolition of the **building at the Subject Area** is not permitted.

or

☐ Demolition of the **entire building** (including portions outside the Subject Area) is not permitted.

and/or

**Pursuant to RCSA Section 22a-133k-1(32):**

☐ The inaccessible soil is polluted soil which is beneath an existing permanent structure provided written notice that such structure will be used to prevent human contact with such soil has been provided to the Commissioner.

**Description of permanent structure:**

**Date of notice submitted to Commissioner for use of permanent structure:**

or

☒ NA

**Restrictions Applicable to the Subject Area:**

The Grantor shall ensure that use, occupancy, and activity of and at the Subject Area (as depicted on Exhibit C – Class A-2 Survey) are restricted as follows:

*(Check box(es) for Option A and Option B as applicable; enter Subject Area(s) designation.)*

☐ **Option A – No Disturbance** or ☐ **NA**  
*(Check applicable boxes.)*

☐ The polluted soil rendered inaccessible at Subject Area \_\_\_\_\_ will not be exposed as a result of excavation, demolition or other activities in accordance with RCSA Section 22a-133k-2(b)(3). The permanent structure shall not be disturbed in any manner by activities such as demolition, excavation or other intrusive activities ("No Disturbance").

and

☐ The permanent structure at Subject Area \_\_\_\_\_ will be repaired when necessary to maintain the conditions that existed prior to any disturbance caused by natural occurrences.

and, in addition

*(Check box that applies.)*

☐ Demolition of the **permanent structure at the Subject Area** is not permitted.

or

☐ Demolition of the **entire permanent structure** (including portions outside the Subject Area) is not permitted.

☐ **Option B – Allowable Limited Disturbance** or ☐ **NA**  
*(Check applicable boxes.)*

☐ The polluted soil rendered inaccessible at Subject Area \_\_\_\_\_ is at a depth of insert depth (feet) beneath the permanent structure and will not be exposed as a result of excavation, demolition or other activities in accordance with RCSA Section 22a-133k-2(b)(3).

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Excavation, demolition or other activities are prohibited at depths greater than insert depth of allowable disturbance (feet), see instructions for acceptable depths beneath the permanent structure ("Allowable Limited Disturbance").

and

- ☐ The permanent structure at Subject Area \_\_\_\_\_ will be repaired when necessary to maintain the conditions that existed prior to any Allowable Limited Disturbance or any disturbance by natural occurrences.

and, in addition

*(Check box that applies)*

- ☐ Demolition of the permanent structure at the Subject Area is not permitted.

or

- ☐ Demolition of the entire permanent structure (including portions outside the Subject Area) is not permitted.

**AND**

**Type and Location of Substances at Subject Area:**

(At concentrations greater than the Direct Exposure Criteria for soil)

*(Enter the type of substances, e.g., by substance name or category, at each Subject Area.)*

Subject Area B: (Extractable) Total Petroleum Hydrocarbons  
Metals – arsenic, cadmium, chromium (total, trivalent, hexavalent), lead  
Polycyclic Aromatic Hydrocarbons – benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene,  
benzo(g,h,i)perylene, benzo(k)fluoranthene, chrysene, dibenzo(a,h)anthracene, indeo(1,2,3-cd)pyrene, 2-methylnaphthalene

Subject Area C: (Extractable) Total Petroleum Hydrocarbons identified at depths below 10' bgs

**Reasons Restriction or Limitation are Necessary to Adequately Protect Human Health and the Environment:**

If humans were to come into contact with the substance(s) present in such polluted soil, these substance(s) may pose an unacceptable risk to human health.

Provided the soil is not exposed such that people may come in contact with it, such polluted soil does not pose an unacceptable risk to human health.

**Restriction or Limitation is Consistent with the Remediation Standard Regulations (RSRs) Sections 22a-133k-1 through 22a-133k-3, inclusive, of the RCSA, as amended, and as follows:**

*(Check applicable boxes; enter Subject Area(s) designation.)*

- ☒ The Direct Exposure Criteria for substances other than polychlorinated biphenyls (PCBs) do not apply to inaccessible soil (as defined in RCSA Section 22a-133k-1(32)) at **Subject Area B and C**.

and/or

- ☐ The Direct Exposure Criteria for PCBs applied to inaccessible soil (as defined in RCSA Section 22a-133k-1(32)) at Subject Area \_\_\_\_\_ are:

*(Check applicable box(es).)*

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- ☐ An alternative criterion, as approved in accordance with Section 22a-133k-2(d)(7); or
- ☐ Ten (10) ppm PCBs by weight; or
- ☐ Twenty-five (25) ppm PCBs by weight if such inaccessible soil is located on a Property which is an other restricted access location, as defined in 40 Code of Federal Regulations Part 761.123 (40 CFR 761.123; or
- ☐ Twenty-five (25) ppm PCBs by weight if such inaccessible soil is located on a Property which is an outdoor electrical substation, as defined in 40 CFR 761.123; or
- ☐ Fifty (50) ppm PCBs by weight if such inaccessible soil is located on a Property which is an outdoor electrical substation, as defined in 40 CFR 761.123, and a label or notice is visibly placed in the area in accordance with 40 CFR Part 761.

and

- ☒ Such soils will not be exposed as a result of excavation, demolition or other activities and any pavement which is necessary to render such soil inaccessible is maintained in good condition in accordance with RCSA Section 22a-133k-2(b)(3).

## Exhibit B. Decision Document

### **Exposure of Environmentally Isolated Soil to Infiltration of Water Restriction Form**

In accordance with Section 22a-133k-2(c)(4)(A) of the Regulations of Connecticut State Agencies (RCSA) the **Pollutant Mobility Criteria** do not apply to environmentally isolated soil provided an Environmental Land Use Restriction is in effect with respect to the subject Property, or portion thereof, containing such soil which Environmental Land Use Restriction ensures that such soil will not be exposed to infiltration of soil water due to, among other things, demolition of the building.<sup>1</sup>

**Purpose:**

The purpose of this Environmental Land Use Restriction (ELUR) is to ensure that polluted soil that is environmentally isolated (as defined in RCSA Section 22a-133k-1(18)) at the Subject Area(s) ("Subject Area") designated below will not be exposed to infiltration of soil water due to, among other things, demolition of the building.

**Check the applicable box(es) to identify the Property-specific approach(es) taken to render the polluted soil environmentally isolated pursuant to RCSA Section 22a-133k-1(18), or "NA" (not applicable), as follows:**

**Pursuant to RCSA Section 22a-133k-1(18):**

☒ The environmentally isolated soil is polluted soil which is beneath an existing building; not a continuing source of pollution; not polluted with volatile organic substances or, if it is polluted with such substances, the concentration of such substances has been reduced in concentration to the maximum extent prudent; and above the seasonal high water table.

or

☐ NA

**Restrictions Applicable to the Subject Area:**

The Grantor shall ensure that use, occupancy, and activity of and at the Subject Area (as depicted on Exhibit C – Class A-2 Survey) are restricted as follows:

*(Check box(es) as applicable; enter Subject Area(s) designation.)*

☒ The environmentally isolated soil at **Subject Area B** will not be exposed to infiltration of soil water due to, among other things, demolition of the **entire building**.

and/or

☐ The environmentally isolated soil will not be exposed to infiltration of soil water due to, among other things, demolition of the building at **Subject Area**

Note that the building consists of the roof, structural walls, and building slabs, which collectively act to isolate polluted soil.

<sup>1</sup> For a complete description of the rationale for the restriction, see the referenced regulatory citation.

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and/or

**Pursuant to RCSA Section 22a-133k-1(18):**

☐ The environmentally isolated soil is polluted soil which is beneath another existing and permanent structure which the Commissioner has determined in writing would prevent the migration of pollutants; not a continuing source of pollution; not polluted with volatile organic substances or, if it is polluted with such substances, the concentration of such substances has been reduced in concentration to the maximum extent prudent; and above the seasonal high water table.

**Description of permanent structure:**

**Date of Commissioner's written determination that the permanent structure would prevent the migration of pollutants:**

or

☒ NA

**Restrictions Applicable to the Subject Area:**

The Grantor shall ensure that use, occupancy, and activity of and at the Subject Area (as depicted on Exhibit C – Class A-2 Survey) are restricted as follows:

*(Check box(es) as applicable; enter Subject Area(s) designation.)*

☐ The environmentally isolated soil at Subject Area \_\_\_\_\_ will not be exposed to infiltration of soil water due to, among other things, demolition of the **entire permanent structure**.

and/or

☐ The environmentally isolated soil will not be exposed to infiltration of soil water due to, among other things, demolition of the permanent structure **at Subject Area** \_\_\_\_\_.

Note that the permanent structure consists of describe the permanent structure which acts to isolate polluted soil.

**AND**

**Type and Location of Substances at Subject Area:**

(At concentrations greater than the Pollutant Mobility Criteria for soil)

*(Enter the type of substances, e.g., by substance name or category, at each Subject Area.)*

Subject Area B:

(Extractable) Total Petroleum Hydrocarbons

Metals – cadmium, lead.

Polycyclic Aromatic Hydrocarbons – benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, benzo(k)fluoranthene, chrysene, dibenzo(a,h)anthracene, indeo(1,2,3-dc)pyrene, 2-methylnaphthalene

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**Reasons Restriction or Limitation are Necessary to Adequately Protect Human Health and the Environment:**

If the building or permanent structure is demolished such that the environmentally isolated soil is exposed to the infiltration of water, such polluted soil may pose an unacceptable risk to groundwater quality.

Provided the polluted soil is not exposed to infiltration of water, such polluted soil does not pose an unacceptable risk to groundwater quality.

**Restriction or Limitation is Consistent with the Remediation Standard Regulations (RSRs) Sections 22a-133k-1 through 22a-133k-3, inclusive, of the RCSA, as amended, and as follows:**

*(Check both boxes; enter Subject Area(s) designation(s); and enter document title and date, as requested)*

☒ The Pollutant Mobility Criteria do not apply to environmentally isolated soil (as defined in RCSA Section 22a-133k-1(18)) at **Subject Area B**.

and

☒ Such soils will not be exposed to infiltration of soil water due to, among other things, demolition of the building in accordance with RCSA Section 22a-133k-2(c)(4)(A).

If applicable, documentation that demonstrates that volatile organic substances located beneath the building or permanent structure have been reduced in concentration to the maximum extent prudent has been submitted to the Connecticut Department of Energy and Environmental Protection.

Title and Date: NA

## Exhibit B. Decision Document

### **Residential Activity Restriction - Groundwater Form**

In accordance with Section 22a-133k-3(c)(2) of the Regulations of Connecticut State Agencies (RCSA) if groundwater polluted with a volatile organic substance is below a building used solely for industrial or commercial activity, such groundwater shall be remediated to a concentration equal to or less than the applicable Industrial/Commercial Volatilization Criterion for groundwater, provided that an Environmental Land Use Restriction is in effect with respect to the Property or portion thereof upon which such building is located, which ensures that the Property or portion thereof will not be used for any residential purpose in the future and that any future use is limited to industrial or commercial activity.<sup>1</sup>

#### **Purpose:**

The purpose of this Environmental Land Use Restriction (ELUR) is to ensure that the Subject Area(s) ("Subject Area") designated below will not be used for any residential activity (as defined in RCSA Section 22a-133k-1(58)) in the future and that any future use is limited to industrial or commercial activity.

#### **Restrictions Applicable to the Subject Area:**

The Grantor shall ensure that use, occupancy, and activity of and at the Subject Area (as depicted on Exhibit C – Class A-2 Survey) are restricted as follows:

*(Check box.)*

☒ No residential activity is permitted in accordance with RCSA Section 22a-133k-3(c)(2).

At Subject Area:

*(Check box that applies; enter Subject Area(s) designation)*

☒ **Subject Area A** is the entire Property.

or

☐ Subject Area      is/are a portion, or portions thereof the Property.

#### **Type and Location of Substances at Subject Area:**

(At concentrations greater than the Residential Volatilization Criteria for Groundwater and less than the Industrial/Commercial Volatilization Criteria for Groundwater)

*(Enter the type of substances, e.g., by substance name or category, at each Subject Area.)*

Subject Area A: 1,1-Dichloroethylene

**AND**

<sup>1</sup> For a complete description of the rationale for the restriction, see the referenced regulatory citation.

## Exhibit B. Decision Document

### **Residential Activity Restriction – Soil Vapor Form**

In accordance with Section 22a-133k-3(c)(3)(A) of the Regulations of Connecticut State Agencies (RCSA), remediation of a volatile organic substance to the **Volatilization Criterion for groundwater shall not be required** if the concentration of such substance in soil vapors below a building is equal to or less than the Industrial/Commercial Volatilization Criterion for soil vapor, if such building is solely used for industrial or commercial activity and, an Environmental Land Use Restriction is in effect with respect to the Property or portion thereof upon which such building is located, which ensures that the Property or portion thereof will not be used for any residential purpose in the future and that any future use is limited to industrial or commercial activity.<sup>1</sup>

#### **Purpose:**

The purpose of this Environmental Land Use Restriction (ELUR) is to ensure that the Subject Area(s) ("Subject Area") designated below will not be used for any residential activity (as defined in RCSA Section 22a-133k-1(58)) in the future, and that any future use is limited to industrial or commercial activity.

#### **Restrictions Applicable to the Subject Area:**

The Grantor shall ensure that use, occupancy, and activity of and at the Subject Area (as depicted on Exhibit C – Class A-2 Survey) are restricted as follows:

*(Check box.)*

☒ No residential activity is permitted in accordance with RCSA Section 22a-133k-3(c)(3)(A).

At Subject Area:

*(Check box that applies; enter Subject Area(s) designation.)*

☒ **Subject Area A** is the entire Property.

or

☐ Subject Area \_\_\_\_\_ is/are a portion, or portions thereof the Property.

#### **Type and Location of Substances at Subject Area:**

(At concentrations greater than the Residential Volatilization Criteria for soil vapor and less than the Industrial/Commercial Volatilization Criteria for soil vapor)

*(Enter the type of substances, e.g., by substance name or category, at each Subject Area.)*

Subject Area A:

Volatile Organic Compounds: 1,1-dichloroethylene, 1,1,1-trichloroethane, tetrachloroethene, trichloroethene

<sup>1</sup> For a complete description of the rationale for the restriction, see the referenced regulatory citation.



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AND

**Reasons Restriction or Limitation are Necessary to Adequately Protect Human Health and the Environment:**

If the Subject Area is used for residential activities, as defined in RCSA Section 22a-133k-1(58), the substance(s) present in the soil vapor may pose an unacceptable risk to human health.

Provided the Subject Area is not used for residential activities, the substance(s) present do not pose an unacceptable risk to human health.

**Restriction or Limitation is Consistent with the Remediation Standard Regulations (RSRs) Sections 22a-133k-1 through 22a-133k-3, inclusive, of the RCSA, as amended, and as follows:**

*(Check both boxes; enter Subject Area(s) designation)*

- ☒ Remediation of groundwater polluted with a volatile organic substance to the Volatilization Criterion for groundwater is not required if the concentration of such substance in soil vapor below a building used solely for industrial or commercial activity is equal to or less than the Industrial/Commercial Volatilization Criterion for soil vapor, as defined in RCSA Section 22a-133k-1(35), in accordance with RCSA Section 22a-133k-3(c)(3)(A).

and

- ☒ The ELUR prohibits the use of **Subject Area A** for residential activities in accordance with RCSA Section 22a-133k-3(c)(3)(A). Any future use of **Subject Area A**, upon which such building is located, is limited to an industrial or commercial activity.

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## **Exhibit C. ELUR Class A-2 Survey**

PLACE HOLDER

