



TOWN OF KILLINGLY, CT
PLANNING AND ZONING COMMISSION

MONDAY – JULY 19, 2021

Regular Meeting – HYBRID MEETING
7:00 PM

TOWN MEETING ROOM – 2ND FLOOR

Killingly Town Hall

172 Main Street

Killingly, CT

Received
JUL 15 PM 1:50
Killingly, CT

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

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

To join by phone please dial 1-415-655-0001; and use the access code 132-181-7454 when prompted.

- V. COMMISSION/STAFF RESPONSES TO CITIZENS' COMMENTS
- VI. PUBLIC HEARINGS – (review / discussion / action)
 - 1) 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. – **CONT FROM JUNE 21, 2021**
 - 2) Special Permit Application #21-1267; Justin Olsen/Markover Kennels (Pine Acres Properties, LLC/Owner); 723 & 753 Cook Hill Road, Killingly, CT; GIS MAP 139; LOTS 38.1 & 40; ~160.acres; Rural Development Zone; request dog boarding, training, and grooming facility for 20 dogs.

NOTE: To participate in THE PUBLIC HEARINGS – the public may join the meeting via telephone while viewing the meeting on Facebook live.

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Hearings' segment closes.

Meeting Business will continue.

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

1) **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. – **CONT FROM JUNE 21, 2021**

2) **Special Permit Application #21-1267**; Justin Olsen/Markover Kennels (Pine Acres Properties, LLC/Owner); 723 & 753 Cook Hill Road, Killingly, CT; GIS MAP 139; LOTS 38.1 & 40; ~160.acres; Rural Development Zone; request dog boarding, training, and grooming facility for 20 dogs.

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

1) **Re-subdivision Application #21-1269**; Raymond and Diane Sorel; 1645 North Road; GIS MAP 21; LOT 20; ~50 acres; re-subdivide into two lots; Lot 20 to be 5.58 acres; and Lot 20-3 to be 44.49 acres; Rural Development Zone. **Receive, and if complete, schedule for a public hearing on Monday, August 16, 2021.**

2) **Zone Text Change - #21-1270**; Town of Killingly; Proposed Amendment to Article VI {Administration and Enforcement}, (add) Section 640; Temporary and Limited Moratorium on Cannabis Establishments. **Receive, and schedule for hearing on Monday, August 16, 2021, or Monday, September 20, 2021. (Per recommendation of Legal Counsel)**

(*) Applications submitted prior to 5:00 PM on MONDAY, JULY 12, 2021, will be on the agenda as New Business, with a "date of receipt" of MONDAY, JULY 19, 2021, and may be scheduled for action during the next regularly scheduled meeting of MONDAY, AUGUST 16, 2021.

(*) Applications submitted by 12:00 noon on FRIDAY, July 16, 2021, will be received by the Commission ("date of receipt") on MONDAY, JULY 19, 2021. However, these applications may not be scheduled for action on MONDAY, AUGUST 16, 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 – June 21, 2021

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

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

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

3) **WORKSHOP – Discussion** – Five Mile River Overlay District

XI. CORRESPONDENCE

1) **Received June 21, 2021- Letter from Centerline Communications**; re: 1375 North Road, Dayville, CT 06241; Notice of Exempt Modifications to an AT&T site; swapping six (6) antennas, adding nine (9) remote radio units, removing three (3) remote radio units, removing two (2) tower mounted amplifiers; and appropriate cables and mount modifications as required. Full / Complete correspondence in Planning & Development Department for review.

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

THIS IS A CONTINUATION OF THE HEARING STARTED JUNE 21, 2021

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

1) **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.

APPLICANT(S):	Douglas Construction Co.
LANDOWNER(S):	Does Not Apply – TEXT AMENDMENT
SUBJECT PROPERTY:	Does Not Apply – TEXT AMENDMENT
ASSESSOR'S INFO:	Does Not Apply – TEXT AMENDMENT
ZONING DISTRICT:	General Commercial Zone
REQUEST:	Request to add Distribution Center Facility as a Special Permitted Use in the GC Zone
REGULATIONS:	ARTICLE IX – Section 900

Documents Submitted with Application

- 1) Executed application with payment in full.
- 2) Brief written description of Applicant's intent (date 04/08/2021).

Staff Has Also Included

- 1) Article received on news feed regarding retailer echoing Amazon.
-

Legal Notices

- 1) Legal Notice (of the hearing) was posted with Town Clerk on June 4th, 2021
 - 2) Legal Notice was posted to the PZC webpage on June 4th, 2021
 - 3) Legal Notice was published in the Norwich Bulletin on Monday, June 7, 2021 and Monday, June 14, 2021
 - 4) The Memorandum with the complete wording was posted with the Town Clerk on May 21, 2021.
 - 5) The Memorandum to NECCOG with the complete wording was received at NECCOG on May 21, 2021.
-

STAFF COMMENTS AND SUGGESTIONS

Staff has reviewed the application in detail and has compared the written request with the general conditions of the general commercial zone, the guidelines that can be used by the commission when reviewing a special permitted use, along with the requirements of site plan review.

- (*) Article VII, Section 700, et seq – Special Permits
- (*) Article IV, Section 470 – Site Plan Review
- (*) Article IV, Section 420.2 – General Commercial Use

1) The conditions listed in the above-mentioned sections of the Town of Killing Zoning Regulations, and the proposed conditions listed in the submittal make it appear that the proposed use would have limited application in the general commercial zone.

2) The condition on the proposed text under section 2.g. will need to have an increased buffer zone to meet the requirements of the general commercial use (section 420.2).

- 3) Even the general commercial zone allows an increase in lot coverage from 65% to 75% with a special permit, so that is already in agreement with condition 2.h. for the lot area.
- 4) Even the request for additional height (10 feet) under condition 2.h. "MAY" be granted by the commission – so that is still left up to the discretion of the commission.
- 5) Staff reminds the commission that a special permit is NOT an use of right. The commission will have input when such an application comes before them.
- 6) Staff also recommends that the commission members read the news article submitted.

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NEW STAFF COMMENTS AS OF 07/16/2021

The staff has incorporated all the comments given during the June 21, 2021, meeting.

Attached please find two version of the proposed text amendments –

- 1) showing the revisions – deletions are ~~lined out~~ and the additions are highlighted in red.
- 2) a clean copy of the proposed text amendment

Staff has no further comments.

=====

Application #21-1265

Proposed Special Permit Use – Distribution Center Facility

Add to Section 420.2.2 General Commercial Zone (Special Permit Use)

Distribution Center Facility:

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

- ~~a. **Distribution Center Facility:** 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, owner 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.~~

Distribution Center: A building or group of buildings where finished goods are received and / or stored for delivery to the ultimate customer at remote locations.

Manufacturing and assembly, are not part of the distribution process.

2. Conditions:

- a. ~~The facility~~ **A distribution center** shall have controlled gate access for distribution vehicular traffic, though employee vehicle traffic for parking purposes shall not require 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 **distribution center** 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 **distribution center** facility is located and, 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 **indoors** ~~contained within the facility~~ except for those items that are ~~contained-stored~~ within a trailer ~~stored~~ outside of the **distribution center**. No packaging of good shall be allowed outside of the distribution center. 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 **twenty-five (25)** ~~fifteen (15)~~ feet

wide. Additional setback and the reorientation of the buildings may be required to ensure compatibility with surrounding properties.

- h. The maximum height of distribution center shall not exceed 50 feet. Other appurtenances usually required to be above the roof level that are incidental to the permitted use (vents, air handling units, elevator penthouses, or similar) are exempt from this restriction.**

~~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.~~

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

3. Prohibited Uses:

- ~~a. Sales or auctions 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, storage, **or sale** of animals or live pets.
- ~~e. The facility may not be used for any manufacturing or fabrication purposes that fall outside 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 government agency or responsible insurance company.~~
- ~~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.~~

Application #21-1265

Proposed Special Permit Use – Distribution Center

Add to Section 420.2.2 General Commercial Zone (Special Permit Use)

Distribution Center:

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

- a. Distribution Center:** A building or group of buildings where finished goods are received and / or stored for delivery to the ultimate customer at remote locations. Manufacturing and assembly are not part of the distribution process.

2. Conditions:

- a.** A distribution center shall have controlled gate access for distribution vehicular traffic, though employee vehicle traffic for parking purposes shall not require 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 distribution center.
- 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 distribution center is located and meet the development standards of the zone.
- e.** All goods and products stored or packaged in the distribution center shall be indoors except for those items that are stored within a trailer outside of the distribution center. No packaging of goods shall be allowed outside of the distribution center.
- f.** Truck loading docks shall not be located on the street facing side of the building or be located on the building side that abuts a residentially zoned parcel without adequate landscape buffer and screening.
- g.** All parts of the perimeter which are adjacent to a residential zone shall be screened by a fence or wall with a landscape buffer at least twenty-five (25) feet wide. Additional setback and the reorientation of the buildings may be required to ensure compatibility with surrounding properties.
- h.** The maximum height of distribution center shall not exceed 50 feet. Other appurtenances usually required to be above the roof level that are incidental to the permitted use (vents, air handling units, elevator penthouses, or similar) are exempt from this restriction.
- i.** All outdoor lighting shall be night sky compliant.

3. Prohibited Uses:

- a.** Kenneling, storage, or sale of animals or pets.

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

2) **Special Permit Application #21-1267**; Justin Olsen/Markover Kennels (Pine Acres Properties, LLC/Owner); 723 & 753 Cook Hill Road, Killingly, CT; GIS MAP 139; LOTS 38.1 & 40; ~160.acres; Rural Development Zone; request dog boarding, training, and grooming facility for 20 dogs.

APPLICANT(S):	Justin Olsen / Markover Kennels
LANDOWNER(S):	Pine Acres Properties, LLC
SUBJECT PROPERTY:	723 & 753 Cook Hill Road, Killingly, CT
ASSESSOR'S INFO:	GIS MAP 139; Lot 38.1 & 40 ~160 acres
ZONING DISTRICT:	Rural Development Zone
REQUEST:	Request for dog boarding, training, and grooming facility for 20 dogs
REGULATIONS:	Art. IV - Section 410.1.2(b) – Special Permit – Dog Kennels and Veterinary Hospital Art. VII –Sections 700 to 790 – Special Permit Art. IV – Section 470 – Site Plan Review

Documents Submitted with Application

- 1) Executed application with payment in full.
 - 2) Compilation Plan / Vicinity Map Prepared for Markover Kennels
-

LEGAL NOTICES

- 1) Legal Notice was posted with Town Clerk on July 2, 2021 @ 11:36 am
 - 2) Legal Notice was posted to the PZC webpage on July 2, 2021
 - 3) Legal Notice was published in the Norwich Bulletin on Monday(s), July 6, 2021 & July 12, 2021
 - 4) Notice of Public Hearing was posted at the site on or before Friday, July 9, 2021
- =====

OTHER REQUIRED APPROVALS

- 1) It appears on this map that the distance between the proposed kennel and the wetlands is over 200'; however, since this is a compilation map that distance must be verified.

**** Commission could make it a condition of approval that the kennel is not in the 200' upland review area, and that the distance must be verified prior to construction.**

=====

STAFF COMMENTS AND SUGGESTIONS

- 1) Commission Members review the Regulations listed above while looking at this application.
 - 2) Note that the plans submitted to the Commission are a Compilation Plan (Class "D") and not a Site Plan (Class "A2").
 - 3) Under Notes on the submitted plans it is stated that "Lot(s) 38.1 & 40 shall be combined into one contiguous parcel to provide sufficient setback from the proposed kennel to the property line per Section 410.1.2b of the Town of Killingly Zoning Regulations. This parcel merger shall be completed prior to issuance of a building permit."
- **Provided the Commission approves this application, staff believes this should become a condition thereof, and that the new site plan and deeds be submitted to the P&D for verification purposes prior to recording of same.**

- 4) Staff further believes that the set back requirements be verified and listed on the new site plans.
 - 5) No plans for waste disposal are shown
 - 6) No plans for sound barriers are shown
-

Ann-Marie Aubrey

From: Richard P. Roberts <ROBERTS@halloransage.com>
Sent: Friday, July 2, 2021 10:04 AM
To: Ann-Marie Aubrey; Jonathan Blake
Cc: Mary Calorio; Kenneth R. Slater, Jr.
Subject: Municipal Cannabis regulation
Attachments: Proposed Amendment-Cannabis Establishment Moratorium.DOCX; section 148 of cannabis bill.DOCX

Follow Up Flag: Follow up
Flag Status: Flagged

Good morning –

I hope you are all doing well. I'm not sure whether you have studied the recreational cannabis legislation, but there are some provisions regarding municipal zoning regulation of the facilities that are attached. We are recommending that our municipal clients consider the adoption of a cannabis moratorium zoning regulation to allow time for the Town and the planning and zoning commission to consider whether it wishes to prohibit or regulate recreational cannabis establishments. The troubling part of the statute is that it states that if not regulated or prohibited by zoning, cannabis establishments must be approved in the same fashion as similar uses. Presumably that means retailers (for sales) or agricultural uses (for growers) but it isn't clear. That statute does not state at what point in time someone can walk in the door and file an application for a site plan or special permit for such a facility if the planning and zoning commission has not taken action in regulating or prohibiting them. So in our view this or something like it should be adopted as soon as practical.

If you have any questions or concerns or want to discuss this further, please let me know. In the meantime, I hope you all have a great holiday weekend.

Rich



Richard P. Roberts, Esq.
Halloran & Sage LLP
One Goodwin Square, 225 Asylum Street
Hartford, CT 06103-4303

E roberts@halloransage.com
D 860.297.4695
F 860.548.0006
www.halloransage.com

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21-1270 - ZONE TBT CHANGE.
PER TOWN ATTORNEY

Proposed Amendment to Article V, Section 64D

A. Temporary and Limited Moratorium on Cannabis Establishments

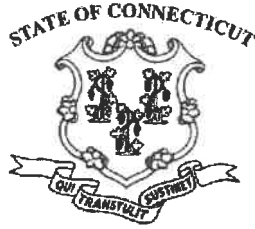
1. **Statement of Purpose.** This section has been adopted to provide the Commission with the time necessary to consider adoption of potential changes to the Zoning Regulations pursuant to Section 8-2 of the Connecticut General Statutes.

The Connecticut General Assembly has passed, and the Governor has signed S.B. 1201, An Act Concerning *Responsible and Equitable Regulation of Adult-Use Cannabis* (the "Act"), portions of which are effective on July 1, 2021. Said Act contains provisions allowing municipalities to prohibit or place certain restrictions on cannabis establishments with the exception of existing dispensary facilities and producers for medical marijuana as defined in Chapter 420f, C.G.S., *Palliative Use of Marijuana* – legislation passed in 2012 authorizing the use of medical marijuana. This temporary and limited term moratorium has been adopted to provide the Town with the time necessary to develop regulations for cannabis establishments that meet statutory responsibilities and promote the public's general health, safety and welfare.

2. Definitions.

- a. *Cannabis.* Marijuana as defined in Section 21a-240, C.G.S.
- b. *Cannabis Establishment.* Producer, dispensary facility, cultivator, micro-cultivator, retailer, hybrid retailer, food and beverage manufacturer, product manufacturer, product packager and or delivery service.
- c. *Cultivator.* A person that is licensed to engage in the cultivation, growing and propagation of the cannabis plant at an establishment with not less than fifteen thousand square feet of grow space.
- d. *Delivery Service.* A person that is licensed to deliver cannabis from (A) micro-cultivators, retailers and hybrid retailers to consumers and research program subjects, and (B) hybrid retailers and dispensary facilities to qualifying patients, caregivers and research program subjects, as defined in Section 21a-408, C.G.S., or to hospices or other inpatient care facilities licensed by the Department of Public Health pursuant to Chapter 368v, C.G.S. that have a protocol for the handling and distribution of cannabis that has been approved by the department, or a combination thereof.
- e. *Dispensary Facility.* Means a place of business where cannabis may be dispensed, sold or distributed in accordance with Chapter 420f, C.G.S. and any regulations adopted thereunder, to qualifying patients and caregivers, and to which the department has issued a dispensary facility license under Chapter 420f, C.G.S. and any regulations adopted thereunder.

- f. *Food and Beverage Manufacturer.* A person that is licensed to own and operate a place of business that acquires cannabis and creates food and beverages.
- g. *Hybrid Retailer.* A person that is licensed to purchase cannabis and sell cannabis and medical marijuana products.
- h. *Micro-cultivator.* A person licensed to engage in the cultivation, growing and propagation of the cannabis plant at an establishment containing not less than two thousand square feet and not more than ten thousand square feet of grow space, prior to any expansion authorized by the commissioner.
- i. *Person.* An individual, partnership, limited liability company, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee or any other legal entity and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination thereof.
- j. *Product Manufacturer.* A person, excluding a producer, that is licensed to obtain cannabis, extract and manufacture products exclusive to such license type and who may sell or transfer cannabis and cannabis products to laboratories, research programs and cannabis establishments.
- k. *Product Packager.* A person that is licensed to package and label cannabis and cannabis products.
- l. *Retailer.* A person, excluding a dispensary facility that is licensed to purchase cannabis and cannabis products from producers, cultivators, product manufacturers and food and beverage manufacturers and to sell cannabis and cannabis products to consumers and research programs.
- m. *Transporter.* Means a person licensed to transport cannabis between cannabis establishments, laboratories and research programs.
3. **Applicability.** During this temporary and limited-term moratorium, cannabis establishments shall be prohibited in the Town of Killingly, and any and all applications submitted for the approval of any cannabis establishment shall be denied by the Planning and Zoning Commission or Zoning Enforcement Officer, as may be appropriate.
4. **Effective Date/Term.** This temporary and limited moratorium shall become effective on _____, 2021 and shall remain in effect until _____, 2022.
AUGUST 23, 2021 DEC. 31, 2022.



Senate Bill No. 1201

June Special Session, Public Act No. 21-1

AN ACT CONCERNING RESPONSIBLE AND EQUITABLE REGULATION OF ADULT-USE CANNABIS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Sec. 148. (NEW) (*Effective July 1, 2021*) (a) As used in this section, "municipality" means any town, city or borough, consolidated town and city or consolidated town and borough, and a district establishing a zoning commission under section 7-326 of the general statutes.

(b) Any municipality may, by amendment to such municipality's zoning regulations or by local ordinance, (1) prohibit the establishment of a cannabis establishment, (2) establish reasonable restrictions regarding the hours and signage within the limits of such municipality, or (3) establish restrictions on the proximity of cannabis establishments to any of the establishments listed in subsection (a) of subdivision (1) of section 30-46 of the general statutes. The chief zoning official of a municipality shall report, in writing, any zoning changes adopted by the municipality regarding cannabis establishments pursuant to this subsection to the Secretary of the Office of Policy and Management and to the department not later than fourteen days after the adoption of such changes.

(c) Unless otherwise provided for by a municipality through its zoning regulations or ordinances, a cannabis establishment shall be zoned as if for any other similar use, other than a cannabis establishment, would be zoned.

(d) Any restriction regarding hours, zoning and signage of a cannabis establishment adopted by a municipality shall not apply to an existing cannabis establishment located in such municipality if such cannabis establishment does not convert to a different license type, for a period of five years after the adoption of such prohibition or restriction.

(e) Until June 30, 2024, no municipality shall grant zoning approval for more retailers or micro-cultivators than a number that would allow for one retailer and one micro-cultivator for every twenty-five thousand residents of such municipality, as determined by the most recent decennial census.

(f) On and after July 1, 2024, the Commissioner of Consumer Protection may, in the discretion of the commissioner, post on the Department of Consumer Protection's Internet web site a specific number of residents such that no municipality shall grant zoning approval for more retailers or micro-cultivators than would result in one retailer and one micro-cultivator for every such specific number of residents, as determined by the commissioner. Any such determination shall be made to ensure reasonable access to cannabis by consumers.

(g) For purposes of ensuring compliance with this section, a special permit or other affirmative approval shall be required for any retailer or micro-cultivator seeking to be located within a municipality. A municipality shall not grant such special permit or approval for any retailer or micro-cultivator applying for such special permit or approval if that would result in an amount that (1) until June 30, 2024, exceeds the density cap of one retailer and one micro-cultivator for every twenty-five thousand residents, and (2) on and after July 1, 2024, exceeds any density cap determined by the commissioner under subsection (f) of this section. When awarding final licenses for a retailer or micro-cultivator, the Department of Consumer Protection may assume that, if an applicant for such final license has obtained zoning approval, the approval of a final license for such applicant shall not result in a violation of this section or any other municipal restrictions on the number or density of cannabis establishments.



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

MONDAY – JUNE 21, 2021

Regular Meeting – HYBRID MEETING

7:00 PM

TOWN MEETING ROOM – 2ND FLOOR

Killingly Town Hall

172 Main Street

Killingly, CT

RECEIVED
TOWN OF KILLINGLY, CT
20 JUN 29 AM 11:41

Elizabeth M. Sullivan

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 7:06 pm.

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

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

Also Present – Ken Slater, Town Attorney; Brian Dotolo, Project Director, Steven Cole, Civil Engineer from the Haskell Corporation; Greg Smith and Yovanna Gamez Electrical Engineers, from the Haskell Corporation; David Kode, Haskell; Nathan Labagh, Haskell; Roger Gieseke and Silvino Quenga from Frito-Lay; Rob Iacobucci and Ryan Cuevas from Green Skies; Nicholas H. Durgarian, Douglas Construction Company; Patti Larrow George, Town Council Liaison; J.S. Perreault, Recording Clerk (all were present via Webex).
Mike Cristina; Norm Thibeault, Killingly Engineering; Dale Desmarais, Desmarais & Sons, Inc.; (all were present in person).

II. **SEATING OF ALTERNATES** – None.

III. **AGENDA ADDENDUM** – None.

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

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Ann-Marie Aubrey read aloud from an e-mail that had been received, earlier in the day, from Karen Johnson supporting comments that had also been received earlier in the day, from Lois Latraverse (dated June 18, 2021) on behalf of the Alexanders Lake Homeowners' Association, regarding the Frito-Lay Application (Site Plan Review Application #21-1262). Ms. Johnson feels that the Application is not complete. Ms. Aubrey also read aloud from Ms. Latraverse's letter (which included sheets of signatures).

Ann-Marie Aubrey read from a letter received, earlier in the day, from Mike Cristina regarding clear-cutting in the Five-Mile River Protection Overlay District in which he explains his concerns and suggests adding the definition to the Regulations and to consult with the Town Attorney regarding this matter.

The Commission Members had received all comments via either the packet or e-mail.

At this time, Mr. Card read the access information above in case anyone else wanted to participate in Citizens' Comments by calling in.

Mr. Christina, Dayville resident, who was present in person, stated that he was not sure if his concerns would be able to be discussed tonight or if it should be put on a future agenda. Ms. Aubrey explained the procedure regarding timeline for receiving comments, posting them and hybrid meetings. Mr. Card explained that Mr. Cristina would have the opportunity to speak about his issue during Citizens' Comments, the Commission would have the opportunity to respond, and, in his opinion, it would be received and taken under advisement and the Commission could choose to possibly put it on a future agenda if it feels that additions/modifications need to be made to the Regulations, or they could direct Staff to draft a letter from the Commission to respond to Mr. Cristina's comments.

Mike Cristina, Dayville, spoke of his concerns regarding what he believes to be violations of clear-cutting in the Five-Mile River Protection Overlay District. He said that the issue came up that the Zone's Regulations are not enforceable because it is too vague, but he disagrees with this. Mr. Christina suggests the following:

- A definition for clear-cutting be added (he referred to the definition of clear-cutting in the Wetlands section of the Regulations).
- Address the enforceability.
- The underlying zone (Rural Development Zone) should not take precedence over the overlay zone. He has spoken with two zoning attorneys who say that the overlay zone cannot be more restrictive than the underlying zone.

Mr. Cristina commented on the following:

- If there are exceptions to clear-cutting, is it under a variance or a permit?
- It is in the Regulations that it is the landowner's responsibility to protect the view (he read from the Regulations).
- He referred to the Wetland's Regulations and stated that it does not matter if you are clearing your land for a house or to restore an agricultural field, you are still regulated if you are within 200 feet of wetlands (so you cannot cut right down to the river). He said there is a difference of opinion as to whether that has happened or not.
- In the Overlay District, owners are supposed to protect their houses from being viewed from the river, not improve their view of the river.

Mr. Cristina stated that the issue from a year-and-a-half ago is over with and they just want to prevent other issues from happening in the future.

Ms. Aubrey asked Ken Slater, Town Attorney, for his opinion. Attorney Slater (via Webex) stated agreement with Mr. Cristina regarding the notion that an underlying zone can be more restrictive than an overlay zone is not correct, because overlay zones tend to impose some additional requirements that do not exist in the underlying zone. Attorney Slater explained that he also agrees with adopting a definition because reading the Regulation in the extreme would not allow a lawn. He explained that there is some judgment involved in interpreting clear-cutting and that Staff has discretion in interpreting the Regulations.

Mr. Cristina asked that the Commission read his letter and give it consideration.

Mr. Card asked if there were any other comments from the public. Ms. Aubrey stated that she did not have any more comments from the public. Mr. Blake stated that there were no other callers for public comment.

V. COMMISSION/STAFF RESPONSES TO CITIZENS' COMMENTS

Mr. Card stated that he expects that the Commission will read and consider Mr. Cristina's letter. Virge Lorents stated that she will review that section of the Regulations. Mr. Card stated that the Commission had previously discussed the need to look at uses vs. activities in that Section.

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

NOTE: To participate in THE PUBLIC HEARINGS – the public may join the meeting via telephone while viewing the meeting on Facebook live.

To join by phone please dial 1-415-655-0001; and use the access code 132-481-0960 when prompted

- 1) **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.

Norm Thibeault, Licensed Professional Engineer with Killingly Engineering Associates, (present in person) represented the Applicant. Mr. Thibeault gave an overview and displayed plans as discussed:

- Original approval in July 2018 for the excavation activities to remove earth products from this location.
- Came back for modification in May 2020, to allow the Owners to import materials for processing. This was approved.
- Looking back at the plan and the grading originally shown, they realized the following:
 - As they excavated in some areas, the material was not quite as marketable as they thought it would be. Therefore, there are areas where they will not be able to excavate as much material as they originally wanted to.
 - Along the property line to the east (he indicated on the plan), he explained that, originally, the way that the grading was shown (up to 50 feet from that property line) it created a berm (from 8-12 feet high) along that property line that continued up-gradient from the Applicant's property to the State of Connecticut's property. It did not make a lot of sense, from a grading standpoint, to have that big knob there. He read aloud from Section 560.7.i of the Regulations and stated that the grading scheme that they are showing (for the modification) carries the grades out that are at the property line now (Old Trolley line) into the Applicant's property and create a shelf there rather than a big berm. He said that this is, substantially, the change to the Plan.
 - Mr. Thibeault also noted that the excavation was a lot deeper (it was a big, flat site) on the original, approved Plan and that the new grading scheme shows a slope from the south to the north (2 percent slope across the site). This grading plan results in a reduction in the total amount of material to be removed from the site from 254,000 c.y. to 223,000 c.y. (based on the original grading scheme).
 - Mr. Thibeault explained that locations shown for loam stockpiles, temporary sediment basins, riprap swales that come in on the corners of the site were all previously approved.

QUESTIONS/COMMENTS FROM COMMISSION MEMBERS:

Virge Lorents asked about remediation.

Mr. Thibeault explained that the site will still be restored and that the topsoil and subsoil that will be stockpiled on site does not change because of this grading scheme.

Brian Card asked how much has been excavated to date.

Dale Desmarais, Desmarais & Sons, present in person, stated 50,000 to 60,000 c.y.

Mr. Thibeault explained that it is based upon the original grading on the original Plan and that approximately 175,000 - 170,000 c.y. is remaining that needs to be taken off.

Mr. Desmarais explained that where they are in Phase 1, they are still 15 feet higher than what they were permitted to go, but it is not good materials (it is structural fill-not gravel, so they are leaving it there). He estimates it would probably be 150,000 c.y. coming out rather than the 223,000 c.y.

Mr. Card asked if there is any change regarding access coming into the property (ramp).

Mr. Thibeault stated that everything is the same.

Mr. Card asked about the conditions of the original approval.

Mr. Thibeault explained that he had discussed two comments from Town Engineer, David Capacchione, and that he had also requested that, prior to doing any of the proposed grading that changes the grading scheme, the edge of that right-of-way be staked out in the field to verify that they do not go over the right-of-way.

Mr. Card asked if the Conservation Easement had been corrected on the drawing.

Mr. Thibeault stated that it had.

Mr. Card asked about boulders being used as a natural barrier along the wood line.

Mr. Thibeault stated that they are still shown, where appropriate (along the western side), as a protective measure. The boulders along the eastern slope are not shown (due to creating the plateau there).

Mr. Card read aloud Town Engineer, David Capacchione's conditions:

- Prior to excavation, staking-out the eastern property line and that they remain in place. This should be a condition of approval.
Mr. Thibeault stated yes.
- Calculation been provided.
Mr. Thibeault stated that they had, and he explained that he had discussed this with Mr. Capacchione and that Mr. Capacchione accepts the swales as designed (2-3 c.f.s for a 100-year storm).
Ms. Aubrey stated that she had received an e-mail from Mr. Capacchione at 4 p.m. today. She confirmed that Mr. Capacchione's comments had been addressed: #1 – Mr. Thibeault has no problem with marking out the property lines and that this should be a condition of approval; #2 and #3 were satisfactorily addressed. Ms. Aubrey also stated that all prior conditions should remain in effect.

There were no further questions or comments from the Commission or from Staff.

Motion was made by Matthew Wendorf to close the public hearing for **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.

Second by Virge Lorents. No discussion.

Mr. Card Called for the Vote: Virge Lorents – yes; Matthew Wendorf – yes; John Sarantopoulos – yes; Brian Card – yes. Motion carried unanimously (4-0-0).

2) **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.

Nicholas H. Durgarian, Douglas Construction Company, (via Webex) represented himself. He stated that the proposed language is straightforward regarding definitions, conditions and limitations and he offered to answer questions regarding further clarification.

Ann-Marie Aubrey stated that, due to some of the concerns that the Commission had when this was being received last month, she had reviewed the Special Permit section, the Site Plan Review section, and the General Commercial Use section of the Regulations. She reviewed her Staff guidance dated June 21, 2021:

- She explained that this would have limited application in the General Commercial Zone (you would not be able to do this on every parcel within the General Commercial Zone).
- Buffer zone will need to increase from 15 feet to 25 feet (2.g). The Applicant agrees to this.
- Already in agreement with Condition 2.h for the lot area.
- Additional height left up to the discretion of the Commission.
- Special Permit is NOT a use of right.
- She recommends reading the news article regarding local package delivery by Walmart and Target (included in packets to Commission Members).

Brian Card's questions/comments/suggestions:

- Agrees with buffer zone increase (to be consistent).
- Delete 2.h as it is covered in the front of General Commercial. Maintain the fee for lot coverage in the General Commercial Zone.
- Building height increase – There was discussion.

Attorney Slater gave his opinion: He said that bulk requirements (height) are not usually flexible, usually it would be set in the Table. He referred to a case (McKenzie). He explained that he could not say with 100 percent certainty that it would stand up. He questions the wisdom of having a height requirement in the use regulations as opposed to in a Table. If it is a special permit use, perhaps, the Table can be amended. He said that if the Commission thinks that it is worth adopting these regulations for these kinds of facilities as a use by special permit and give that kind of flexibility, you will look to this section rather than the bulk Table to determine how tall a building can be allowed. He said it would probably hold up. He explained how special permit gives the PZC discretion.

Attorney Slater described three approaches: 1) Do not treat this use any different than any other use in that zone – the height is the height is the height; 2) Say the maximum height shall be the increase that they are asking for and then rely on the special permit standards if, in a particular location, that height is too much; 3) Do it exactly the way that it is drafted. Ordinarily you will stick with the height that is in the underlying Table and that you might be persuaded under special permit criteria to allow additional height.

Attorney Slater explained that there would be no need to re-notice the public if the Commission decides to adopt any one of the three approaches described above because they are within the general scope of what is before the Commission.

Mr. Durgarian clarified, based on the three approaches described by Attorney Slater, that he does not feel that this proposal takes any control out of the Commission's toolbox as it relates to what would be approved or not approved at a specific location because this is all under special permit. Attorney Slater stated that Mr. Durgarian is correct, and he explained the three options again.

Mr. Card asked if there were other uses where a height of greater than 50 feet is allowed. Ms. Aubrey answered that other zones allow up to 50 feet and, if this proposal were approved, the General Commercial Zone (which currently allows up to 40 feet – set by the Table) would also allow up to 50 feet. Jonathan Blade noted that the Borough of Danielson allows up to 60 feet in some zones.

There was discussion and Mr. Card asked if the PZC is okay with allowing up to 50 feet in the General Commercial Zone and he explained that there are two options with three ways to word it: 1) Underlying Zone plus 10 feet; 2) No more than 50 feet; or 3) 40 feet (leave it as it is).

Mr. Card asked what is meant by 2.d (regarding accessory uses – field organization of trailers, truck repair, or are uses currently being performed within the zone) of the proposed language.

Mr. Durgarian explained that it is on-site logistics – moving trailers around that would carry goods to and from the facility. He stated that he had fully read through the General Commercial Zone Regulations, and he explained that there would not, necessarily, be an adjacent maintenance facility, but that a facility or property like this could require a wheel to be changed or an engine repair truck that may have to come to look at a motor. He said the

facility would not be used for these purposes, but the unforeseen occurs and maintenance and repairs need to take place potentially outside of their ideal location.

Mr. Card stated that he would strike the catch-all phrase, "or are uses currently being performed within the zone." Mr. Durgarian explained that if there is a user down the road in the zone, utilizing the lot for something that is not necessarily in the Regulations, but has been generally accepted by the Town, they would want to reserve the right underneath this special permit to be able to operate in those capacities also. He said that it can be struck or kept, but it is not necessarily meant to be a catch-all, it is just looking at what the existing uses inside the established zone are.

Attorney Slater suggests striking it as it creates more ambiguity. He explained that the rights of an existing facility are protected as a non-conforming use and if it wanted to expand, it would apply these Regulations to its expansion and, if approved, it would turn from a non-conforming facility to a special permit approved facility.

- **Matthew Wendorf's comments/suggestions:**

Mr. Wendorf stated agreement with Mr. Card regarding deleting 2.h.

Mr. Wendorf stated that regarding building height, he would leave it at 40 feet for this special permit verbiage. Jonathan Blake referred to, and read from, the dimensional section - 450.3.1 for the Industrial Zone, and stated that this item is addressed there "Under the special permit, the building may exceed the maximum height as long as it is not an item otherwise exempt in a previous section." This is more open-ended, and it appears that there is no cap. Mr. Blake suggested that 10 feet is easier to define by just saying 50 feet. Ms. Aubrey read aloud from 450.3.1 and suggested adding that language to clearly define on what condition the Commission would allow it. She asked Mr. Durgarian to clarify why he put the additional 10 feet in the proposal. Mr. Durgarian explained that it is to allow for flexibility in the height of the building. He has several clients who have varying levels of height requirements inside the building (such as racking). He said that it all comes into play as it relates to distribution-type facilities today and the development of that industry. Mr. Durgarian asked that the Commission think about how to word it and if it gets limited, it gets limited. He said that it would be suitable to him if there is a way for the Commission to retain control under special permit use to at least have the ability to consider the additional 10 feet at the point of formal application.

Mr. Card stated agreement with Mr. Wendorf should the Commission think about it for the entire General Commercial Zone (potential other uses that may require additional height), or should it worded like 450.3.1 to be specific?

Brian Card's questions/comments/suggestions continued:

- Item 2.e – No packaging exterior to the building - just items stored in trailers on the lot?

Mr. Durgarian stated that is correct and explained that it is to accommodate for goods that are in trailers parked adjacent to the building. He said that there would be no processing or substantial handling of materials outside of the building.

- Item 2.f

Mr. Durgarian explained that the purpose of this wording is to keep loading docks away from the street-facing side of the building for aesthetic purposes. Mr. Durgarian clarified the language of the second phrase explaining that it allows for loading docks to be on the street side of the building if there is a landscape or other building buffer (consistent with required buffer conditions).

Attorney Slater suggested and Ms. Aubrey re-iterated the following language: "Truck loading docks shall not be located on the street-facing side of the building or be located on the building side that abuts a residentially-zoned parcel without adequate landscape buffer and screening." Matthew Wendorf stated that he feels it still needs more clarity. Mr. Card stated that residential is covered by Item 2.g.

- Item 2.i

Attorney Slater explained this Item is what he was referring to earlier that he does not favor. Attorney Slater suggests striking it as it creates more ambiguity. He explained that the rights of an existing facility are protected as a non-conforming use and if it wanted to expand, it would apply these Regulations to its expansion and, if approved, it would turn from a non-conforming facility to a special permit approved facility. He said that this is the law already and it does not need to be stated. Mr. Card stated agreement for deleting Item 2.i.

Mr. Card explained that Item 2.d "or are uses currently being performed within the zone" is what was being discussed earlier and Attorney Slater stated that the same applies for that Item also. If it can be demonstrated that something was in existence before the Zoning Regulations would have otherwise prohibited it, it can continue.

There was discussion regarding the two definitions. Brian Card suggested rewording 1.b - fulfillment.

Mr. Durgarian explained that fulfillment would not be warehousing (the storage of goods). He explained the process of fulfillment. You have the bulk storage of goods, someone orders ten different items, those ten items go into a new package before leaving the building. The process of the ten items getting into that package is the process of fulfillment in this definition.

Mr. Card questioned whether the sentence should begin, "For the purpose of this Regulation only" or "For the purpose of this Section only." Ms. Aubrey stated that it should be, "For the purpose of this Section only." Mr. Card stated agreement. There was discussion and Mr. Card mentioned that the Commission think about it and may want to add to the definition of fulfillment.

There were no further comments regarding Item 2. Conditions.

There was discussion regarding Item 3. Prohibited Uses:

- Item a – No comments.
- Item b – Delete.
- Item c – Delete.
- Item d – Add "sale" or storage of animals or live pets.
- Item e – Mr. Card suggests keeping this in case someone takes parts and puts them together to fulfill an order.
- Item f – Mr. Card feels this is open-ended and asked, "Who is defining which governmental agency and which responsible insurance agency?"

Attorney Slater commented on the whole series of prohibitions being discussed. He said that the prohibitions need to be tailored to the use that is being proposed and some of these do not seem to have anything to do with the use being proposed. He said that the applicant should give a very specific description of exactly what is going to be done in that operation which can be built into the special permit as a condition. It does not need to be listed as a prohibited use. He said that Item f can stay in, but he suggests striking the last three words, "responsible insurance agency." Another alternative would be to leave the whole concept to the permitting process to make sure that what is being handled in the facility is acceptable to the PZC. He suggested the following language, "products that are unstable or hazardous."

Mr. Card asked if these should be conditions rather than prohibited uses.

Attorney Slater explained that the PZC could prohibit unstable or hazardous materials and then would need to decide what it is on a case-by-case basis.

John Sarantopoulos commented that he does not have a problem with the proposed language because vehicles would have a placard. Discussion ensued. Jonathan Blake suggested the following:

- Items 3 d & e should stay and add "sale" to d.
- The rest should be stricken because they either conflict or are covered by various levels of Staff review or other conditions.

Discussion continued regarding Item 3. Prohibited Uses:

- Brian Card stated strike Item 3.f.
- Brian Card stated strike Item 3.g (already covered).
- Brian Card recommends moving Item 3.h to Conditions because he does think the Commission would want shipping containers that are not on a vehicle stored on the premises. He suggested adding, "No outdoor storage of pods or shipping containers not on a chassis."

Mr. Card stated that he thinks the whole thing needs to be re-worded. He recommended continuing and coming back with re-worded language (not adding anything).

Motion was made by Virge Lorents to continue **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, to the next regularly scheduled meeting of the Planning and Zoning Commission on Monday, July 19, 2021, Town Meeting Room, 2nd Floor, 172 Main Street, at 7:00 p.m.

Second by John Sarantopoulos. No discussion.

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

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

1) **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.

Motion was made by Matthew Wendorf to approve **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, with the following conditions:

- All Town Engineer's comments be addressed.
- All prior Application's conditions remain in effect.

Second by John Sarantopoulos. No discussion.

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

2) **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.

This Application was continued to the next regularly scheduled meeting of the Planning and Zoning Commission on Monday, July 19, 2021, Town Meeting Room, 2nd Floor, 172 Main Street, at 7:00 p.m.

3) **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. (REVIEW/DISCUSSION/ACTION)

SCRIVENER'S ERROR: This Item was incorrectly placed on the Agenda under VIII. New Business, Item 1.

Brian Dotolo, Project Director, Haskell Corporation, introduced the rest of the Team Members who were present (all via Webex) for this Application: Roger Gieseke and Silvino Quenga from Frito-Lay; Steven Cole, Nathan Labagh, Ryan Cuevas, David Kode, Greg Smith, Rob Iacobucci, and Yovanna Gamez from Haskell Corporation.

Mr. Dotolo presented Phase 1 (Trash and Receiving Dock Expansion) of the Project. He displayed plans and orientated the area.

- Phase 1 is a smaller project of the overall larger project (Phase 2). The primary scope is the construction of the new warehouse with trash and receiving docks. This expansion will not contain any type of food production. The second larger Phase has not yet been submitted because it is in the beginning stages of design. The full and complete submittal of the second Phase will be presented to the PZC later this year.
- The Civil, Architectural and Exterior Lighting Changes will be reviewed tonight. The drawings submitted meet the Building Code and PZC requirements.
- Both the IWWC and the DEEP have approved this project.
- The existing truck access road will be used for construction access as well.
- He indicated in the southeast corner of the facility where the new building expansion will take place.
- He indicated the existing storm detention pond and the location for the new detention pond (sized appropriately). The old detention pond will be eliminated and filled in providing for additional trailer parking.
- The Project will have minimal impact to the surrounding community.
- The new receiving docks that will replace the existing receiving docks will be blocked in by the new warehouse. The new trash dock that will replace the existing trash dock (also along the elevation) sometime next year when the Phase 2 project commences.
- The building expansion will take place along the east side of the property and will be screened by the existing facility in addition to the landscaping screening along the property line.
- The access road will be paved over an existing gravel road which is currently being used to bring trailers down to the south lot which is currently under development.
- Further to the east there is an electrical yard which is on Frito-Lay's property. This has been coordinated with Eversource who has an easement that runs through the property.
- Existing screening is not being impacted by this expansion.
- The building expansion is being built over existing pavement, so the impervious area will not be increased.

Steven Cole, Civil Engineer, displayed, orientated, and reviewed the Geometric Site Layout of the Phase 1 Expansion:

- This is reduced scope, reduced pavement areas, and reduce limits of disturbed area from the previously submitted documents. He focused on the changes:
 - New access road on the west side – heavy-duty asphalt pavement on top of the existing gravel pavement, slight widening of that existing gravel pavement. Proposing Cape Cod curb, for drainage purposes, along that roadway.
 - Middle area just east of the access road – Previously they were re-grading and re-striping. With this plan, they are not modifying that trailer parking lot at all.
 - There is a slight increase in the trailer stalls on the south side with concrete dolly pads.
 - Receiving docks on the left side of the building – to install heavy-duty concrete aprons.
 - Gravel pavement to the northeast as a temporary trailer storage in that area so they do not have to rip pavement out in the future.
 - Site Utility Plan – He indicated how they are rerouting the fire line for future expansion. They are providing two 8-inch lead-ins for the building connection (coming off an existing 12-inch loop around the building)
 - Receiving and Trash Docks – they have recessed those docks to two trench drains that have multi-purpose. Low flow will be routed to the oily waste system at the Frito-Lay Facility and ultimately will end up at the wastewater treatment facility to be treated. Large flows (such as storms) will be routed downstream. Prior to any flows entering these two pipe systems, they have trash collection and trash buckets to prevent any solids from entering that system. Further downstream, they have the previously approved oil/water separators and hydrodynamic separators. It is a clean system before any storm water would enter the pond.
 - Drainage Plan – The main by-pass from the existing pond will be installed – it was permitted as part of the south lot. The primary focus for this Project was to connect the trench drains and the building expansion to that previously permitted system to by-pass it around the existing pond. For the new access road on the west side, they are proposing Cape Cod curb to drain to a curb inlet and route it underground into the existing system and, ultimately, down south to the new infiltration pond.
 - Updated Post-development Drainage Map – The intent is to show that they are meeting the previously-approved Post-development Drainage Map as part of the south lot. There were some minor changes with the revisions to the new access road and the limits of paving and disturbed area. There is a minor reduction in the pervious area. He showed the Master Plan for the two basins in the north – they have reduced the values. They are outside of the 200-foot buffer zone from the watercourse with the electric yard (one the east side) as well as all the improvements being permitted under this document. This improvement still maintains the 62 percent lot coverage throughout the site.
 - Mr. Cole offered to answer questions.

Brian Card asked about traffic flow changes with the new driveway being cut into the north side. How does it relate to the recent prior approval for the lot expansion?

Mr. Cole explained that it is not changing the flow pattern and that the need for the access road is because, where the existing scale is, due to the four-foot recessed docks, they had to cut in that area, and they were not able to route trucks in-between the existing Facility and the scale. He said that the primary access point for the south lot is right along the south property line. He indicated the route and explained that it does not change any of the access, it just provides them more fluid access and more fluid maneuvering from the scale and unloading facilities.

Mr. Card asked if there would be increased traffic that would have neighbor impacts due to the new roadway on the west. Mr. Cole explained that the increase is on the east side of that road, and they want to maintain all the tree buffers on the west side of that road, so none of that will be removed. They increased the existing gravel road for a 30-foot, two-way access road.

There were no further questions for Mr. Cole from the Commission or from Staff.

David Kode, Design Director, displayed, orientated, and reviewed the Architectural Plans: Floor Plan and Elevations:

- Square footage – 19,865 s.f. comprised of S-1 storage occupancy with a small area of an H-4 occupancy (around the chemical storage area).
- Summary of Architectural Layout: Trash dock as well as receiving dock, chemical storage area supporting the area for film storage, a connector corridor interior, and some support space of an electrical room.

- Elevations in Sections:
 - Trash and Receiving Area – Approximately 36'1" at the low point and 38'7" at the high point.
 - Film Storage Area – Lower area of 26' (bottom of deck). The reason for the recess is to accommodate adjacent snow loads around it.
 - There are two materials: Exterior – will be a tilt-up construction concrete which matches, in kind, the existing. Interior - I&P walls that separate the interior spaces.
 - Overall, both sections and elevations of the Facility match existing contacts and building heights. All fit within the Facility heights and limitations.
 - It is tucked in and screened in as part of the existing trash and receiving area as part of the new proposed expansion.

Greg Smith displayed and reviewed the Electrical Plans:

- Site Photometric Plan – Showing a mix of existing (EX) and new fixtures (S-1, S-2, and S-1H). He explained that they incorporated feedback (that had been received from the Lake Association) into this design to really minimize even more light pollution. They removed some old lights (in the area where the new drive is) and put in three new 20-foot-high poles – there is no light fixture in that area (closest to the property line) that is higher – all are at that height or lower. In addition, they put an external glare shield around the back of the fixture and a house-side shield to really control any back light spills in that area to focus all the light straight down onto the road.
- Where the S-2 and two new S-1 light fixtures are shown, they are matching what they did in the south lot for trailer parking. It is directed straight down – no flood lights angled up. No glare looking from off-site. At the property line there is a zero-foot candle.

Virge Lorents spoke of Dark-Sky, and she stated that the higher the pole, the wider the cone on the ground.

Mr. Smith explained that, in that area, they are matching pole heights.

Brian Card questioned that the poles will be 40 above grade, but the lights will be mounted at 20 feet.

Mr. Smith stated that the S-1H fixtures will be on 20-foot poles on 4-foot bases (24 feet). The single S-2 fixture and the two S-1 fixtures will be on 35-foot poles on 4-foot bases (39 feet above grade).

Ms. Lorents commented that there has not been much progress in the way of minimizing the lighting. She said that industrial sites and malls are still over-lit at night.

Ann-Marie Aubrey's stated that the Town Engineer had no comments.

Brian Dotolo responded

- Regarding Lighting – One of the responses is that they are going with the 20-foot poles closest to the property line along the drive since there is no parking along that area.
- They are not impacting the vegetation or the screening along the east property line.
- Regarding smell – The addition does not have any production in that space.
- Regarding noise – Noise primarily comes from mechanical equipment on the roof. These have smaller units on the roof that will not make that kind of noise.

Brian Card asked about the trash compactors are exterior to the building.

- Mr. Dotolo stated that they are, and they are like what they currently have now.

Motion was made by Matthew Wendorf to approve **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.

Second by John Sarantopoulos. No discussion.

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

Motion carried (3-0-1).

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

1) **Special Permit Application #21-1267**; Justin Olsen/Markover Kennels (Pine Acres Properties, LLC/Owner); 723 & 753 Cook Hill Road, Killingly, CT; GIS MAP 139; LOTS 38.1 & 40; ~160.acres; Rural Development Zone; request dog boarding, training, and grooming facility for 20 dogs. **Receive, and if application is complete, then schedule for next available public hearing date – July 19, 2021.**

Ann-Marie Aubrey stated that the Application is complete.

Motion was made by Matthew Wendorf to receive and schedule a public hearing for **Special Permit Application #21-1267**; Justin Olsen/Markover Kennels (Pine Acres Properties, LLC/Owner); 723 & 753 Cook Hill Road, Killingly, CT; GIS MAP 139; LOTS 38.1 & 40; ~160.acres; Rural Development Zone; request dog boarding, training, and grooming facility for 20 dogs, for the next regularly scheduled meeting of the Planning and Zoning Commission on Monday, July 19, 2021, Town Meeting Room, 2nd Floor, 172 Main Street, at 7:00 p.m.

Second by Virge Lorents. No discussion.

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

2) **Site Plan Review Application #21-1268**; PB Projects, VII, LLC; 140 Main Street, Killingly, CT 06239; GIS MAP 198; LOT 134; Central Business District; renovate historical building for use as 1st floor general mercantile, and full-service restaurant; 2nd floor for general offices. Receive, and if the application is complete, please transfer to staff for staff review and approval.

Ann-Marie Aubrey explained Staff is requesting that it be sent back to them because they are not changing the footprint. It is the old Sherwin-Williams Building which is in the process of renovation.

Motion was made by John Sarantopoulos to receive and transfer to Staff for review and approval, **Site Plan Review Application #21-1268**; PB Projects, VII, LLC; 140 Main Street, Killingly, CT 06239; GIS MAP 198; LOT 134; Central Business District; renovate historical building for use as 1st floor general mercantile, and full-service restaurant; 2nd floor for general offices.

Second by Virge Lorents. No discussion.

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

Motion carried unanimously (4-0-0).

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

1) Regular Meeting Minutes – May 17, 2021

Motion was made by John Sarantopoulos to adopt the Minutes of the Regular Meeting of May 17, 2021.

Second by Virge Lorents. No discussion.

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

Motion carried (3-0-1).

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

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

The Commission Members reviewed the draft language that had been provided at the last meeting. Town Attorney, Ken Slater was present for this discussion. Brian Card presented his comments/suggestions. Ann-Marie Aubrey will draft new language based on this discussion and will provide it for further review by the Commission.

Workshop to be continued to next month.

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

There was no discussion regarding this Item.

Workshop to be continued to next month.

XI. CORRESPONDENCE – None.

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

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

- B. Inland Wetlands and Watercourses Agent's Report – None.**
- C. Building Office Report – None.**

XIII. ECONOMIC DEVELOPMENT DIRECTOR REPORT

Jill St. Clair was present (via Webex) and reported on the activities/promotions/events of the EDC.

XIV. TOWN COUNCIL LIAISON REPORT

Patti Larrow George was present (via Webex) and reported on the recent actions/discussions of the Town Council.

XV. ADJOURNMENT

Motion was made by Matthew Wendorf to adjourn at 9:42 p.m.

Second by Virge Lorents. No discussion. Motion carried unanimously by voice vote (4-0-0).

Respectfully submitted,

J.S. Perreault
Recording Clerk

Proposed Special Permit Use

Add Section 420.2.2 General Commercial Zone (Special Permit Use)

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, **not to exceed six (6) times per year**.
- 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 **trucks** ~~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 adjacent streets and property by walls, fences, or landscaping. Outdoor storage areas shall not exceed fifteen percent (15%) of the total enclosed site area, shall be

located to 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~~ **twenty five** (~~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 **dark** night sky compliant.

3. Prohibited Uses (Individual Storage Units):

- ~~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, **storage** 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, **sales or auctions by private parties** 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.~~

Proposed Special Permit Use

Add Section 420.2.2 General Commercial Zone (Special Permit Use)

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, not to exceed six (6) times per year.
- 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 trucks, 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.
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- 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 adjacent streets and property by walls, fences, or landscaping. Outdoor storage areas shall not exceed fifteen percent (15%) of the total enclosed site area, shall be located to 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 twenty-five (25) feet wide. Additional setback and the reorientation of the buildings may be required to ensure compatibility with surrounding properties.
- m. All outdoor lighting shall be dark sky compliant.

3. Prohibited Uses (Individual Storage Units):

- a. Any use that is noxious or offensive because of odors, dust, noise, chemicals, gas, fumes, or vibrations.
- b. Kenneling, storage, or sale, of animals or pets.
- c. 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, sales or auctions by private parties or any other similar activities.

WORKSHOP

CORNER PROPERTIES, INC.
REAL ESTATE & MORTGAGE INVESTMENTS

P.O.Box 379 Putnam, CT 06260 860-963-0480 safaritanz@gmail.com

7/14/2021

To the Killingly Planning and Zoning Commission for the General Discussion under OTHER at the July 19, 2021 meeting

Over the past year and a half, we have had discussions with town staff about two incidents of clear-cutting in the Five Mile River Protection Overlay District. Concerned citizens have called us and sent photos to us because they know we helped write those regulations. Staff also has those photos and we have requested that they present them to the Commission tonight.

We are not here to reopen those two incidents. The past is the past. However we can use them as learning tools. We understand the tricky position the staff is in when enforcing a regulation that has already been violated; and we understand that homeowners sometimes are not aware of the regulations.

We are here to prevent future environmental destruction, by tightening the regulations, discussing those regulations with staff, and educating the residents of the Overlay Zone. Hopefully, if and when the regulations are "repaired" a copy can be sent to every resident in the Overlay Zone.

We have talked to a Planning & Zoning Attorney, who suggested several topics of discussion:

1. Adding language and definitions to firm up the existing regulations.
2. Discussing with staff their reluctance to enforce the regulations.

SUGGESTED ZONING REGULATIONS TEXT CHANGES:

Please realize that the exact language may have to be cleaned up a little, and hope the commission will propose these changes.

1. Add the definition of clear cutting to the Planning & Zoning Regulations:

From Killingly's Inland Wetlands & Watercourses Regulations, SECTION 2 - DEFINITIONS
2.1 As used in these regulations:

e. "Clear-Cutting" means the harvest of timber in a fashion which removes all trees down to a two inch diameter at breast height. (DBH or diameter at breast height is measured 4.5' above ground level.)

2. Add a definition of Appurtenances:

At the last P&Z meeting, when the town attorney was asked what was confusing about the OVERLAY regulations, the only item he mentioned was the word "appurtenance":

Potential language: *In real estate, an appurtenance is something that is installed in or sits on a property. It is something that is considered a part of the property, is sold with the property, and is passed on to the new owners. For example: fences, exterior buildings, existing crops, oil or mineral rights, shared driveways (with attached easement appurtenant), trees or shrubs, water rights (given to an adjoining property), in-ground swimming pools, easements...*

3. Add language to the Overlay Zone Prohibitions, C. 17 (in **black):**

C. The following uses are prohibited:

*17. Clear cutting except, **by permit**, for maintenance of existing farm fields and/or the minimum necessary to accommodate permitted structures and their appurtenances, the culling of dead or diseased trees as determined by a licensed arborist.*

There is some confusion on the permit issue. In one of the two incidents, a permit was issued for an orchard, but only after the clear cutting was finished.

4. and, although some will think this a bit too radical a change:

Extend the Five Mile River Protection Overlay District to include the entire western Fiver Mile River waterway as per:

KILLINGLY P&Z PLAN OF CONSERVATION AND DEVELOPMENT 2010 - 2020

Page 58, Strategies, c.: Establish overlay districts to preserve environmentally sensitive areas ... including, but not limited to ... the western Five Mile River waterway

ENFORCEMENT

1. I have been told by staff things like *"it's not clear cutting if it hasn't been stumped", or "it's not clear cutting if the trees are diseased"*. I find nothing in the regulations that leads to this interpretation.

2. This was sent to me by staff. Clear cutting is *"found in the Inland Wetlands and Waterways Regulations Section 2 – Definitions. "2.1.e. "Clear-Cutting" ...*

Staff added: *"However, please note that this definition pertains to clearing wetlands, not upland areas."*

Wetland Regulations say: *Furthermore any clearing ... on the land within 200 feet measured horizontally from the boundary of any wetland or watercourse is a regulated activity ...*

3. The overall "enforceability" of the Overlay Zone. I have been told by town staff that the Overlay Zone *is poorly written and cannot be enforced*. In the last meeting the Town Attorney only mentioned confusion regarding appurtenances, such as shrubs

4. Does the underlying Rural Development Zone take precedence over the Overlay Zone, which is the zone that is listed on the Property Record Cards? I have been told by staff that *"an overlay zone cannot be more restrictive than the underlying zone"*. The Town attorney refuted this claim, as did the planning attorney we consulted with.

5. I have also been told by town staff that residents who live across from a clear cutting incident *"should have bought the land across the street to protect their view"*, and owners *"are within their rights to maintain their view"* to which I will point to Overlay Zone, F:

F. To conserve and enhance the natural scenic and topographical conditions in the river corridor and its environmental quality, recognizing that these are vital to the economic and environmental health of the Town, and to preserve the natural scenic quality of the river by maintaining, where possible, screening of manmade structures from the river view...

We regularly kayak on the Five Mile River and until now could barely see the house in question.

The Town of Killingly has Planning and Zoning Regulations, adopted by the Planning and Zoning Commission. For some reason, Town staff has chosen to ignore some of the regulations which happen to pertain to highly sensitive environmental issues.

INLAND WETLANDS and WATERCOURSE REGULATIONS:

SECTION 6 - REGULATED ACTIVITIES TO BE LICENSED 6.1 Notwithstanding the ownership of the subject land, *no person shall conduct or permit to be conducted or maintain a regulated activity in and/or within 200' of inland wetlands and/or watercourses without first obtaining a permit* for such activity from the Killingly Inland Wetlands and Watercourses Commission.

Definitions

ee. *"Regulated Activity"* means... Furthermore *any clearing*, grubbing, grading, paving, excavation, filling, constructing, depositing or removal of material and discharging of stormwater on the land *within 200 feet measured horizontally from the boundary of any wetland or watercourse is a regulated activity.*

Section 630. Violations Any person, firm or corporation violating any provision of these regulations shall be subject to the remedies and penalties prescribed by the Connecticut General Statutes as amended.

The wetlands commission recently was confronted with this issue, and worked with the homeowner who lives in the Overlay Zone. See 2-page wetlands staff report,

There was recently extensive clearcutting within steps of the river's edge on a large, steep slope, in the overlay zone and within the 200 foot wetlands buffer. Staff was asked if they had visited the property, and were they concerned about the runoff into the river. The answer was yes to the visit, and no to any concerns. They asked the homeowner to install a silt fence along the river.

Questions:

Was the wetlands commission informed of the clear-cutting?

Is there an estimate of how old the trees were by inspecting the stumps left behind?

Killingly Planning and Zoning Commission

Keith Thurlow, *Chair*

Virge Lorents, *Vice-chair*

Brian Card, *Secretary*

Joseph Couture

John Larkin

Mark Horvath, *Alternate*

Sarah Nathans, *Alternate*

2010-2020

Plan of Conservation and Development Advisory Committee

Joyce Ricci, *Chairperson - Town Council*

Keith Thurlow, *Vice-chair - Planning and Zoning Commission*

Donna Bronwell, Craig Goff: *Conservation Commission*

**Rosemarie Lee, Mark Tillinghast: *Economic Development
Commission***

**Robert F. Leonard, Jr, Virge Lorents: *Planning and Zoning
Commission***

Brad Gauthier, Robert Loiselle: *Town Council*

Consultant: John Filchak, Director, NECCOG

Town Staff

Bruce Benway, *Town Manager*

Kimberly Darigan Newman, *Assistant Town Manager*

Linda Walden, *Director of Planning and Development*

Elsie Bisset, *Economic Development Coordinator*

Eric Rumsey, *Planner 1*

serve both the regional and local market. Neighborhood-scale businesses should be accommodated in areas where they can serve residential areas.

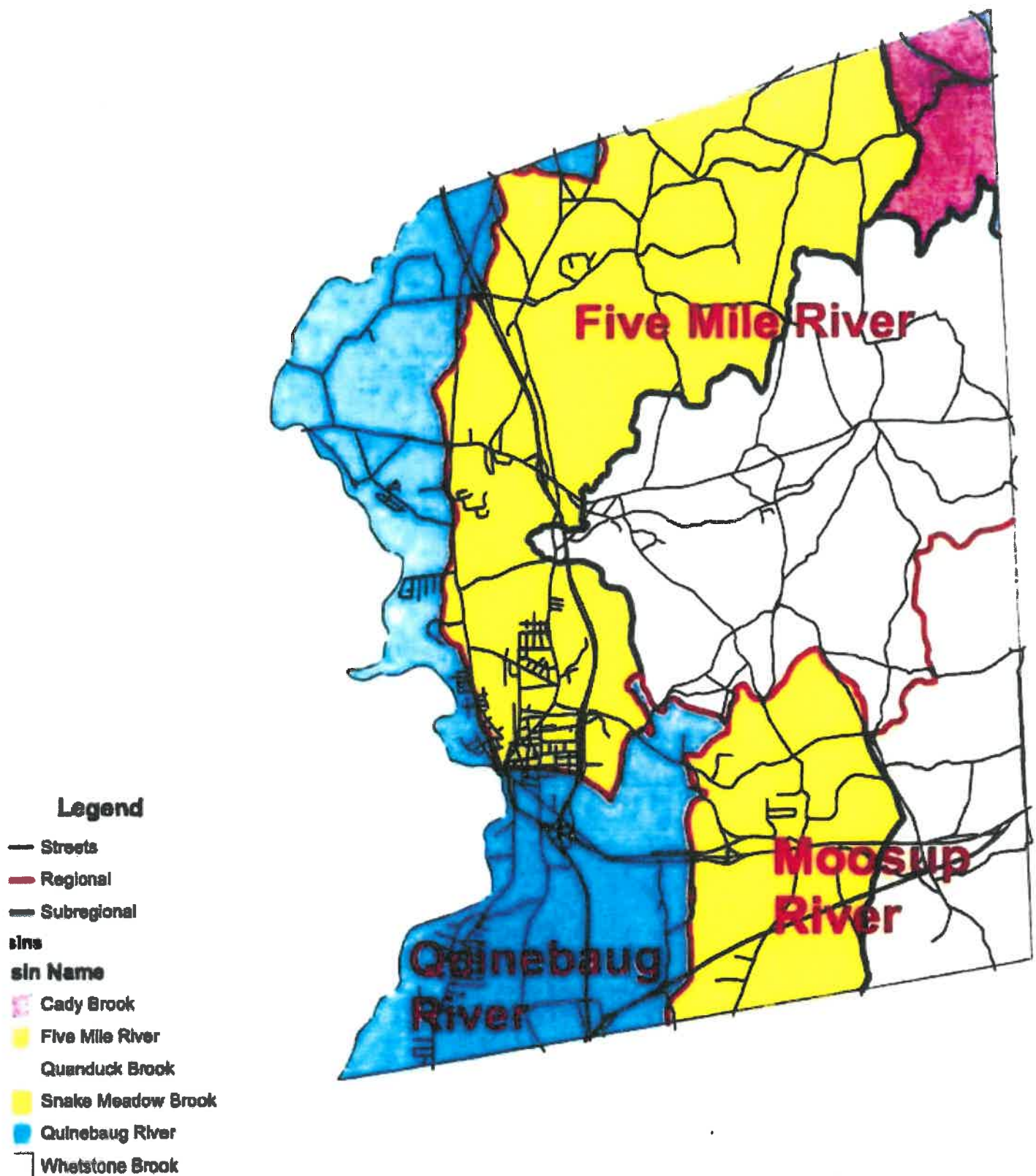
5. Office, research and institutional uses should be encouraged to locate in appropriately zoned areas.

Strategies

Objective One: Outlying areas of the community, mostly east of Interstate 395, and in specific areas west of the Interstate, where it is more difficult to provide public services, that lack public utilities such as sewer and water, that have significant natural resource and habitat value, should continue to be considered rural areas.

- Within these areas, development should be discouraged and the rural character retained.
 - A minimal number of the new residential units built in Killingly should be located in this area.
 - The development that does occur should maintain the character of the area, while preserving significant natural resources.
 - While the overall density of new development should be low, development should be clustered to minimize the impact on natural resources and habitat.
- a. Guidelines for the Open Space Land Acquisition Fund shall be included in this Plan, and efforts shall be made to increase funding through a variety of methods, such as a line item in the Town budget, private donations, matching funds and grants, etc. The goal is to have funds ready when a desirable property becomes available for the acquisition of land (or any interest in land) for open space, natural resource protection, recreational or agricultural purposes.
 - b. Promote the designation of more open space through a variety of mechanisms, including, but not limited to, conservation easements, purchase of development rights, fee simple ownership by the Town, estate planning, gifts to land trusts, transfer of development rights. Encourage and support voluntary land conservation.
 - c. Establish overlay districts to preserve environmentally sensitive areas, as well as culturally and historically significant places, including, but are not limited to, the Upper Whetstone watershed, the Quanduck watershed, the western Five Mile River waterway, and the Davis Park/Broad Street neighborhood (which should include preservation language to protect historic features of the properties).
 - d. Significant natural resources, agricultural land, and open space should be protected and an unfragmented, interconnected network of "public" open space developed where feasible, in order to accommodate wildlife movement, agriculture and sustain ecosystems and biodiversity.
 - e. The Killingly Conservation Commission's ongoing mission is to inventory areas of significant natural resources and to prioritize these areas for protection. Examples of priorities for protected areas

Gillingly Drainage Basins



map is for planning purposes only - it contains no authoritative data
 source: Green Valley Institute / State of Connecticut

0 0.5 1 1.5 2 Miles

N
 12/07/11

STAFF REPORT

GENERAL INFORMATION: IWWC Application Site Visit at 65 Stone Road

SUMMARY: Property of interest at 65 Stone Road; GIS Map 19; Lot 15; 6.2 acres; Rural Development Zone; Five Mile River Overlay Zone.

The landowner at 65 Stone Road applied to the IWWC on 02/18/2021; the application was received by the commission at the March Regular Meeting on 03/01/2021. Upon receipt, the commission asked that staff conduct a site visit to determine if there are any alternative locations for the proposed 30' x 40' outbuilding and a 15' x 24' above ground pool.

PURPOSE: The proposed outbuilding will be used for storage for various machinery and equipment. In the future when an above ground pool is erected, it may also be used to store items related to the pool.

OWNER: Sheena and Nathaniel Ruggirello

PARCEL ID: GIS Map 19 – Lot 15

LOCATION: 65 Stone Road

ZONING: Rural Development Zone; Five Mile River Overlay Zone

REPORT BY: Marina Capraro, Assistant Planner / Natural Resources Officer

RECOMMENDATION:

Staff met with property owner on site at 65 Stone Road on 03/09/2021. The property owner showed staff the proposed building site; staff observed the various equipment stored around the property that would be stored in the proposed outbuilding. The proposed outbuilding would abut a wetland that slopes south; about 50 feet from the flagged wetland edge is a seasonal stream that takes runoff from Stone Road into the Five Mile River; the area is designated as a 'Critical Habitat Area' by CT DEEP, indicating there may be habitat for or populations of endangered species in the area; this property has additional development and property management restrictions from the Five Mile River Overlay Zone. Additionally, the wetland area in question is labeled as a 'Preserve Zone' on the recorded subdivision maps (provided); however, the restrictions of the 'Preserve Zone' were never recorded with the Killingly Town Clerk. It seems the intention of the Preserve Zone is to protect a historic or cultural resource, based on the language on the map: *Preservation Zone areas of historical significance are not to be disturbed by construction and will be protected by deed restrictions.*

Based on the site visit, the proposed building location seems to be the only reasonable area on the property for the outbuilding: East of the house, the slope is too severe; North of the house, zoning setbacks may be an issue; South and Southeast of the house, the septic system and leach field obstruct the area, as well as presenting an even closer proximity to the Five Mile River. The chosen area, west of

the house, outside of the wetland boundaries but within the upland review area, is the only feasible location for this outbuilding. Additionally, the homeowner owns various equipment including tractors, tractor implements, large power tools, etc. These items are currently stored uncovered around the property, upslope from wetland areas. It is the recommendation of staff that these items be allowed a proper storage space via the proposed outbuilding, and that conditions for fuel storage and secondary containment of any fuel or chemicals be put on the approval of the proposed outbuilding.



Figure 1 Proposed Building Site Looking South

NATURAL DIVERSITY DATA BASE AREAS KILLINGLY, CT

LEGEND

- State and Federal Listed Species
- Critical Habitat
- State Boundary
- County Boundary
- Town Boundary
- Interstate
- US Route
- State Route
- Ramp
- Street
- Ferry
- Railroad
- Watercourse
- Intermittent Watercourse
- Shore
- Grooving Ditch
- Dam
- Dredged Channel
- Aqueduct
- Water
- Intermittent Water
- Pond
- Road
- Unfilled Area
- Mudflat
- Grassland Bog
- Dam
- Fish Hatchery
- Adopted
- Seepage Pond
- Water Tank

EXPLANATION

The map depicts general locations of state and federal listed species and critical habitat. The map is intended to be used as a reference tool to determine the potential for impacts on state listed species and the need for a Natural Diversity Data Base study. To use the map locate the general location and the adjacent state listed species on the map. If the species is within a shaded area, there may be a potential conflict with a listed species or critical habitat. For more information regarding a Natural Diversity Data Base study, please contact the Natural Diversity Data Base Study Unit at the Department of Energy and Environmental Protection (DEEP) at 1000 Main Street, 06103-0001, Hartford, CT 06103.

Let the CTDEEP determine the map location of any state listed species. An area generally shaded for and listed species is a Natural Diversity Data Base study area.

Date of Map: December 2001
Revised: December 2001

For more information, please contact the DEEP, Bureau of Natural Resources, at 1000 Main Street, 06103-0001, Hartford, CT 06103.
(Tel: 860-426-7000)

DATA SOURCES

"NODD Information" is a report of state and federal listed species and critical habitat. The report is compiled by the Connecticut Department of Energy and Environmental Protection, Bureau of Natural Resources, and is available to the public. The information is not necessarily the most up-to-date information available. The report is compiled by the Connecticut Department of Energy and Environmental Protection, Bureau of Natural Resources, and is available to the public. The information is not necessarily the most up-to-date information available.

State and Federal Listed Species - Based on data originally from the Connecticut Department of Energy and Environmental Protection, Bureau of Natural Resources, and is available to the public. The information is not necessarily the most up-to-date information available.

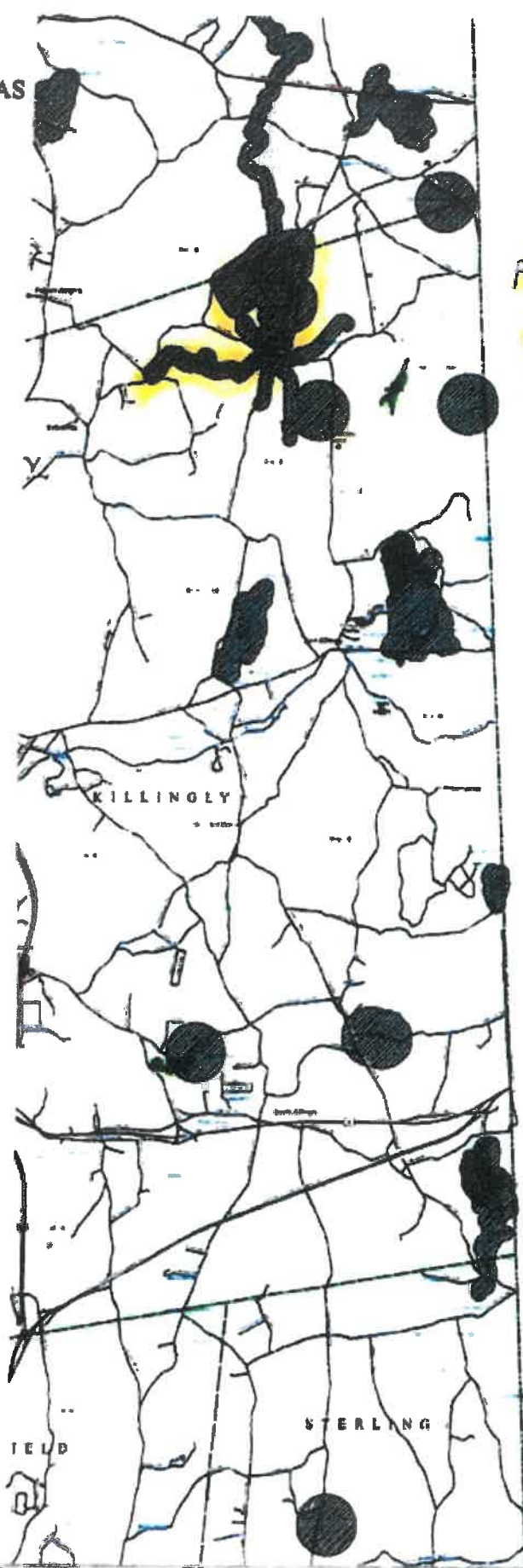
Adopted - The map is intended to be used as a reference tool to determine the potential for impacts on state listed species and the need for a Natural Diversity Data Base study.

State and Federal Listed Species - Based on data originally from the Connecticut Department of Energy and Environmental Protection, Bureau of Natural Resources, and is available to the public. The information is not necessarily the most up-to-date information available.



Connecticut Department of
Energy & Environmental Protection
Bureau of Natural Resources
Wildlife Division

Map prepared by: J. DEEP
Date: 10/01/01



Five mile River
And Over LAG
in Killingly



4 Elerton Lane
Danvers, MA 01923
bharding@clinellc.com
978.882.1999

June 16, 2021

Re: AT&T New England // CTL01289
CSC Filing
AT&T Telecommunications Facility @ 1375 North Road, Dayville, CT 06240

Hello,

Enclosed is the zoning package for the Connecticut Sitting Council. Per their guidelines we are to submit to the First Selectman, tower owner, property owner and the planning/zoning department, a copy of the package submitted. At this time there is currently no action needed on your part, this is just for your records. Once we have approval from CSC we will submit for the building permit with the approval.

Best Regards,

Brad Harding
Site Acquisition Consultant – Agent for AT&T
Centerline Communications LLC
978-882-1999
bharding@clinellc.com

RECEIVED

JUN 21 2021

PLANNING & ZONING DEPT.
TOWN OF KILLINGLY



4 Elerton Lane
Danvers, MA 01923
bharding@clinellc.com
978.882.1999

June 16, 2021

Melanie A. Bachman
Executive Director
Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051

Re: Notice of Exempt Modifications – AT&T Site CTL01289
AT&T Telecommunications Facility @ 1375 North Road, Dayville, CT 06240

Dear Ms. Bachman,

New Cingular Wireless, PCS, LLC ("AT&T") currently maintains a wireless telecommunications facility on an existing +/- 287' self support tower at the above referenced address, latitude 41.871500, longitude - 71.821500. Said self support tower is operated by American Tower Corporation.

AT&T desires to modify its existing telecommunications facility by swapping six (6) antennas, adding nine (9) remote radio units, removing three (3) remote radio units, removing two (2) tower mounted amplifiers, adding six (6) Y-Cables, and adding one (1) OVP and mount modifications as more particularly detailed and described on the enclosed Construction Drawings prepared by Infinigy Engineering, PLLC, last revised on May 15, 2021. The centerline height of the existing antennas is and will remain at 254 feet.

Please accept this letter as notification pursuant to R.C.S.A §16-50j-73 for construction that constitutes an exempt modification pursuant to R.C.S.A §16-50j-72(b)(2). In accordance with R.C.S.A §16-50j-73, a copy of this letter is being sent to the following individuals: American Tower Corporation as tower operator and property owner, Jason Anderson, Chairman of the Town of Killingly Town Council as chief elected official and Ann-Marie L. Aubrey, Director of Planning & Development of the Town of Killingly.

The planned modifications to the facility fall squarely within those activities explicitly provided for in R.C.S.A. §16-50j-72(b)(2). Specifically:

1. The proposed modifications will not result in an increase in the height of the existing structure.
2. The proposed modifications will not require an extension of the site boundary.
3. The proposed modifications will not increase noise levels at the facility by six decibels or more, or to levels that exceed state and local criteria.
4. The operation of the modified facility will not increase radio frequency emissions at the facility to a level at or above the Federal Communications Commissions safety standard. *Please see the RF emissions calculation for AT&T's modified facility enclosed herewith.*
5. The proposed modifications will not cause an ineligible change or alternation in the physical or environmental characteristics of the site.

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6. The existing structure and its foundation can support the proposed loading. Please see the structural analysis dated December 22, 2020 and prepared by American Tower Corporation enclosed herewith.

For the foregoing reasons, AT&T respectfully submits that the proposed modifications to the above referenced telecommunications facility constitute an exempt modification under R.C.S.A §16-50j-72(b)(2).

Best Regards,

Brad Harding

Site Acquisition Consultant – Agent for AT&T
Centerline Communications LLC
750 West Center St. Ste 301
West Bridgewater, MA 02379
978-882-1999
bharding@clinellc.com

Enclosures: Exhibit A – Original Facility Approval
Exhibit B – Property Card and GIS
Exhibit C – Construction Drawings
Exhibit D – Structural Analysis
Exhibit E – Mount Analysis
Exhibit F – NIER/RF Emissions Report
Exhibit G – Notice Deliver Confirmations

Cc: American Tower Corporation, as tower operator and owner
Jason Anderson, Chairman, Town of Killingly Town Council, as chief elected official and property owner
Ann-Marie L. Aubrey, Director of Planning & Development, Town of Killingly