



# PLANNING AND ZONING COMMISSION

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**MINUTES**  
**PLANNING & ZONING COMMISSION**  
**THURSDAY DECEMBER 14, 2023**  
**SPECIAL MEETING 7:00 PM**

This meeting was held remotely, solely via ZOOM.

Commissioners Present: C. Andres, F. Russo, J. Chadwick, M. Liguori, M. Palluzzi, J. Vaiuso  
Commissioners Absent: S. Huttner

Staff: H. Smith- (Town Planner), E. Breining Asst. (Asst. Town Planner), M. Martin (Clerk)

E. Breining reviewed how to participate in the public hearing.

## **OTHER BUSINESS:**

1. 1032-1064 Main Street LLC, c/o Angela Mazzarella-  
Applicant & Owner  
1032-64 Main Street  
Special Exception-Limited Retail  
**Application #23-11.1**  
**A/R 11/16/23 & PH opened 12/7/23 & continued to 12/14/23**

Shawn Flynn (tenant) was present and spoke explaining this application is for a kitchen design and cabinet showroom.

E. Breining reviewed the staff report and displayed the site plan.  
Also, he noted the town center gave a positive recommendation.

Public Input: No one spoke

Chairperson Andres closed the public hearing.

**F. Russo made a motion to approve the application with the Findings and Conditions below:**

## **FINDINGS:**

1. Subject to compliance with the conditions listed below, the Commission finds, based on the testimony and application materials presented, that the proposed use of the property is consistent with the Special Exception Criteria per Section 9.8.F.

## **CONDITIONS:**

1. All conditions of previous approvals shall remain in full force and effect as they may apply.

**J. Chadwick seconded the motion which passed unanimously.**

2. DISCUSSION- Possible Commission initiated Zoning Regulation Amendments

H. Smith noted that some of the regulations need the wording to be cleaned up so they are clearer. This is the beginning of the discussion. He then displayed the list below. The commission discussed each one.

**ZONING REGULATIONS ISSUE LIST (rev. 1)  
December 2023**

1. Accessory Structure limitation to portions of a property to a property to the “rear” of the front façade of the principal structure (Section 3.8.B)

- Concerns have arisen about the applicability of this section to corner and through lots.

**E. Breining noted that there have been several people that have had to go before the zba for this issue. He recommends a change in the wording to make this clearer. The commission discussed this and agreed.**

2. Financial Guarantee

- Add a new sub-section 10.3.A.2 (1) as follows:

*Financial guarantees less than \$1,000 (or \$ x) in value may be established/released or called by the Zoning Enforcement Officer/Town Planner without the approval of the Commission.*

- Modify the wording in Section 10.3.B.2 to eliminate “Surety bond or” from the sub-section and add the following as a second sentence:

*Unless changes to state statutes made subsequent to this amendment mandate their acceptance by the Commission, surety bonds are not considered an acceptable form of financial guarantee.*

**-Check statute [CGS Section 8-3(g)] do we need to add the otherwise statutorily required to be allowed forms of guarantee to the list in subsection 10.3.B.**

**H. Smith explained he would like to create a category with a lower amount for the bond (example: small driveway bonds) that can be approved by the town planner or the Zoning Enforcement Officer. The commission agreed and set the maximum bond amount of \$5,000 that the town planner or ZEO could approve. The town planner noted that he could give a quarterly report to the commission of the bonds that were approved.**

**H. Smith then explained that surety bonds were problematic and why. He suggested that the commission not accept surety bonds. The commission discussed this and agreed that wording should be added to notate this.**

3. Liquor Service/Restaurant Definition

- Regarding a recent statement from Town Counsel that in his opinion the current definition of Restaurant, Table Service would allow a “restaurant” that serves only alcoholic beverages to be approvable under this definition/use category. The changes to the following definitions in Section 2.2 - Definitions-Defined Terms, etc.

(to be further reviewed by Town Counsel) is suggested as a draft of an amendment language change to prevent the future need to “approve” a “bar” under the definition of restaurant.

**Restaurant, Table Service.** Any business establishment whose principal business is the sale of foods or non-alcoholic beverages, typically served by waiters/waitresses, to the customer in a ready-to-consume state, in individual servings, or in non-disposable containers, and where the customers consume these foods while seated at tables or counters located within the building. The sale of alcoholic beverages for on-site consumption may only occur as authorized by a Restaurant Liquor license issued by the State of Connecticut and shall not constitute the principal activity of the use.

**Restaurant, Fast Food.** Any business establishment whose principal business is the sale of foods or non-alcoholic beverages to the customer in a ready-to-consume state, typically served in paper, plastic or other disposable containers, for consumption within the restaurant building, elsewhere on the premises or for carryout/delivery for consumption off the premises.

Previous versions of the Zoning Regulations (pre 2011) included a definition for a “Fast Food Restaurant” that did not include “beverages” – see attached – and did not have a specific definition for restaurant.

**H. Smith noted that some establishments don’t serve alcohol and gave examples.**

**However, if they want to add the sale of alcohol, then a liquor is needed. He then reviewed the different categories of the liquor permits.**

**The commission discussed it and the consensus was that J. Chadwick would work on a draft table showing the different categories. The commission agreed they wanted to write a specific regulation for bars only.**

#### 4. Drainage and Stormwater Control – Section 6.9

- Changes to address Separate Storm Sewer Systems “MS4” permit (this is a permit the Town is required to have from the State) requirements. The proposal would be to adopt the language that has been included in approvals over the past year in this section of the Zoning Regulations to promote compliance with the Town MS4 permit.

**H. Smith explained that per the Town Engineer, he noted that the commission has included conditions about stormwater management systems in their approvals. The town engineer noted that the towns get a permit from the state. The wording of the regulation should be changed to make it clearer what action needs to be done.**

**The commission agreed this needs to be changed to make it clearer.**

**H. Smith said this needs to be discussed further at future meetings.**

5. Driveways

- Update driveway apron requirements (change 10' depth requirement to 2') to reflect current Engineering Department standards.

**H. Smith noted that the current Goodsell Point project has a 10 ft depth for their driveway aprons. This should be consistent with the engineering dept. H. Smith suggested this be discussed at a later date.**

6. Major Home Occupation

- Establish "upper" limits (% of residence, further limit type of use in Section 2.2 – Definitions- Defined Terms, etc.) on what is allowed under this accessory use designation.

**H. Smith displayed the different definitions and requirements for home occupations. He reviewed each category. He suggested adding more details to the definitions.**

**The commission discussed it and felt this item is ok as it is.**

7. Center Business (BC)/Main Streets Overlay Districts – residential density

- Change residential density in the BC to limits in the MF zone (??).

Modify the Main Streets Overlay Zone to allow the (or a) higher density – is 20 du/acre too high (??).

**H. Smith displayed a map of the BC district and talked about this zone. He spoke of the amount of dwelling units per acre compared to other zones. He displayed a color photo. He noted that if the commission doesn't want that density in that area, then a change should be made to the current regulation. The commission discussed it and the current consensus was to review this and explore it further.**

8. Open Space Residential Developments (OSRD)

- Amend Section 7.3.E as follows to fix a typo:  
Once ~~Final~~ Preliminary Plans are approved, the Final Plans must be submitted within 24 months of approval. The Preliminary Approval shall become null and void if the Final Plans not filed within that timeframe.-
- Amend Section 7.3.G.1 as follows if the Commission wants to address this issue which came up during the review of the Buckley Road OSRD:

The Open Space Development Plan shall result in the preservation of open space land with suitable access, shape, dimension, character, location and topography to accomplish the purposes of this Section. **The Open Space land shall contain no greater percentage of Steep Slopes and Inland and Tidal Wetlands than the overall property subject to the Open Space Residential Development approval.**

**H. Smith noted this is a typo. The wording now says preliminary instead of final.**

**The commission agreed it can be changed.**

**He then spoke about open space so its usable, not just leftover land. That open space can't be all wetlands and slopes.**

**The commission discussed this and said they would like to leave the wording as is.**

9. Drive-Through Windows – Section 7.15

- Re the McDonalds interpretation

**H. Smith noted this was the McDonalds application interpretation question. E. Breining displayed the language and it didn't specify where to measure the drive thru (at what point?).**

**H. Smith explained where other towns measure from. He asked the commission if they wanted to clarify the wording.**

**The commission discussed it and agreed the wording should be clarified. The Commission consensus was it should be measured from the ordering window.**

10. Non-conformities – Section 8.1

- Update subsections made to reflect state law changes

**H. Smith referred to nonconformities and talked about when some things are Grandfathered and some are not. He referred to the regulations and noted some Sections are problematic. He suggested that town counsel review them and perhaps change some wording.**

**The commission agreed.**

11. Signs – Section 6.6

- Define Window signs as precluding prohibited signs listed in Section 6.6 and identify them as not needing a zoning permit if they are allowed (and do not cover more than X % of the window area?).

**H. Smith explained that window signs are not considered signs. He gave examples of them. He suggested some changes in the wording. The commission discussed it and said this should be discussed at a later date.**

12. Parking – Section 6.5

- Modify the parking requirements for residential development to comply with the Public Act 21-29 regarding which the Commission/Town has not "Opted out" as provided for by this Public Act.

**H. Smith reviewed the State laws for parking and the Branford Regulations for parking noting that the state law overrides Branford Regulations. The question he asked is; does the commission want to change our regulations to be consistent with the state regulations?**

**The commission discussed this and the consensus was this should be reviewed at a later date.**

### 13. Grading – Section 6.8

- Retitle subsection 6.8.F.3 as “Excavation Limitations” and remove the remainder of the text after the title and subsections 6.8.F.3 (1) through (3). Also remove the wording “of a rock slope” in subsection 6.8.F. (4) and renumber the remaining subsection of 6.8.F.3.

**H. Smith noted that this section allows solid rock slopes which requires information which is sometimes difficult to obtain. He spoke of the Cherry Hill Rd application and the aldi development with the rock slope behind it. He also mentioned that there is not a height restriction either. Sometimes, the finished product is not like the grilled rock slope like there is along i-95 because they are very expensive. H. Smith said this is becoming problematic and said there is no Geo technical engineer on staff and the commission needs more information up front. He suggested getting a peer review for these projects. He will speak with the Town Engineer and come back to the commission with some options.**

### 14. Impervious Surface Coverage

- Exempt HVAC pads, generator pads and similar equipment pads for pre-existing developed properties in the IG-1 & IG-2 zoning districts.

**H. Smith said there are problems with some older sites. He explained sometimes a tenant may need a cement pad for equipment to be set on and then they may need a variance. This seems problematic. He suggested reviewing the coverage limits.**

**The commission discussed this and agreed that this should be changed.**

### 15. Public Act 23-142 Compliance re Family Day Care Home and Group Child Care Home

- See attachment re this Public Act.

**H. Smith explained that this is a public act that the town needs to comply with. It states that family day cares and group homes should be treated the same as a regular residential home. He said the text should be changed to comply with the state law.**

**The commission agreed. H. Smith will work on the new text.**

16. ZBA Application requirements/ Public Hearing Notice provisions

- Add necessary language to clarify that the provisions of Section 9.14 (particularly the requirements for Notice to Abutters) apply to variance applications as may be appropriate.

**H. Smith explained the wording of this can be confusing. He noted that the rules that apply to the Planning & Zoning Commission should also be the same for the Zoning Board of Appeals. New wording would clarify this.**

**The commission agreed this should be clarified.**

17. Section 9.11 (Motor Vehicle) rewrite to address state law change re Location Approvals, etc.

- Rewrite to refer to action of Location Approvals by any of the three entities (P&Z Commission, ZBA, ZEO) the state statutes have designated to the appropriate entity in anticipation that the designation may be changed by the state yet again.

**H. Smith explained that there has been many changes to this law. The latest change to the law states that the Zoning Enforcement Officer is the person whose duty it is to approve these. The new wording will conform to the State law and make things clearer.**

**Chairperson Andres explained this in a bit more detail to the commission.**

**The commission agreed that new wording should be written.**

18. Remove references to "character" to comply with new state law (Public Act 22-23.

**H. Smith said this wording should be corrected to comply with the state law. This will be discussed at a future meeting.**

**The commission agreed.**

19. Minor Site Plan Modification

- Change reference from "City Planner" to "Town Planner or designee." Add provision to allow staff to deny application??

**H. Smith noted this is a typo. It should read Town Planner or designee, not City Planner.**

**The second item is that there is no provision for staff to deny minor site plans or modification applications.**

**The commission agreed with the first wording change. After some discussion, The consensus was to keep it the way it now regarding denials. They want to have the ability to review the minor applications and deny or approve them.**

X. Reorder and designate Appendices

H. Smith noted these are out of order and not referenced correctly.

**The commission agreed to this.**

Chairperson Andres added a few items to the list of things to be discussed at a later date. They were: 1. Notice to regional planning commission sent by certified mail, but two years ago the statute was amended to add or by email. So, that should be added to the regulations.

2. State statute about EV chargers – if there are over 30 spaces, we must provide the infrastructure for ev chargers (10 %).

3. Peer review other than traffic-right now we can only hire a traffic expert and charge the applicant for the peer review. We can adopt a regulation saying if we don't have the experts needed in town we can hire someone and charge the applicant per the regulation.

4. There was a moratorium from 2017 that is expired and we should take it out of the Regulation book since its confusing.

5. The Landscape regulations should be reviewed again in February 2024.

6. Re; The PDD and when affordability units are required or fee in lieu.

The commission agreed these were important items that should be discussed.

3. Bond Establishment- 65 Dorchester Ln.

**J. Chadwick made a motion to establish the bond.**

**M. Palluzzi seconded the motion which passed unanimously.**

**The meeting adjourned at 9:25 pm.**