



PLANNING AND ZONING COMMISSION

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MINUTES
PLANNING & ZONING COMMISSION
THURSDAY MAY 2, 2024
REGULAR MEETING 7:00 PM

This meeting was held remotely, solely via ZOOM.

Commissioners Present: C.Andres, J. Chadwick, J. Vaiuso, F. Russo, M. Palluzzi , M. Liguori
Commissioners Absent: S. Huttner
Staff Present: H. Smith (Town Planner), E. Breining (Asst Town Planner) ,M. Martin(Clerk)

The meeting started at 7:02 pm.
Chairperson Andres introduced the commission and staff.
E. Breining reviewed how to participate in the public hearing.

Chairperson Andres reviewed the public hearing procedure. Her then noted that public hearing items Number one and two are withdrawn.

PUBLIC HEARINGS:

1. 35-37 Harrison House LLC c/o Rachel Kelly-
Applicant & Owner
35-37 Harrison Avenue
Special Exception- Proposed residential building with three dwelling units (Sec.7.18)
Application #24-2.9
A/R 3/21/24 & PH set for 5/2/24 ---WITHDRAWN
2. 35-37 Harrison House LLC c/o Rachel Kelly-
Applicant & Owner
35-37 Harrison Avenue
Special Exception- Grading (Sec. 6.8)
Application #24-2.10
A/R 3/21/24 & PH set for 5/2/24-----WITHDRAWN
3. Preston Handler-Applicant & Owner
342 Shore Drive
Special Exception- Accessory Apartment
Application #24-4.1
A/R 4/4/24 & PH set for 5/2/24

The applicant spoke and explained he bought the house 18 months ago and the apartment was existing, but the prior owner did not get planning and zoning approval for it. He did obtain an A2 survey for it as well. So, he is present at the meeting to answer any questions .

E. Breining reviewed the staff report.
The commission asked a few questions. Kathy Conlin(Real Estate Agent) replied to a few of them.

PUBLIC INPUT:

1. Matt Radulski- (Branford Historical Society President)- He believes this project is inside the Branford historical district. He was mistaken. He was commenting on the prior Harrison Avenue applications that were withdrawn. He is in support of this application.

Chairperson Andres closed the public hearing.

He then noted that the minutes item is not on the agenda.
H. Smith said it was a clerical error.

**F. Russo made a motion to add "Minutes " to the agenda.
J. Chadwick seconded the motion which passed unanimously.**

J. Chadwick made a motion to approve the April 18, 2024 meeting minutes.
J. Vaiuso seconded the motion which passed .

Chairperson Andres abstained since he was absent.

CORRESPONDENCE: None

RETURN TO TABLE:

1. Preston Handler-Applicant & Owner
342 Shore Drive
Special Exception- Accessory Apartment
Application #24-4.1
A/R 4/4/24 & PH set for 5/2/24

F. Russo made a motion to approve the minutes 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 of the zoning regulations.

CONDITIONS:

1. To reduce glare, any proposed lighting fixtures shall be demonstrated to meet the IES full cutoff definition unless they are emergency lights or very low-level accent lights (less than 900 lumen output- less than an incandescent 100 watt bulb). Fixed, not adjustable, arm mounts shall be used for all fixtures. The correlated color temperature of the light source for all exterior fixtures, either building or pole mounted, shall be equal to or less than 3000 Kelvin (K). Information on all building mounted and other site lighting shall be provided as necessary to demonstrate compliance with Section 6.7 and the Lighting Appendix referenced in this Section of the Zoning Regulations.
2. Prior to the issuance of any Certificate of Zoning Compliance or the zoning authorization for the issuance of any Certificate of Occupancy the following shall be completed to the satisfaction of the Town Planner or his designee:
 - a. The owner of the accessory apartment property must file a deed restriction on the land records requiring that the unit, if rented be rented at or below prices that would qualify the apartment as "affordable housing" as defined in CGS Section 8-30g. The deed restriction is to be reviewed by the Town Counsel or follow his approved format with evidence that the recording of executed deed is the deed restriction version approved by the Town Counsel or that follows his approved format.

M. Palluzzi seconded the motion which passed unanimously.

TOWN OF BRANFORD PLANNING AND ZONING COMMISSION

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OLD BUSINESS:

1. Attorney James J. Perito c/o Nuzzo Properties LLC- Applicant
Zoning Regulation Amendment- Remove Section 7.19.B.6 to delete the Twenty (20) event limit for the "Non-Agricultural Farm Events" Accessory Use in the Industrial Zones (IG-1 & IG-2)
Application #24-3.3
A/R 4/4/24 & PH set 5/16/24
2. Sue & Steffen Lunde-Applicants & Owners
32 Wood Road
Special Exception & CAM- Single Family Residence within 100 feet of a coastal resource & Grading (Sec. 6.8)
Application #24-4.3
A/R 4/18/24 & PH set for 5/16/24
3. Lisa Vita Williams-Applicant & Owner
16 Wellsweep Road
Special Exception- Accessory Apartment
Application #24-4.4
A/R 4/18/24 & PH set for 5/16/24
4. 4 Three Elms LLC-Applicant & Owner
4 Three Elm Road
Special Exception Modification & Coastal Site Plan-- Multifamily Residential (4 units)
Application #24-4.5
A/R 4/18/24 & PH set for 5/16/24
5. 4 Three Elms LLC-Applicant & Owner
4 Three Elm Road
Special Exception- Oversize Accessory Structure (Garage) over 15 feet in height
Application #24-4.6
A/R 4/18/24 & PH set for 5/16/24
6. 4 Three Elms LLC-Applicant & Owner
4 Three Elm Road
Special Exception Modification- Grading (Sec. 6.8)
Application #24-4.7
A/R 4/128/24 & PH set for 5/16/24
7. Paula Murphy-Applicant & Owner
35 East Main Street
Special Exception- Accessory Apartment
Application #24-4.8
A/R 4/18/24 & PH set for 5/16/24

NEW BUSINESS:

1. 31-33 Flax Mill Road LLC, c/o Kevin O' Neill- Applicant & Owner
Special Exception- Grading (Sec. 6.8)
33 Flax Mill Road
Application #24-4.9
To be A/R & PH to be set

Staff will set the public hearing.

2. 31-33 Flax Mill Road LLC, c/o Kevin O' Neill-
Applicant & Owner
Site Plan -Off-Street Parking Facility
33 Flax Mill Road
Application #24-4.10
To be A/R

Staff will set the public hearing.

OTHER BUSINESS:

1. Discussion- Draft Zoning Regulation Amendments

H. Smith reminded the commission this is a follow up to the workshop where they discussed most of these items in December.

Sections that are ~~stricken~~ shall be deleted.

Sections that are **bold & double underlined** shall be added

~~1.7~~ Temporary & Limited Moratorium [Amended, EFFECTIVE AUGUST 16, 2016]

- ~~1.7.A Temporary and limited moratorium on applications for Zoning Regulation Amendments, Zoning Map Amendments, Special Permits, Site Plans, and proposed to allow or facilitate for new "Two-family" and "Dwellings containing three (3) to four (4) dwelling units (R-1 and R-2 only)" developments as well as PDD/Master Plan approvals located in the Residence R-1 District.~~

~~Statement of Purpose~~

~~This section has been adopted to provide the Commission with the time necessary to complete the process of revising and/or creating new Zoning Regulations to address these uses in the Residence R-1 district in accordance with the goals and recommendations of Chapters 7 & 8 of Branford's 2018 Plan of Conservation and Development.~~

~~This temporary and limited term moratorium is proposed for adoption so that no new applications that are contrary to or inconsistent with the goals and recommendations of the 2018 Plan of Conservation & Development are approved in the interim, to thereby protect and promote the health, safety and general welfare of the public, and to appropriately address the unique physical characteristics of the area subject to this moratorium. This moratorium shall provide the Planning and Zoning Commission with time to study the issues concerning the effects of increased residential, and non-residential (business, commercial and industrial development) uses within the community and to possibly amend the Zoning Regulations relating to such issues as, but not limited to, setbacks, lot coverage ratios, building height, signage, traffic, access, types of permitted uses, appearance, lighting, landscaping, and application/approval process for permitted uses in order to revise and/or create regulations which are consistent with the Plan of Conservation and Development and the existing Zoning Regulations and Zoning Map.~~

~~Applicability~~

~~During this temporary and limited term moratorium, no applications for Zoning Regulation Amendments, Zoning Map Amendments, PDD/Master Plan approvals, Special Permits, Zoning Permits and Site Plan Review for development projects located within the Residence R-1 District shall be received by the Commission for review and action.~~

Effective Date/Term

~~This temporary and limited term moratorium shall become effective on August 15, 2016 [extended on February 2, 2017 (effective February 14, 2017) for an additional six months], and shall remain in effect for a period of six (6) months. Revisions to the term of the moratorium may be made for good cause after a review as a Zoning Regulations Amendment.~~

Per H. Smith, this language is from 2016 and should be deleted. It's redundant.

Section 2.2 Defined Terms

"DAY CHILD CARE" RELATED TERMS
Day Child Care. A program of supplementary care provided to one or more persons on a regularly recurring, but part-time basis, in a place other than the recipient's own dwelling.
Day Child Care Center. As defined in CGS 19a-77.
Family Day Child Care Home. As defined in CGS 19a-77.
Group Day Child Care Home. As defined in CGS 19a-77.

This is a state mandated provision from 2022 that requires Child Day Care centers, Family Day Care homes and Group Day care homes to be allowed and treated as if they are a regular single-family home per the regulations.

H. Smith noted that this new language needs to be in place by the end of June.

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.

H. Smith said we were advised by town counsel that the wording we had was incomplete. This new wording will match the wording that was in place in 2008.

Sight Triangle. A triangular-shaped area measured from the edge of pavement at the intersection of a public road, private road or private driveway within which nothing may be erected, placed, planted or allowed to grow in such a manner as to limit or obstruct the vision of motorists entering or leaving such road or driveway (i.e. be located or grow into an area within the site triangle that is more than 3.5 above the ground elevation or any alternative height that may be established by the American Association of State Highway and Transportation Officials (AASHTO) and low enough to impede the vision of motorists entering or leaving such road or driveway). The graphic below provided for illustrative purposes shows a sight triangle where “x” equals “y”. For a 25’ sight triangle, “x” and “y” would equal 25’. “x” is measured from the edge of pavement of the public road and “y” along the edge of pavement of the public road.

H. Smith noted that this question was asked recently. The Town Engineering office consulted to get the technical standards on this. They advised this wording to clarify any questions.

Sign. Includes every sign, billboard, illustration, insignia, lettering, picture, display, banner, pennant, flag, or other device, however made, displayed, painted, supported or attached, intended for use for the purpose of advertisement, identification, publicity or notice, when located out-of-doors (includes “Window Sign” as defined below) and visible from any street or from any lot other than the lot on which the sign is located. The term “Sign” shall not include any flag of any governmental unit.

It was noted that there is no reference in the regulations for window and the staff and commission agreed not to regulate them but wanted to include them in the sign definition.

The commission discussed this briefly.

Section 3.3 PERMITTED USES

Section 3.3.A.2 (2)

~~RESERVED~~ Family Day Care Home or Group Child Care Home

Section 3.3.A.4 (7)

Day care center ~~RESERVED~~

Section 3.3.A.4 (8)

Group day care home ~~RESERVED~~

These three items were discussed previously under Section 2.2.

Section 3.3.B.4 (4)

Accessory structures (Sheds, decks, garages, etc.) over 750 square feet or 15 feet high

The addition of this wording will make it consistent with the Special Exception criteria.

Section 3.8.B ACCESSORY USES AND STRUCTURES.

3.8.A Purpose.

The purpose of this Section is to regulate accessory uses so that they will be compatible with principal uses and harmonious with uses similarly zoned.

3.8.B Applicability.

1. Accessory uses and structures shall be located on the same lot with the principal use to which it is accessory.
2. Except for farm structures, no accessory building shall be larger than the principal building.
3. No accessory structure shall be closer to the street line than the principal structure on the property. Properties determined to be through lots, shall be permitted to locate accessory structures closer to no more than one street line than the principal structure.
4. Except for sheds of 200 square feet or smaller, all accessory structures must meet the side and rear setback requirements of the zone in which it is located. Sheds of 200 square feet or smaller must be set back at least five feet (5') from side and rear property lines.
5. Any accessory structure exceeding 15 feet in height or 750 square feet in coverage requires Special Exception approval by the Planning and Zoning Commission.

H. Smith explained there have been a few issues with utilities in areas where the property is below the 100-year flood zone. Eversource is requiring platforms with staircases be installed so equipment is above the flood level and also so that personnel don't have to bring ladders to access the equipment. We received a few variance applications to allow the platforms to be within the setbacks. A possible solution is to piggyback this with the shed exemption of 200 square feet or under, ; they are allowed in the setbacks and need to be placed five feet from the property line. He noted that this has come up since the December meeting and he composed this language for review.

The commission briefly discussed this and agreed that wording is needed to avoid the need for the property owner to get a variance. He will come up with clearer language and have this item be in a separate paragraph.

Section 3.10.C

A "Major Home Occupation" is any home-based business (as defined in Section 2.2 above) that cannot or does not comply with the requirements of Subsection 3.10.B.

This slight wording change will clear up any confusion there may be.

Section 4.1 CENTER BUSINESS BC DISTRICT

Make the following typographic corrections to the title of this section:

Introduction

Definitions

**SECTION
3
RESIDENCE DISTRICTS**

CENTER BUSINESS ~~BC~~ (BC) DISTRICT

MINIMUM	LOT AREA	No minimum		
	LOT AREA PER UNIT	EFFICIENCY DWELLING UNIT	ONE-BEDROOM DWELLING UNIT	OTHER DWELLING UNITS
		4,000 ±, 1,000 square feet	4,000 ±, 200 square feet	4,000 ±, 400 square feet
	FRONTAGE	No minimum		
	SQUARE	No minimum		
	SETBACKS	RESIDENTIAL USES	BUSINESS USES	
	Side	10 feet	No minimum	
	Front	15 feet	No minimum	
	Rear	20 feet	No minimum	
	SETBACK FROM RESIDENCE DISTRICT BOUNDARY LINE	25 feet		
MAXIMUM	HEIGHT	40 feet		
	FLOOR AREA	2.00		
	LOT COVERAGE	1.00		
	IMPERVIOUS SURFACE AREA RATIO	n/a		

H. Smith displayed a map showing where the BC district is. He explained that there is a lot of potential density potential in that zone, and it would change the look of the district. He did a review of the buildings on MainStreet and reviewed the number of dwelling units. The idea is to create reduced density in this zone. The Commission discussed this and agreed. The bulk chart numbers above are the same as the R2 zone.

Section 4.5 GENERAL INDUSTRY 1 (IG-2) DISTRICT

Add new subsection 4.5.C as follows:

"For pre-existing industrially developed properties in this zone with above 0.60 limit on Impervious Surface Area Ratio, the Impervious Surface Area ratio may be further exceeded (by 200 sq. ft.) for additional impervious surfaces (e.g. concrete pads, etc.) per each installation necessary to support industrial facility equipment that must be located out of doors adjacent to a tenant space (e.g. HVAC, generators, etc.) regardless of status of the property as non-conforming with respect to the Impervious Surface Area Ratio limit.

H. Smith explained that there is a greater need for concrete pads for equipment in this zone lately.

This new section in the regulations would allow for small concrete pads outside tenant spaces. He reviewed the wording and the commission agreed.

The commission discussed the new wording and suggested removing “preexisting”.

Section 5.10.F (NEW)

Minimum Lot Per Dwelling:

For the portion of this district that overlays the Center Business (BC) District, the minimum lot area per dwelling for this district is 20 (IHZ density level)/31 (existing BC density level) * dwelling units per acre.

H. Smith noted that this is a new section and reviewed it for the commission. They agreed it should be added.

Section 6.5 PARKING

Section 6.5.D.2

In the table under this section, change the text for the “Multi-family dwellings” Residential Uses entry as follows:

H. Smith noted that this change in the chart would meet the state requirements. He reviewed it for the commission.

They agreed this should be changed.

	PARKING SPACES REQUIRED	LOADING SPACES ⁴
Accessory apartment	1 space per unit, plus spaces required for the principal unit	
Elderly housing	1 space per unit	
Home-based Business	1 space per visitor/client at peak + 1 space per employee at peak	
Multi-family dwellings	Efficiency and 1 bedroom unit: 1 space per unit 2+ bedrooms: 2.5 2 spaces per unit	one (1) off-street loading space per 40,000 sq. ft. of building area
Rooms for rent (let)/Bed and Breakfast	1 additional space per guest bedroom or rooming unit	
Single-family dwelling	2 spaces per unit	
Two-family dwelling	2 spaces per unit	

Section 6.6 SIGNS

Section 6.6 B General Requirements

Add the following changes to subsection (6):

Internally lighted signs are prohibited within the Town Center and Stony Creek Village Districts (TCVD and SCVD)

This addition of the Stony Creek Village district wording is needed and was an oversight that it was not included before.

*The properties affected all have density lower than the IHZ level of 20 du/acre except for 978-1004 Main St (BOCA/ Archie Moore's) which has a variance to allow up to 45 du/acre and 968 Main St (former Oasis Salon) which is non-conforming with respect to the existing BC density of ~31 du/acre.

Section 6.6.C Signs Allowed in All Zones No Permit Required

H. Smith reviewed the new wording in the chart and the commission agreed it was ok to add.

SIGN TYPE	DESCRIPTION
PROPERTY IDENTIFICATION	A name sign providing only the name of the premises and of the occupant, or an announcement sign for a lawful activity located on the premises. On any lot only two (2) such signs, each not over three (3) square feet in area.
HOME IMPROVEMENT	A name sign or announcement sign for home improvement activity conducted on the premises may be installed for a limited duration. Shall not exceed 60 square feet in area per side and shall be removed within 30 days of project completion.
BULLETIN BOARD	Bulletin boards on the premises of churches, educational institutions and similar uses not over 16 square feet in sign area.
CONSTRUCTION	On a tract of land for which a site plan application, Special Exception Application or Subdivision Application has been approved by the Commission, one (1) sign not to exceed 60 square feet in sign area, for a period of one (1) year, subject to renewal annually, during the term of construction.
FARM	A sign identifying the name of a farm or agricultural activity, not to exceed 16 square feet in sign area, or be higher than eight (8) feet.
PUBLIC PURPOSE	Incidental signs, generally informational, that have a purpose secondary to the use of the property on which it is located, such as "no parking," "entrance," "loading" and other similar directives, on any lot provided no such sign shall be larger than two (2) square feet in sign area nor exceed a height of six (6) feet. In addition, any sign may be located within the right-of-way of any public street when authorized by the Board of Selectmen of the Town of Branford in accordance with the General Statutes of the State of Connecticut.
REAL ESTATE	One (1) freestanding real estate sign announcing the availability of a use or parcel provided such sign may not exceed five (5) square feet and an overall height of six (6) feet.
TRAFFIC CONTROL	Traffic control signs and devices.
<u>WINDOW</u>	<u>Provided they are not a prohibited sign type per Section 6.6.F below and/or that they do not violate a provision of Section 6.6.B</u>

SIGN TYPE	DESCRIPTION
<u>GATEWAY SIGNAGE</u>	<u>Government owned/leased directional or gateway signage for public purposes on public or leased private property to designate directions to neighborhoods/attractions and businesses, etc.</u>

Section 6.8 GRADING AND EARTH REMOVAL ACTIVITIES.

6.8.B Applicability.

The provisions of this Section shall apply to all subdivision applications and, except as excluded in Section 6.8.D below, to all grading, excavation, removal and depositing of earth materials and related activities within the Town of Branford which activities; again, except as excluded in Section 6.8.D below; shall require Special Exception approval.

Within the Town of Branford, there shall be no excavation, grading, or other soil disturbance (including removal of trees or vegetative ground cover) except as herein provided. The occurrence of any off-site sedimentation, flooding, or erosion caused by excavation, grading and/or soil disturbance is prohibited and shall be grounds for enforcement action.

**The addition of these words would make it clearer that a Special Exception approval is needed for grading (Sec. 6.8).
 The commission agreed it should be added.**

6.8.C Exclusions.

Provided that no off-site sedimentation, flooding, or erosion caused by excavation, grading and/or soil disturbance occurs, the following activities are exempt from the requirements of this section unless they are associated with a subdivision application or take place within 25 ~~100~~ feet of a critical coastal resource or an inland wetland:

Farming.

Soil disturbance (including removal of trees and vegetative ground cover) of 5,000 square feet in area or less. On a parcel larger than five (5) acres, the movement of less than one thousand (1,000) cubic yards of earth material.

On a parcel between one-half (0.5) acre and five (5) acres, the movement of less than two hundred (200) cubic yards of earth material per acre of land (rounded to the nearest half-acre).

On a parcel smaller than one-half (0.5) acre, the movement of more than one hundred (100) cubic yards of earth material.

The normal maintenance and repair of roads and driveways.

A sanitary landfill operation conducted by the Town of Branford.

Stockpiling of street maintenance and landscaping material by the Town of Branford.

Installation or repair of a septic system, approved by East Shore District Health Department.

The commission was ok with this minor change.

6.8.F General Requirements.

All proposed activities covered by these Regulations shall comply with the following standards:

Rock Slopes. The Commission may approve finished rock slopes, at slopes no greater than five feet rise for one foot of horizontal distance, provided that the following conditions are met:

Evidence provided to the satisfaction of a registered Professional Engineer licensed in the State of Connecticut specializing in geotechnical engineering, either employed by the Town or working as a consultant under contract with the Town, that the material to be exposed is solid rock.

A registered Professional Engineer licensed in the State of Connecticut certifies the stability of the slope at completion.

The top of any slope greater than four (4) feet in height is protected by a fence at least five (5) feet in height of a quality acceptable to the Commission, to prevent injury to the general public.

No excavation or blasting of a rock slope shall be permitted within 50 feet of any side or rear property line. (The Commission may specify a greater distance if necessary).

All blasting shall be conducted in a manner acceptable to the Branford Fire Marshall.

Rock slopes shall not exceed eight (8) feet in height. Rock slopes may be used to create terraces but must be at least four feet apart.

Blasting. The amount of blasting and the location of blasting shall be included in the application.

H. Smith reviewed these two wording changes with the commission, and they were ok with them.

Section 6.9 DRAINAGE AND STORMWATER CONTROL.

6.9.H Maintenance.

1. All projects shall have a Stormwater Management/Best Management Practice (BMP) Plan ("Stormwater Maintenance Plan"). Such plan shall be required to follow manufacturer's recommendations regarding maintenance for elements of a stormwater management system including but not limited to infiltration units/cyclonic separators and establish the party responsible for implementing such plan.
2. All on-site facilities shall be properly maintained by the owner of such, so that they do not become nuisances in compliance with the approved Stormwater Maintenance Plan. The owner shall submit a yearly record to the Commission of all maintenance activities in compliance with the Stormwater Maintenance Plan.
3. All stormwater control structures located on private property, whether dedicated to the Town or not, shall be accessible at all times for Town inspection. An easement to that effect to allow, but do not require, the Town to access and inspect stormwater management system features on private property shall be provided in draft form as part of the application submission and as a final executable instrument of form and content approved by the Town Engineer and the Town Counsel/Attorney prior to the start of construction or issuance of a Zoning Permit or Zoning authorization for the issuance of a Building Permit. ~~Where runoff control structures have been accepted by the Town for maintenance, access easements shall be provided.~~ Upon the recommendation of the Town Engineer, the Commission may also require such easement to allow, but not require, the Town to undertake any maintenance work or related work that is, in the opinion of the Town Engineer, required to comply with the Stormwater Maintenance Plan or to reestablish the functionality of the Stormwater Management System as approved; and provide for the recovery of the costs of such work from the entity responsible for the implementation of the Stormwater Maintenance Plan and/or lien the property upon which is the stormwater management system feature upon which the work was performed is located.

6.9.I Other Permit Requirements.

1. Permits for Stormwater Management Systems may also be required from the Town of Branford Inland Wetland and Watercourses Commission where such systems may have an impact on inland wetlands and watercourses, and from the Connecticut Department of Environmental Protection, where a dam is to be constructed or water diverted, see CGS 22a-365 and CGS 22a-409.
2. No private drain shall be connected to the Town storm water drainage system without prior approval by the Town Engineer

H. Smith reminded the commission that they put conditions of approval on approved applications regarding stormwater maintenance. These wording changes are needed. He reviewed them for the commission.

The commission agreed to these changes.

Section 6.12 DRIVEWAYS

Section 6.12.C.

- Each driveway shall be connected to the street by a paved apron extending at least ~~ten~~two feet back from the edge of pavement of such street (or such alternative distance that shall be established in the Standard Town Details of the Branford Engineering Department). Each apron shall be designed, graded and paved to match the surface of the Town roadway, avoid obstruction of the flow of water in the gutter line of the town roadway, and prevent the flow of roadway drainage onto any adjacent lot and shall conform to the current version of the Standard Town Details of the Town Engineering Department.

**These wording changes are needed so that they are the same as the Engineering dept. standards.
The commission agreed.**

Section 6.13.C Retaining Walls

- No retaining wall shall exceed eight (8) feet in height as measured from the top of the footing to the top of the wall ~~unless modified by the Commission after consultation with the Town Engineer.~~

H. Smith noted that this wording change is legally necessary. He discussed the wording with the Town Engineer to verify it is correct.

The commission discussed this briefly and agreed to the change in wording.

Section 7.3 OPENSOURCE RESIDENTIAL DEVELOPMENT

Section 7.3.E

- Once ~~Preliminary~~Final Plans are approved, the Final Plans must be submitted within 24 months of approval. The ~~Preliminary~~Final Approval shall become null and void if the Final Plans ~~are~~are not filed within that timeframe.

This is simply a typo that should be corrected.

Section 7.6 ~~GROUP DAY CARE HOMES AND DAY CARE CENTERS~~ RESERVED.

~~7.6.A General Requirements.~~

~~All Group Day Care Homes and Day Care Centers shall conform to the following additional standards:~~

~~The use shall be limited to daytime (6 a.m. to 7 p.m.) group care programs for children.~~

~~The site plan shall demonstrate compliance with all "Facility Requirements" for day care as specified in the Connecticut Public Health Code and shall provide an attractive environment for children by using means such as landscaping, buffers, and screening.~~

~~The applicant must submit a letter from East Shore District Health Department describing the safety and adequacy of the drinking water supply and sewage disposal system, a letter from the Branford Fire Marshal describing fire safety concerns, and a letter from the Branford Building Official describing any structural safety concerns at the day care site.~~

~~The site shall be situated and developed so as to create no nuisance or detrimental effect on the privacy, tranquility or value of surrounding properties.~~

~~Surrounding properties and their uses shall not endanger the well-being of the children through the emission of noxious fumes, noise, traffic, or other hazards.~~

~~Group day care homes located in residential zoning districts shall also conform to the following requirements:~~

~~The day care provider must reside on the premises.~~

~~Outdoor lighting, signage, play areas and landscaping shall be designed so as to minimize adverse impacts on the residential character of the neighborhood.~~

**This wording is not needed per state statute. This was discussed earlier .
These uses should be treated as if they were a single family home.**

Section 7.15 DRIVE-THROUGH WINDOWS

7.15.A Vehicle Queuing.

Minimum queuing spaces: 6 first window or station; 2 additional spaces for each additional window or station. **The queuing spaces/lane shall start at the ordering window and not extend over any sidewalk or pedestrian crossing.**

Queuing space dimensions: 10 feet wide by 18 feet long

Queuing lanes (stacking lanes) shall be separated from parking areas and other circulation lanes and shall be so identified by pavement striping.

Queuing lanes shall be designed so as to minimize conflict with pedestrian traffic. Where conflicts are unavoidable, improvements such as pavement markings, signing, internal walkways and speed bumps in queuing lanes should be used to improve safety.

The queuing lane must not be located between the building and the public street.

H. Smith explained that a prior application that the commission received for McDonalds had a question regarding the queuing spaces.

E. Breining briefly reviewed the McDonalds application and the new wording that the commission agreed to at a prior meeting.

This wording will clarify where the queuing spaces/lane starts.

The commission agreed to this change.

**H. Smith then reviewed Section 9.8 I -Post approval Actions.
(he displayed it on screen).**

He noted that this item was not included in the prior packet the commission received.

If the commission is ok with this, he will add it to the document.

This section talked of the filing of plans in the Town Clerk's office. H. Smith noted that it isn't really necessary to file an approval for a minor modification since it is available digitally.

The commission agreed.

H> smith will double check with the Town Clerk regarding retention rules.

Section 8.1 NONCONFORMITIES.

8.1.D Change.

4. ~~RESERVED nonconforming use of land, buildings or other structures if once changed to conform or to more nearly conform to these Regulations, shall thereafter be changed so as to be less conforming again.~~

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5. ~~RESERVED~~ No nonconforming building or structure, if once changed to conform or more nearly conform to these Regulations, shall thereafter be changed so as to be nonconforming or less conforming again.

7. ~~RESERVED~~ The intentional destruction or removal of any nonconforming portion of a building or other structure, regardless of whether the landowner wishes to replace or rebuild such structure in the same location, shall be deemed to be an abandonment of such nonconforming portion. Any rebuilding or replacement of such portion in the same or any other nonconforming location shall not be permitted.

8.1.E RESERVED Casualty.

1. ~~— If any nonconforming building or other structure is destroyed by fire or other unintended casualty to an extent of more than 75 percent of its fair market value based upon the average of two (2) independent appraisals, such building or other structure shall not be reconstructed or repaired unless the building or structure is made to conform in all respects to these Regulations.~~

2. ~~Where such unintended destruction is 75 percent or less of the building's or structure's fair market value as above determined, the building or other structure may be reconstructed or repaired in its prior nonconforming location and to the same (but no greater) extent of nonconformity, provided that such reconstruction is started within a period of one (1) year from such casualty and is diligently prosecuted to completion. In the event of failure to start such reconstruction or repair within a period of one (1) year from such casualty and to complete the same within 18 months from such casualty, or within such additional period, not exceeding six (6) months, as the Commission may grant upon written application made to it, the right to reconstruct or repair such building or other structure shall be lost and terminated~~

H. Smith reviewed these changes and noted he will double check with town counsel that they are not needed.

SECTION 9.5 DESIGN REVIEW FOR THE TOWN CENTER VILLAGE DISTRICT. (TOWN CENTER REVITALIZATION REVIEW BOARD)

Section 9.5.C Professional Plans Required.

1. Site plan or building drawings required by these procedures shall be prepared by a registered Professional Engineer or Land Surveyor (site plans), architect (architectural plans-building drawings/elevations) or landscape architect (landscape plans) licensed in the State of Connecticut.

Section 9.6 SITE PLAN APPLICATION. (COMMISSION)

H. Smith explained the need for the wording changes. The commission discussed this, and it was decided that this item is on hold pending more research.

Section 9.6.B Applicability.

The Town Planner may approve, in writing, written requests for minor changes to approved Site Plans including Site Plans approved as part of a Special Exception approval and architectural plans included with a Site Plan approval, within and outside of the Town Center Village District. The TownCity Planner shall notify the Commission (and the Town Center Revitalization and Review Board/Stony Creek Architectural Review Board for projects within the Town Center Village District/Stony Creek Village District) of any request for changes and the action taken. All other changes to the approved site plan shall be approved by the Commission.

This wording change would treat the Town Center Village District the same as the Stony Creek Village District.

The commission was ok with the change.

~~Section 9.11 – MOTOR VEHICLE LOCATION APPROVAL. (COMMISSION)~~

~~Section 9.11.A Application Requirements Dealing and Repairing Motor Vehicles.~~

~~In accordance with CGS Section 14-54, an application for a Certificate of Location Approval shall be submitted to the Commission by any person who desires to obtain a license for dealing in or repairing motor vehicles in Branford except that this requirement shall not apply to:~~

- ~~A transfer of ownership to a spouse, child, brother, sister or parent of a licensee;~~
- ~~A transfer of ownership to or from a corporation in which a spouse, child, brother, sister, or parent of a licensee has a controlling interest; or~~
- ~~A change in ownership involving the withdrawal of one (1) or more partners from a partnership.~~

~~Section 9.11.B Application Requirements Sale of Gasoline.~~

~~In accordance with CGS Section 14-321, an application for a Certificate of Location Approval shall be submitted to the Commission by any person who desires to obtain a license for the sale of gasoline or any other product, under the provisions of CGS Section 14-319, including the alteration or changing of adjoining physical properties for such purposes, except that this requirement shall not apply:~~

- ~~In the case of a renewal of a license by the holder of the license;~~
- ~~To the transfer of the last issued license from a licensee to another provided no more than one (1) year has elapsed since the expiration of such license; or~~
- ~~In the case of the addition or discontinuance of pumps.~~

~~Section 9.11.C Proceedings.~~

~~In reviewing a Certificate of Location Approval application, the Commission acts as an agent of the State of Connecticut, not in a zoning capacity, and the notice provisions and other provisions of CGS Chapter 124 shall not apply. As an agent of the State of Connecticut, the Commission serves solely to determine whether a Certificate of Location Approval should be issued.~~

~~Section 9.11.D Public Hearing May Be Held.~~

~~The Commission may hold a public hearing on the Certificate of Location Approval application and, if such hearing is to be held:~~

- ~~Shall cause a legal notice to be published in accordance with the requirements of Section 0 of these Regulations, and~~
- ~~May require that the applicant give notice to nearby property owners in accordance with the requirements of Section 0 of these Regulations.~~

~~Section 9.11.E Withdrawal of Application.~~

~~The applicant may withdraw such Certificate of Location Approval Application at any time prior to action by the Commission.~~

Town Planner H. Smith explained this is a statutory change. He noted that the DMV Location Approvals have been back and forth with the ZBA and the Planning & Zoning Commission. Now, it is up to the ZEO to review these. So, this language can be deleted because it does not match the current statute.

The commission was fine with the deletions.

Section 9.14 PROCEDURAL REQUIREMENTS FOR ALL APPLICATIONS.

Section 9.14.B Application Submission Requirements.

Applications to the Commission or Zoning Board of Appeals (ZBA) shall be submitted to the Planning and Zoning Department.

Applications shall be submitted on forms obtained from the Planning and Zoning Department for the type of application being submitted.

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Applications shall be accompanied by the appropriate fee(s) except that the Commission or the Town shall be exempt from any application fee.

Applications shall be submitted with such supporting plans, materials, and other information as required by these Regulations.

Applications shall be signed by the applicant and, if applicable, the owner of the property affected or the authorized agent or representative of the owner.

Section 9.14.B Date of Receipt.

For the purposes of calculating the timeframes for processing applications, the date of receipt of an application to the Commission or ZBA shall be determined in accordance with state law. At the time of adoption of this Section, the relevant statute was CGS Section 8-7d, which provided that the date of receipt shall be the earlier of:

The day of the next regularly scheduled meeting of the Commission or ZBA immediately following the day of submission of the application to the Planning and Zoning Department; or

Thirty-five days after submission.

Section 9.14.C Incomplete Applications.

Each application shall be reviewed by the Planning and Zoning Department to determine whether the application is substantially complete.

An application requiring approval from the Commission or ZBA shall not be considered actually complete until all of the information as required by these Regulations, ~~or the Commission, or ZBA~~ has been received by the Commission or ZBA at a regularly scheduled meeting.

The Commission or ZBA may deny an incomplete application, or any application submitted without the requisite fee.

Section 9.14.D Sequence of Hearings.

Where a proposed development or activity requires multiple applications, the Commission may conduct any public hearings simultaneously or in the order it deems appropriate.

Town Planner H. smith noted that the ZBA rules differ slightly from the PZ rules. There is no clear provision in the regulations to explain them. This wording will make it clear what the rules are for ZBA.

The commission agreed.

Section 9.14.E Consultations.

Section 9.14.E of the Regulations is repealed in its entirety and the following is substituted in lieu thereof:

~~On any application, the Commission may seek the advice and opinion of other officials, boards, or commissions to assist it in evaluating applications.~~

~~On any application, the Commission may retain an architect, landscape architect, professional land use planner, or other consultant to review, comment, and guide its deliberations, and to the extent allowed by Town ordinance, require that the applicant:~~

~~Deposit funds with the Commission for the costs of any consulting review fees, or~~

~~Reimburse the Commission for the cost of such consulting review.~~

9.14.E Consultations.

1. On any application, the Commission or Zoning Board of Appeals may seek the advice and opinion of other officials, boards, or commissions to assist it in evaluating applications.

2. In accordance with C.G.S. Section 8-1c, as may be amended from time to time, the Commission or Zoning Board of Appeals may also retain a civil engineer, a traffic engineer, an environmental

professional, an architect, a landscape architect, a professional land use planner, and/or other consultant(s) to review, comment, and guide its deliberations on particular technical aspects of any application, and the reasonable fees associated therewith shall be paid by the applicant.

3. Prior to actually retaining such outside consultant(s), the Commission or the Zoning Board of Appeals shall make findings that the proposal is of such a technical nature as to require expertise not available from staff.
4. Upon a finding by the Commission or Zoning Board of Appeals under subsection (3) hereof that a consultant is required, town staff shall estimate the projected fees for such technical review based upon information received from the potential consultant(s) and shall notify the applicant of such additional fee estimate.
5. The applicant shall submit funds sufficient to cover fees associated with a technical review under this Section within fifteen (15) calendar days of being notified by the Town Planner and the application shall be deemed incomplete until the fee amount is submitted.
6. In the event that the additional fee estimate prove inadequate to cover the reasonable fees associated with a technical review required hereunder, the Commission and/or Zoning Board of Appeals shall have the authority to assess a supplemental fee to be paid by the applicant, provided however that the total fee to be paid by the applicant shall in no circumstance exceed the reasonable fees associated with such technical review. The applicant shall submit funds sufficient to cover the supplemental fee estimate within fifteen (15) calendar days of being notified by town staff.
7. Any portion of the fee for technical review required hereunder and not expended by the Town on the project shall be refunded to the applicant not later than forty-five (45) days after completion of the technical review required under this Section.

Commented [BA1]:

Commented [BA2]:

H. Smith said that the Town Counsel suggested this language. This would allow ZBA or PZ Commissions to seek advice or opinions and they can hire outside consultants and the applicant will pay for it.

The commission agreed with this.

Section 9.14.F Notice by Newspaper.

Notices of public hearings shall be published in accordance with applicable state law. At the time of adoption of this Section, CGS Section 8-7d required publication of notices in the following circumstances and manner:

When a public hearing is required by these Regulations or scheduled by the Commission or ZBA, the Planning and Zoning Department shall cause notice of the hearing to be published in a newspaper having a substantial circulation in Branford.

Such notice shall be published at least twice at intervals of not less than two (2) days, the first not more than 15 days, nor less than ten (10) days, and the last not less than two (2) days before the date of the hearing.

Section 9.14.G Notification of Abutting Property Owners.

For all applications that will require the Commission or ZBA to hold a public hearing, except amendments to these Regulations, the applicant shall mail written notice to the following persons as required by this Section:

The owners of all parcels of land that are the subject of the application.

All persons owning property, any portion of which is within 100 feet of the land that is the subject of the application.

Said notice shall include, at a minimum:

The date, time and location (street address) of the public hearing;

The street address of all parcels that are the subject of the application or, if such parcels do not have a street address, adequate geographical information to allow the recipient of the notice to determine the location of the parcels with respect to the nearest street intersection; and

The nature of the application (e.g., site plan, special exception, zone change). The notice shall be sent by mail, at least seven (7) days prior to the date of the public hearing. A Certificate of

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Mailing from the US Post Office of said written notice shall be conclusive evidence of compliance with the provisions of the Section.

Property owners, for the purpose of this Section, shall be as they appear on the property street cards in the Town Assessor's office on the date of application, and distances shall be determined from the Assessor's tax maps on the date of said application.

Failure to mail such notice to any person or persons shall not in any way invalidate the public hearing, but the Commission or ZBA may deny an application if it finds that such failure has, or may have, caused prejudice to any intended recipient.

These two sections make the ZBA rules the same as the PZ rules. This wording will clarify this. The commission agreed.

Section 9.14.H Notification of Abutting Municipalities.

In accordance with CGS Section 8-7d(f), the Commission shall notify the clerk of an adjoining municipality of any application concerning any project on any site in which:

Any portion of the property affected by a decision is within 500 feet of the boundary of the adjoining municipality;

A significant portion of the traffic to the completed project shall use streets within the adjoining municipality to enter or exit the site;

A significant portion of the sewer or water drainage from the project shall flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or

Water runoff from the improved site shall impact streets or other municipal or private property within the adjoining municipality.

Such notice shall be made by certificate of mailing return receipt requested and shall be mailed within seven (7) days of the date of receipt day of the submission to the Planning and Zoning Department of the application, petition, request or plan.

No hearing shall be conducted on any application, petition, request or plan unless the adjoining municipality has received the notice required under this Section.

This wording change would allow a bit more time for staff to notify the abutting municipalities. The commission was ok with this.

Section 9.14.I Notification of Water Companies.

In accordance with CGS Section 8-3i, an applicant shall provide written notice to the South-Central Connecticut Regional Water Authority and the Commissioner of Public Health when an application, petition, request or plan is filed with the Commission or ZBA concerning any project on any site that is within:

An aquifer protection area, provided such area has been delineated in accordance with CGS Section 22a-354c; or

The watershed of the South-Central Connecticut Regional Water Authority, provided said Authority or said Commissioner has filed a map with the Commission and on the Branford land records showing the boundaries of the watershed.

Such notice shall be made by certified mail; return receipt requested and shall be mailed not later than seven (7) days after the date of the day of the submission to the Planning and Zoning Department.

Prior to the scheduled meeting regarding the application, the applicant shall submit the following to the Planning and Zoning Department or the application shall be considered incomplete:

A copy of all notices and other documentation sent to the South-Central Connecticut Regional Water Authority and/or the Commissioner of Environmental Protection in accordance with this Section; and Proof of mailing.

This wording change will make the zba rules the same as the Planning & Zoning rules. The commission was ok with this.

Section 9.14.J Notification of Regional Planning Agency.

In accordance with CGS Section 8-3b, the Commission shall give written notice to the regional planning agency when any portion of any land affected by a regulation change is located within 500 feet of the boundary of another municipality and:

Such notice shall be made by certified mail, return receipt requested.

Such notice shall be made not later than 30 days before the date of the public hearing.

The regional planning agency may submit its advisory findings and recommendations to the Commission at or before the hearing but if such report is not submitted, it shall be presumed that such agency does not disapprove of the proposal.

Section 9.14.K Notification of the Connecticut Department of Environmental Protection.

~~Pursuant to CGS Section 22a-103, the~~ The Commission shall give written notice to the Connecticut Department of Energy and Environmental Protection when any application relates to property within the Coastal Area Management boundary requiring such notice per CGS Section 22a-103 and 22a-109 as they may be amended ~~and for any regulation amendment that affects property located within said Boundary.~~

Section 9.14.L Notification of a Property subject to a Conservation or Preservation Restriction.

In accordance with CGS Section 47-42d, for property subject to a conservation or preservation restriction as defined in CGS Section 47-42a, and where activity is proposed within the restricted area, the applicant must submit either:

A notarized statement certifying that the applicant provided written notice of such application, by certified mail, return receipt requested, not later than 60 days prior to the filing of the application to the party holding the conservation restriction; or

A letter from the holder of such restriction or the holder's authorized agent verifying that the application is in compliance with the terms of the restriction.

This Section shall not apply to any proposed activity that involves only interior work in an existing building or exterior work that does not expand or alter the footprint of an existing building.

Section 9.14.M Beneficiaries of a Trust.

Any person who makes an application to the Commission or ZBA pertaining to real property, the record title to which is held by a trustee of any trust, shall file with said application a sworn statement disclosing the name(s) of the equitable owner (s) of such real property or the beneficiary(ies) of the trust.

**This wording change will make the ZBA rules the same as the Planning & Zoning rules.
The commission was ok with this .**

SECTION 10.2 BONDING REQUIREMENTS.

10.3.A Applicability.

The Commission may require the applicant to post a financial guarantee to assure the completion of: (1) all required public improvements; (2) all improvements required to serve any dwelling units or non-residential establishments sold, rented or occupied on the site; (3) all erosion and sedimentation controls approved or otherwise required during site construction and for site restoration should construction cease prior to attaining compliance with approved plans; and (4) any required site cleanups of debris, abandoned vehicles or any other material that would cause a deterioration of conditions in the area.

Financial guarantees less than \$5,000 in value may be established or released by the Zoning Enforcement Officer/Town Planner without the approval of the Commission.

Where authorized in these Regulations, the Zoning Enforcement Officer may require the applicant to post a financial guarantee. Unless changes to state statutes made subsequent to this amendment

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mandate their acceptance by the Commission, surety bonds are not considered an acceptable form of financial guarantee.

H. Smith reminded the commission they previously discussed this and agreed that small bonds do not need to be approved by the commission.

10.3.B Financial Guarantee Format.

Where a financial guarantee is required by any Section of these Regulations, it shall be in one (1) of the following forms, subject to the approval of the Commission or its designated agent or attorney:

Cash deposited with the Town.

~~Surety bond or~~ certified check to the order of the Town when the amount of the check is fully insured by the FDIC.

Bank deposit assigned irrevocably and solely to the Town when the amount of the deposit is fully insured by the FDIC.

Irrevocable evergreen letter of credit naming the Town as sole beneficiary provided that:

Such evergreen letter of credit shall be issued by, and drafts thereunder presentable at, a branch of a bank in Connecticut and provided that such bank is included in the most recent list issued by the Securities Valuation Office of the National Association of Insurance Commissioners (or any successor office or organization, "NAIC") as a bank meeting NAIC standards for issuing letters of credit for reinsurance purposes; or

The long-term unsecured debt of such bank (or the long-term unsecured debt of its holding company) is rated BBB or better by Standard & Poor's rating service or Baa or better by Moody's rating service.

The terms and conditions of such letter of credit shall be acceptable in form and substance to the Town and substantially in the form of the model letter of credit provided by the Planning and Zoning Department,

If and when such letter of credit has less than thirty (30) days remaining until its expiration date, and such date shall not have been extended, the Town may draw under said letter of credit the full amount thereof and the proceeds may be retained by the Town as the financial guarantee.

The period to expiration of a Letter of Credit shall be not less than one (1) year, with a provision for automatic renewal at increments of not less than one (1) year. The Town of Branford must be informed of the intention not to renew or the financial guarantee shall automatically be renewed.

Other form of financial guarantee mandated by CGS Section 8-3(g) as it may be amended.

H. Smith noted that the commission agreed not to accept surety bonds and this wording would clarify this.

He then asked the commission for some general direction. The commission advised him to go forward with the changes, starting with the simple ones first. Perhaps breaking it up between two or three meetings.

The meeting adjourned at 9:37 pm.