



# *TOWN of* **THOMPSON**

## **PLANNING AND ZONING COMMISSION**

**Agenda–PZC Subcommittee Meeting**  
**Wednesday, June 24, 2020 at 6:00 PM**  
**Zoom Meeting**

*p. 1 of 20*

### **Invite**

Topic: Planning and Zoning Subcommittee  
Time: Jun 24, 2020 06:00 PM Eastern Time (US and Canada)

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Password: 6Z!mf^J!

### **1. Call to Order at 6:00 PM by Chairman Joseph Parodi-Brown**

**Roll Call:**

**Michael Krogul**

**David Poplawski**

**Alvan Hill**

**Joseph Parodi-Brown**

**Brian Santos**

**Robert Werge Sr.**

**John Lenky**

**John Rice**

**Staff Present: Cindy Dunne, ZEO; Tyra Penn-Gesek, Planner; Amy St. Onge, First Selectman; Gloria Harvey, Recording Secretary**

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2. PZC Commission Discussion of Comments Received on Proposed Regulations

**Discussion Guide #4 – 24 June**

**Page 49**

**Article 5A, Section 1 Development Standards for Home Occupations and Rural Businesses**

**Home Occupations**

1. ***The purpose of these regulations is to provide economic opportunities in all districts by permitting the operation of small businesses which are capable of co-existing with residential uses, without undue adverse effects on the quality of life, environment, aesthetics and property values of the District***

**A. Dunne:** *The purpose of these regulations is to provide economic opportunities in all districts by permitting the of ~~Home Occupation~~ operation of ~~small businesses~~ which are capable of co-existing with residential uses*

**T. Penn:** *Not sure I understand Cindy's rationale behind the suggested language change. Home occupations are small businesses, even if they are very very small. It seems less clear not to refer to them in this way. I do not recommend this language change.*

**B. Dunne:** *suggests adding the following text as item #2: Home Occupation Application shall be filed and approved by the ZEO. Questionable activities for compliance may be presented to the Commission, upon recommendation of the ZEO, for approval.*

**T. Penn:** *agree with the addition & will do so. **No Commission action required.***

**Tabled to next meeting.**

**Page 49**

**Article 5A, Section 1 Development Standards for Home Occupations and Rural Businesses**

**A. Home Occupations**

2, c. The house shall be primarily used as a residence.

**C. Dunne:** suggests the following instead:

c. A home occupation located in a single family dwelling shall not occupy more than 50% of the habitable floor area of the dwelling. The uses shall be clearly secondary to the residential use of the dwelling. This prevents someone from buying a house in the area, not living in the house but opening a business under home occupation. This is very hard and time consuming when following up on a complaint.

d. A home occupation may use the total area of an accessory building :

i. The location and appearance of the accessory building is consistent with the residential character of the lot and neighborhood, and

ii. It can be demonstrated that the type and intensity of the proposed use in the accessory building will not alter the primary residential character.

**B. Davis: No max size of business use space for home occupations is listed. I believe it is currently 25% of total floor space. No limitation means someone could put up a huge building in a residential area and use only one small corner for living space.**

**T. Penn: I strongly disagree with imposing an arbitrary limit on the % of the square footage that may be used in the home. Current regs stipulate 33%. I had proposed to the Commission, and they agreed, that it is not an effective use of the ZEO's time to be checking on what happens inside the walls of the home, and our jurisdiction should probably end once you cross the threshold. Theoretically it is correct that somebody could build a house and then sleep on a cot & use the rest for a business; but, all of the dimensional requirements & limitations would have to be met, and there are stated limits on # of persons employed and parking/lighting; however, the Commission may choose to vote on the two versions of this language to clarify their intent.**

**Tabled to next meeting.**

**Page 49**

**Article 5A, Section 1 Development Standards for Home Occupations and Rural Businesses**

**A. Home Occupations**

**g. Activities or storage associated with the Home Occupation may not take place outside the residential structure unless they are screened from view from the street and neighboring properties. An applicant shall be required to provide a statement detailing any anticipated need for outdoor use or storage, subject to review and approval by the ZEO.**

**C. Dunne: has this entire item struck through in her submitted comments**

**T. Penn: I do not understand why this item would be struck, and would ask Cindy to clarify her reasoning. One slight language edit: change to "shall not take place outside..."**

**Tabled to next meeting.**

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**Article 5A, Section 1 Development Standards for Home Occupations and Rural Businesses**

**B. Rural Businesses**

**C. Dunne: Section 2 – separate from Home Occupation Section**

**'Rural Businesses are enterprises which may reasonably be pursued in the following districts: Mixed Use Corridor, Residential Agriculture'**

**Justification of limiting two districts (or R80 and R40 if we keep them)**

**Definition of Rural - relating to, or characteristic of the countryside rather than the town.**

**Residential Ag is definitely rural and Mixed Use Corridor means a lot of uses are permitted.**

**C. Dunne: suggests the following additional requirement:**

**Business shall only be conducted from an accessory enclosed structure that meets all the district dimensional requirements and business may occupy 100% of the structure.**

**Of course this would prevent something like the paintball business if it has to be enclosed so maybe we can come up with a compromise on this type of activity.**

**B. Davis: Rural business definition is too vague. What's to stop non-compatible**

operations from coming in.....the whim of the board with the special permit process? Regulations need to at least attempt to be precise enough to prevent favoritism from taking place.

**T. Penn:** Regarding where a "rural" business may be sited: the term "rural" in this case should probably not be viewed literally. It is meant to represent a level of escalation between a home oc and a business that is too intensified to be suitable in a residential area. In NECCOG's original list of definitions, several uses were posited to be one or the other, but many of those were determined by the Commission to be arbitrary in how that was determined. One of the goals of the commission has been to lower the threshold of entry to small business, and having this intermediary level of business makes sense in that context. Since residences are allowed in all districts, so should businesses that can operate out of a home. Regarding the suggested text stipulating that a business shall only be conducted in an accessory structure: Cindy identifies the flaw in her own argument: that there are businesses which would not fit that requirement, but which could reasonably be found to be appropriate in a residential area. While I agree that additional criteria may be set to differentiate a rural business from a home occupation, I don't find the suggested language to be effective in that regard. Regarding the question of "compatibility" with a given neighborhood: Since a rural business must meet all of the conditions of a Home Oc + satisfy the additional stipulations regarding parking and hours of operation, it seems to me that the compatibility issue is addressed in those conditions. It is possible that some additional conditions could be added to further define the parameters of the rural business. Regardless of any adjustments made to the section on rural business, I do not believe the items need a separate section of their own. Possible alternate name: Neighborhood Enterprise? Commission should decide two things: 1. Do they want additional conditions imposed on these businesses aside from those proposed, and if so, what conditions would they be? 2. Does the term "Limited Neighborhood Enterprise" capture the idea of what is being suggested, meaning a business that is compatible with being sited in a neighborhood, rather than limited to a home?

Tabled to next meeting.

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Article 5A, Section 2 Trailers and Mobile Homes

**J. Rice:** Provided a general note to discuss this section

**T. Penn:** This did get added to the proposed draft fairly late in the process, when somebody pointed out that it was not otherwise addressed. The text is substantively cribbed from the existing regulations, although some changes were definitely included. Recommend the Commission discuss to determine if they prefer to make any additional changes to the section as proposed.

Tyra changes added provision if someone is building a home or due to fire we would allow them to live in a mobile home. Does the current regulatory language address the changes we need to make. To be permissive allowing temporary residents in a mobile home for a period up to a year and always allow in case of a disaster as a temporary certificate of occupancy. Solution to summer occupancy. Need NDPH feedback

Accept as written pending any additional information from NDPH.

Tabled to next meeting.

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**Article 5A, Section 2 Trailers and Mobile Homes**

**3. Camping trailers or other vehicles designed for temporary occupation during travel, vacation or recreation shall not be occupied except in campgrounds operated by the State of Connecticut; in campgrounds approved by special permit; or when no more than two such trailers are parked on a single lot in the Rural Residential Agricultural District. No such trailer or vehicle shall be occupied as a permanent dwelling, nor shall any such trailer or vehicle be occupied on one property for more than fourteen (14) continuous days or nights during the annual period from April 1 – December 31. Such trailers or vehicles may be stored, without being occupied, in any district.**

**C. Dunne: If you decide to keep this why December 31 camping season is past. This is not a realistic compliance control. There are many lots on the lake and an owner can stay in the trailer for two weeks leave for a day and then come back for 2 more weeks etc. Because we have so many empty lots on the lake regulations should address seasonal occupancy such as length of time example May to October and check with NDDH to see what the requirements for a motor home, camper etc can enjoy their summer property without violating regulations or health codes.**

**T. Penn: I have reached out to NDDH for recommendations on this section, and will follow their guidelines. If those recommendations are not received in time for this discussion, we can table this section for the following week.**

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**Article 5A, Section 2 Trailers and Mobile Homes**

**6. The Commission may, at its discretion, allow the use of a trailer or mobile home as a temporary dwelling on the site of a residential property with an active building permit for a new residence. Such temporary dwelling may only be occupied by the owner(s) of the new residence under construction. A temporary certificate of occupancy may be issued for a maximum of one year.**

**C. Dunne: Need to check NDDH on what water and sanitation requirements are for temporary trailer dwelling. I think this is a good idea. I have had A few requests for living in a trailer while the dwelling is being built.**

**T. Penn: As with the prior item, I will amend this based on any input received from NDDH, if that feedback doesn't come back to me in time for this discussion meeting.**

**Page 52**

**Article 5A, Section 3 Earth and Gravel Removal**

**C. Dunne: The format for the application needs to be section in subject matter such as: Intent, Time span permits & renewal, Bond Section, Processing , Screening, Crushing, revocation of permit etc. The regs as written needs a lot of organization work for the application process for applicant and the ZEO compliance review before it is submitted to the Commission for approval**

**M. Krogul: When permits come up what are the steps taken to review approval requirements? The ZEO goes out to make sure there are no violations. If violations are found recommendations are made not to renew permits until violations are brought up to proper conditions. If there is no erosion barrier in place, site work may be stopped. Consider implementing/adding into new town regulations something as ALL TOWN DEPARTMENTS/COMMISSIONS sign off with approval prior to permits be renewed by P&Z**

**M. Smith: we present the following for consideration:**

1. There should be clarification regarding what the permit period is for an excavation permit. The regulations, as written, do not make it clear whether it is supposed to be one year or some other period of time.
2. A section should be added regarding the process for renewal of permits.

3. We would suggest that the fee schedule be changed for renewals. Currently the applicant is paying to excavate the same gravel annually. The per yard fee should only have to be paid once at the time of initial approval consistent with other local jurisdictions.

**T. Penn:** I concur with the general feedback above that a subsection specific to renewals should be added. Suggest Subsection C incorporate item #s 1-10 & 13(as written), and then creating Subsection D for the renewals process, starting with the current #11 and incorporating any additional provisions needed. Cindy has additional suggestions regarding the structure of Section 3 which would seem to require substantially rewriting the section. Recommend discussion between the Commission and Cindy to identify specific deficits in the standards as described. What is missing that is specific to earth/gravel removal special permits, that is not addressed in Article 3 or this section of the draft? **Commission should confirm whether they want to re-order the items above, and add Subsection D specific to Renewals.** Certain other points from the comments above will likely be clarified further into the discussion.

**Tabled to next meeting.**

**Page 52**

**Article 5A, Section 3 Earth and Gravel Removal**

**A. Intent**

**1. Protection of environmental resources, including but not limited to:**

- a. Maintaining an adequate supply and quality of surface and underground water**
- b. Preventing the contamination of air, water and soils**
- c. Protection of hydrological stability, and control of flooding and erosion**
- d. Protection of wildlife habitat**
- e. Controlling erosion and sedimentation**

**C.Dunne:** c. protection of hydrological stability, and control of flooding and erosion. Comment sent to us: regulated by what standard, are we going to address that?

**d. protection of wildlife habitat** - all reference I have read regulating wildlife is not the subject of regulation of Zoning CGS 8-2 – need back-up that this is in the review of application

**M. Smith:** a. Maintaining an adequate supply and quality of surface and underground water - We find this word to be subjective in nature and would suggest a more objective standard be included. b. hydrological stability, and control of flooding and erosion - We believe this is overreaching, in accordance with the powers granted under the regulatory statutes these concerns would fall under the purview of the Wetlands Commission. Zoning Commissions are limited to protections of the water table. d. **Protection of wildlife habitat** - Regulation of wildlife is outside the purview of a zoning commission.

**T. Penn:** The issue of wildlife habitat was discussed under the conditions of special permits. To be consistent with the way we chose to address the idea of expressing an interest in identifying areas of concern for wildlife in balance with the statutory authority of PZC, **I would agree with striking "d"**. As to items a&c: while there is some subjectivity in the use of the term "adequate", the standards that are established in the rest of the section are those which PZC will have determined to maintain that "adequacy", therefore I think the word itself is a non-issue. Having said that, **if the Commission prefers, they may opt to amend the statement to read "Maintain the supply and quality of surface and underground water", as being less subjective.** I am skeptical of the claim of overreach on item "c". Article 5B, Section 5 on Stormwater Management and Design contains language that specifically



***addresses the intent of PZC to "mitigate impacts to the hydrologic system" and "reduce or prevent flooding". This section, along with the section on LID, was reviewed and extensively commented on by our Wetlands Agent. Therefore, I do not recommend striking the item.***

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**Article 5A, Section 3 Earth and Gravel Removal**

**A. Intent**

2. Protection of property values by insuring that, following such activities, land utilized for filling and/or excavation will be usable for residential, commercial, industrial or conservation purposes consistent with the underlying zoning district in which such use is located.

3. Protection of values and usefulness for those properties neighboring earth filling and/or excavation operations

**C. Dunne:** Is #2 is addressing the protection of future use of the parcel being excavated and #3 referring to surrounding property?

**M. Smith:**

***While we agree that the Commission is allowed to condition to protect property values, we would suggest that they also be required to give due consideration the Town's plan of development and the temporary nature of an excavation project. Further, the word "usefulness" is extremely subjective in nature, this should be defined or removed.***

***T. Penn: The answer to Cindy's question is "yes". Regarding Atty Smith's comments: while the points she raises are reasonable, reference to the temporary nature of the excavation does not seem consistent with the statement of the intent of the section. If the Commission would like to amend the subsection on "intent" to articulate an acknowledgement of the temporary nature of these enterprises, they may make that choice, and I will draft an additional item under "intent". As to the inclusion of the term "usefulness": that term was retained when the PZC opted to strike the term "enjoyment" from the item, precisely because that was entirely subjective. Usefulness can, to some extent, be factually established. If I cannot use my pool because it is full of silt from a shoddy operator, then the usefulness of my property has been compromised. If I opt not to use my property in some way because I find a neighboring use offensive, but there is nothing physically preventing my use, then the usefulness remains. I agree that there is some subjectivity to the term, but PZC has previously found this an acceptable compromise term to acknowledge the potential grievance to abutters. The Commission should decide if they wish to keep or strike the term, based on the reasoning presented. Commissioners agreed to strike.***

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**B. Exemptions**

1. Excavation, removal, filling or grading in conformance with an approved building, subdivision or development plan, except as provided hereafter: when the Commission determines that subdivision or site development plans include significant grade changes which require extensive excavation and grading operations, in terms of duration and/or material removed, they may require an excavation and grading permit prior to commencement of construction.

**M. Smith:** "Significant grade changes" This should be defined by a number to remove subjectivity. Several towns in this area use identifiable standards. "Duration" Same as comment above, this should be defined to remove subjectivity.

**T. Penn:** Agree with the principle that defining these items would be preferable. I would defer to the commissioners with greater experience in construction as to what the appropriate standards should be, and adjust the draft accordingly.

Tyra will adjust the draft and forward to Brian Santos for input.

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**B. Exemptions**

3. Excavation, removal, filling or grading of a total amount up to 1500 cubic yards.

**C. Dunne:** Compelling reason from changing this from 3000 to 1500?

**B. Davis:** Excavation without a permit required for up to 1500 cu.yds. is way too much. That's 200+ truck loads at standard size approx. 7 yard loads.

**M. Smith:** Excavation, removal, filling or grading of a total amount up to 1,500 cubic yards per year.

**T. Penn:** As Cindy correctly observes, the PZC opted to reduce the amount covered by the exemption by half, as there was a general consensus, when it was originally discussed, that it was too high. I do not believe it is the Commission's intent that the exemption be for an amount per year, but I would recommend that be clarified in this discussion session. I tend to agree with Bernie that is probably too high, but that was the amount the Commission found most acceptable when it was previously discussed, and therefore aside from clarifying if that is an annual or a total amount for exemption, I would not recommend adjusting the number.

General Consensus to reduce to 1500 cubic yards per year.

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**C. Standards for Earth Removal**

**C. Dunne:** Should be a separate section on standards for reclamation instead of combining with removal

**T. Penn:** Agree with the general logic that the subsections should be broken out, for clarity. No Commission action required. Based on the results of this discussion, I will edit the flow of the section accordingly.

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**C. Standards for Earth Removal**

2. Buffer Areas: there shall be no excavation within fifty (50) feet of any lot line.

**M. Smith:** We would suggest an exception for Commission approval with a waiver of setback by the landowners.

**T. Penn:** This is a reasonable suggestion. Recommend adding that language. Assuming the Commission also finds that reasonable, no further action required.

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**C. Standards for Earth Removal**

**2. Buffer Areas: there shall be no excavation within fifty (50) feet of any lot line. Such buffer areas shall remain undisturbed for the duration of the earth removal operation and shall not be used for any purpose, including but not limited to:**

**e. The location of the fuel pad**

**C. Dunne: recommends striking this item from the list**

**T. Penn: I don't understand Cindy's reasoning for this deletion. She will have to explain it to the PZC for clarification.**

**ZEO withdrew her comment.**



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**C. Standards for Earth Removal**

**3. If the Commission finds that the existing vegetation or topography within such buffer area will not effectively screen the earth removal operation from adjoining properties, additional screening methods may be required, e.g. evergreen plantings or fences.**

**M. Smith: suggests "adjoining residential properties" rather than "adjoining properties". In place of "evergreen plantings", we would suggest this be changed to earthen berms. Evergreen plantings will take years to provide any real buffer function.**

**T. Penn: Agree with the logic regarding the substitution of earthen berms, and will make the change. Do not agree with specifying only residential properties as a requirement for the buffer. Why would we make the assumption that only a residential property owner would want to be screened? No Commission action required.**

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**C. Standards for Earth Removal**

Unless otherwise approved by the Commission, the maximum depth of excavation shall be:

- a. No greater than ten feet below the grade of the street along which the property has frontage, or**
- b. If the property has no street frontage, no greater than ten feet below the grade of the property line through which access to the site is provided, and**
- c. No closer than eight feet to the maximum ground water level on the property, except in locations where permanent ponds are proposed as part of the excavation plan.**

**M. Smith:** "the maximum depth of excavation final grade of the site shall be:" As long as the property remains useable and consistent with good engineering and design practices, this should be based on final grades. Wasting material only dictates that more sites will be excavated over a given period of time because demand will always be satisfied.

**M. Smith:** a. No greater than ten feet below the grade of the street along which the property has frontage - suggested addition: within one hundred feet of the street line,

b. If the property has no street frontage, no greater than ten feet below the grade of the property line through which access to the site is provided, within one hundred feet of that property line,-

This makes no sense as a general requirement. We would suggest that this should be evaluated on a site specific basis.

**T. Penn:** Some of this language seems reasonable, but I would like to hear what the members of PZC with construction experience have to say about whether that makes sense. Commission please discuss and confirm choice of language.

**M. Smith:** suggests: "c. no closer than five feet to the maximum ground water level on the property, except in locations where permanent ponds are proposed as part of the excavation plan, or unless otherwise approved by the Commission based on empirical data provided by the applicant."

We would suggest that this be changed to be consistent with surrounding towns.

**N. Williams-Edwards:** Requesting the Town of Thompson no longer allows excavation below the water table and removes this from Regulations.

**T. Penn:** The point has been previously raised to the Commission that neighboring towns do permit excavation closer to the water table. Given the contentious nature of the issue, and that the Commission has previously

decided to keep the limit at eight feet above, I would not recommend revising that limit downward. **Commission should state their preference.**

Tyra will draft language and forward to Brian Santos for input.

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**C. Standards for Earth Removal**

**8. In addition to other applicable requirements of this section, removal of earth materials from any property shall also comply with the following standards:**

- a. The natural topography of the property shall be preserved to the maximum extent possible.**
- b. The proposed excavation shall be certified by the engineer of record as being the minimum depth of excavation necessary to accomplish the proposed project.**

**C. Dunne: The proposed excavation shall be certified by the engineer of record as being the ~~minimum~~-maximum depth of excavation necessary to accomplish the proposed project.**

**M. Smith: "The natural topography of the property shall be preserved to the maximum extent possible."**

*This makes no sense at all. It is impossible to maintain natural topography and excavate material. This could be utilized as a way to deny any and all excavation permit applications. It's also highly subjective as is subsection b. below.*

*"The proposed excavation shall be certified by the engineer of record as being the minimum depth of excavation necessary to accomplish the proposed project "*

*This is conflictual in nature. Gravel is an important natural resource and a "special exception" is granted with respect to earth removal to allow for the responsible removal of earthen materials. To say that excavation will be to the "minimum depth necessary" makes no sense. It should say "to the maximum depth in accordance with these regulation".*

*T. Penn: The criticism of item "a" is logical, in that the activity does, by its nature, disturb the topography. The item was included to try to communicate a preference for an action plan that shows a balance of consideration for the landscape while still allowing the activity. It may be that it is too subjective to be an effective standard. Cindy does concur with Atty Smith about the difference between minimum and maximum in this context. Agree that potential subjectivity in both items is problematic. **This is another item where the specific experience in excavation & construction of some of the commissioners could better refine this language.***

- c. The processing of materials on the site shall be allowed only by special permit, as part of the original application. Processing shall not take place within three hundred (300) feet of a residence.**

**C. Dunne: is this another permit in addition to the permit to excavate?**

**T. Penn: It is unclear whether the intent of the PZC is to require an additional special permit for the processing, or if the processing must be an identified item in the original application. **The Commission should clarify its intent, and I will edit the language to be more precise.****

**Joseph Parodi-Brown moved and John Rice seconded the motion to go to 5' or 8'.**

**Roll Call:**

**Brian Santos 8'**

**John Lenky Abstain**

**Alvan Hill 8'**

**Michael Krogul 5'**

**John Rice 5'**

**Robert Werge Sr. 8'**

**Joseph Parodi-Brown 8'**

**Motion carried to 8'**

**Attorney Heller gave the following definition: Final grading plan shall demonstrate that the site will be left in a condition suitable for uses permitted by rite in the applicable zoning district.**

**Strike Item B**

**Item C: General Consensus – Strike as part of the original application**

**Page 54**

**C. Standards for Earth Removal**

**11. Prior to renewing a special permit for earth removal, the Commission may require that those areas of the property where excavation has reached finished grade, per the approved plan, be restored with topsoil and subsoil to pre-disturbance levels and seeded with native species to establish a permanent vegetative cover.**

**C. Dunne: Check with Attorney if this is within the state statutes?**

**M. Smith: The case law is clear that a permit SHALL be renewed as long as the permittee has performed in accordance with the initial approval. Additional conditions cannot be imposed as part of a renewal process.**

**T. Penn: I will ask our attorney to weigh in on this. No Commission action required at this time.**

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**C. Standards for Earth Removal**

**In granting or renewing a special permit for earth removal, the Commission may attach such conditions and safeguards as may be required to protect the public health, safety and general welfare; and to ensure continued compliance with these regulations. Such additional conditions may include, but are not limited to:**

**a. The days and hours of operation**

**C. Dunne: The days and hours of operation - clearly state so there is no question what hours the applicant will operate**

**M. Smith: Having free reign over establishing hours would likely be a violation of the uniformity required for municipal zoning regulations. The Town should specifically state the days and hours. Typical operating hours in surrounding towns are:**

**Monday through Friday 7:00 a.m. to 5:00 p.m., Saturday 7:00 a.m. to 1:00 p.m. and no operation on Sunday or legal holidays in the State of Connecticut.**

**It should be noted that the hours can be adjusted based on the site as part of the special permit approval.**

**T. Penn: I'm not sure I understand the difference in reasoning between the commission not having the latitude to establish hours and then stating that the hours can be adjusted based on the site, which seems to be exactly what that means. Nonetheless, I generally agree that it is probably prudent to state the allowable hours of operation. Given the recent controversy, where a precedent was set denying an operator Saturday hours based on what another operator voluntarily waived, I would recommend those hours be established at Mon-Fri 7-5 only, no Saturdays no holidays. Commission should articulate what they want those hours to be.**

**C. Dunne: recommends adding to the items under #12:**

**g. Dust control plan**

***h. The covering of Trucks exiting the property***

***T. Penn: Agree, and will add. No Commission action required.***

**Consensus to change to 12:00 pm.**

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**C. Standards for Earth Removal**

13. A special permit for earth removal shall not become effective until the applicant posts a bond with the Commission. The amount of the bond shall be no less than six thousand dollars (\$6,000) per acre of disturbance, but may be more, if the Commission finds that the circumstances of the operation merit a higher guarantee.

**C. Obert:** Another item 13 which I think is tremendously generous to the operators and does little or nothing for the Town...I mean they take value from the Town, beat up the roads, upset the neighbors and then face the possibility that \$6 k will be withheld for each acre they dug up. How does the town recoup any of the wear and tear on the roads from the heavy truck traffic?

**M. Smith:** What type of bond? We would suggest surety bonds consistent with other jurisdictions.

**T. Penn:** The subject of the amount of the bond has been discussed occasionally, and it is not clear that a satisfactory answer has ever been given. There have been many occasions where residents have expressed concern that the bond amount is too low. Regarding Atty Smith's comment on the type of bond: I believe the Commission did vote to accept surety bonds in a 2018 or 2019 meeting. Assuming that is correct, then the item will be amended to specify the acceptable forms for the bond. The Commission should clearly establish what they think the proper bond amount should be, as well as confirming the types of bond allowed.

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**C. Standards for Earth Removal**

14. Every twelve months after the approval of a special permit for earth removal, the applicant shall submit to the Commission a statement regarding the progress of the operation, prepared, signed and sealed by a licensed land surveyor. Such statement, along with the site plan, shall include the amount of material removed; current contours; and cross-sections highlighted in contrasting color in the area excavated during the preceding twelve month period. Failure of the applicant to provide the Commission with such information within thirty (30) days after the end of the twelve-month period shall be deemed sufficient cause for the ZEO to recommend to the Commission to revoke the special permit, upon notice and opportunity to be heard.

**C. Dunne:** Doesn't make sense if the renewal period is every 12 months and if the site is finished in the 12 months and no renewal then the reclamation compliance is conducted.

**J. Rice:** Requests further discussion of this item

**M. Smith:** Requiring a land surveyor or engineer to topo the site on an annual basis to determine compliance is expensive and onerous. Municipal regulations in New London County and Windham County appear to have a range or review periods for this type of operation with one year being the minimum and five years being the maximum. Attorney Heller believes that a three year period provides a reasonable balance. This does not prevent the zoning official from revoking a permit in the event that operations on the site are so patently out of compliance with the enabling permit and/or municipal regulations as to be a per se violation.

It should be based on effective date. There could be a situation where approved but it is not filed immediately.

**T. Penn:** Agree with the logic of changing the language to reflect “effective date”. As to the conditions of the periodic review, annual review was the interval favored by the Commission (at one point 6-months was proposed). **It is reasonable to discuss options for the annual review that may be less onerous for an operator that still fulfills the intent of the Commission.**

*Tyra and ZEO work to come up with a fee schedule. General Consensus to change fee to \$250.*

**Page 54**

**C. Standards for Earth Removal**

**15. If, at any time, the Commission finds that the earth removal operation is not being conducted in accordance with the special permit as approved, the Commission may order the applicant to cease the operation and, following a duly noticed hearing, may revoke the special permit.**

**C. Dunne:** And who delivers the notice?

**T. Penn:** Will confer with Cindy to determine best clarifying language for this item and edit accordingly. **No Commission action required.**

**Page 54**

**C. Standards for Earth Removal**

**C. Dunne:** Need to add in final reclamation an as built plan shall be approved by the commission and filed in the Town Clerk’s records. Upon filing of plan the posted bond will be released upon approval of the commission.

**T. Penn:** Agree with the addition. **No Commission action required.**

**Page 55**

**Article 5A, Section 4 Solar Photovoltaic (PV) Array Systems**

**B. Davis:** I don't see windmill turbine power generation addressed anywhere

**T. Penn:** Bernie raises a good point. **If the Commission would like me to attempt to add a section for wind turbines, I can try to work something up for the next review session.**

**No action recommended.**

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**Article 5A, Section 4 Solar Photovoltaic (PV) Array Systems**

**C. Residential Scale Installations**

**1. General Guidelines**

**d.v. - Installer details: the name, address and contact information for the proposed system installer.**

**D. Held:** Why is this part of a zoning approval process? It’s likely that this won’t be known at the time a site plan approval or special permit application is filed. Why would this be relevant information for such an approval decision?

**T. Penn:** I find this argument logical, and would agree to strike the item. **No Commission action required.**

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**Article 5A, Section 4 Solar Photovoltaic (PV) Array Systems**

**C. Residential Scale Installations**

**1. General Guidelines**

**d.vi. - No grid-intertie photovoltaic system shall be installed until evidence has been provided to the**

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Commission that the owner has submitted notification to the utility company of the intent to install an interconnected customer-owned generator. Off-grid systems are exempt from this requirement.

**D. Held:** This is between the utility and the owner. It's not as though approval by the Commission is granting the owner any authority to do something in violation of utility requirements. This should be removed.

**T. Penn:** Also agree with this logic and will strike. **No Commission action required.**

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**Article 5A, Section 4 Solar Photovoltaic (PV) Array Systems**

**C. Residential Scale Installations**

**2. Dimensional and Design Requirements**

**c. Roof-mounted solar PV systems shall be located in such a manner as to ensure emergency access to the roof, provide for smoke ventilation opportunities, and provide emergency egress from the roof.**

- i. For buildings with pitched roofs, solar collectors shall be located in a manner that provides a minimum of one three-foot wide clear access pathway from the eave to the ridge on each roof slope whereon solar energy systems are located, as well as one three-foot smoke ventilation buffer along the ridge.**
- ii. Rooftops that are flat shall have a minimum three-foot wide clear perimeter between a solar energy system and the roofline, as well as a three-foot wide clear perimeter around roof-mounted equipment such as HVAC units.**
- iii. No roof-mounted solar PV system shall be located in such a way that would cause the shedding of ice or snow from the roof into a pedestrian travel area or a public right-of-way.**

***D.Held: This entire section should be removed. These are building code issues and should be left to the building official who has the expertise to review such matters and who will always be dealing with current building code requirements.***

***T. Penn: As I recall, we had this exact conversation when we first discussed this section. I tend to agree with David's point here, with the possible exception of retaining iii. The Commission should clarify whether they really want to keep this item, or if it can be struck.***

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**Article 5A, Section 4 Solar Photovoltaic (PV) Array Systems**

**D. Medium-Scale and Large-Scale Ground-Mounted Installations**

An installation is considered to be medium-scale if it occupies more than 1,750 square feet, but less than 40,000 square feet. An installation is considered to be large-scale if it occupies 40,000 square feet or more.

**D. Held:** Please provide clarity on whether this is the footprint of the panels or the footprint of the bounding rectangle of the entire array.

**T. Penn:** I will admit I had not previously given this distinction much though. It seems logical to me that it would be the footprint of the panels; **but this is another instance where the Commissioners with construction experience may have a better perspective on how this should be phrased.**

General consensus to use Rectangle.



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**Article 5A, Section 4 Solar Photovoltaic (PV) Array Systems**

**D. Medium-Scale and Large-Scale Ground-Mounted Installations**

**1. General Guidelines**

***iv. Documentation of the major system components to be used (e.g. panels, mounting system, inverter).***

***v. Name, address and contact information for the proposed system installer.***

***D. Held: iv. - This is often not known when permit applications are submitted.***

***These regulations should only deal with the dimensional aspects of a project...not what kind of inverters, etc. are used.***

***v. Same as above...this is not relevant to a P&Z approval of a site plan.***

***T. Penn: If it is true that these items would not be known at the time of application, then I agree they should be struck. Recommend the Commission discuss this in more depth with David Held.***

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**Article 5A, Section 4 Solar Photovoltaic (PV) Array Systems**

**D. Medium-Scale and Large-Scale Ground-Mounted Installations**

**1. General Guidelines**

***viii. No grid-intertie photovoltaic system shall be installed until evidence has been provided to the Commission that the owner has submitted notification to the utility company of the intent to install a solar PV array, and that approval to connect to the grid had been granted; or appropriate applications have been made to such utilities for interconnection. Off-grid systems are exempt from this requirement.***

***D. Held: Same as above...this is between the utility and owner. Any approval by the P&Z Commission does not somehow allow an owner/applicant to violate utility requirements so why have this requirement.***

***T. Penn: Agree with this logic, as under the residential section, and will also strike. No Commission action required.***

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**Article 5A, Section 4 Solar Photovoltaic (PV) Array Systems**

**D. Medium-Scale and Large-Scale Ground-Mounted Installations**

**2. Dimensional and Design Requirements**

***e. In as far as is practicable, utility connections from the solar PV installation shall be underground. If such proposed connections cannot reasonably be underground, justification must be shown on the site plan. Electrical transformers for utility interconnections may be above-ground, if so required by the utility provider.***

***D. Held: This should be dictated by the utility and their requirements.***

***T. Penn: David's statement has some ambiguity. If it is within the PZC's authority to state that utility connections shall be underground where feasible, then I would recommend keeping the item. Underground utilities are generally preferable, in terms of avoiding outages. Recommend the Commission discuss further with David and keep/strike/amend the item as they then prefer.***

General Consensus to keep language.

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**Article 5A, Section 4 Solar Photovoltaic (PV) Array Systems**

**D. Medium-Scale and Large-Scale Ground-Mounted Installations**

**2. Dimensional and Design Requirements**

***f. The owner or operator of the installation shall provide a copy of the project summary, electrical schematic and approved site plan to the Building Official, the Fire Marshal and local Fire Chief whose district it will impact. Every means of shutting down the solar system shall be clearly marked. The owner or operator shall identify a responsible person for public inquiries throughout the life of the installation.***

***D. Held: The public should be inquiring with the appropriate Town staff, not the owner or operator. This is the appropriate means of asking a question or making a complaint.***

***T. Penn: Agree with this statement, and I will edit the item accordingly. No Commission action required.***

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**Article 5A, Section 4 Solar Photovoltaic (PV) Array Systems**

**D. Medium-Scale and Large-Scale Ground-Mounted Installations**

**2. Dimensional and Design Requirements**

***g. Signage shall be posted at the entrance, and on all sides at appropriate distances surrounding the solar installation. Such signs shall be up to two square feet in dimension; shall indicate electrical danger present; shall identify the owner; and shall provide a 24-hour emergency contact phone number.***

***D. Held: I believe this is dictated by utility requirements and the NEC.***

***A. Landry: suggests striking "up to" two feet.***

***T. Penn: The implication of David's comment is that the item is redundant to the utility's requirements, and therefore should be struck. It seems to me that keeping the item does no harm, and reinforces the requirement for an applicant. The Commission should decide whether it wishes to keep or strike the item. If they keep it, I agree with Al's comment and will edit accordingly.***

General consensus leave in as minimum requirement or as directed by General Utility requirements.

Page 60

**Article 5A, Section 4 Solar Photovoltaic (PV) Array Systems**

**D. Medium-Scale and Large-Scale Ground-Mounted Installations**

**5. Decommissioning/Abandonment**

**a. Decommissioning shall consist of:**

**i. Physical removal of solar panels, electrical inverters with all underground conductors<sup>1</sup>, structural mounding systems, structural enclosures for both owner/operator and utility company electrical transmission equipment, security barriers, overhead transmission lines and utility poles<sup>2</sup> from the site.**

**D. Held: The owner and/or Town have no control over utility company equipment.**

**T. Penn: If this is true, then it would make sense to strike the references specific to utility equipment. If the Commission agrees, then I will make the edit.**

**Page 61**

**Article 5A, Section 4 Solar Photovoltaic (PV) Array Systems**

**E. Large-Scale Installations, Special Considerations**

**1. Purpose**

The purpose of this section is to encourage the development of renewable energy resources, while preserving core forest, prime farmlands and other open space.

**D. Held:** Any solar installation which can be regulated by a Planning & Zoning Commission will occupy at most 5-6 acres of land. Core forest and farmland impacts are questionable issues for utility scale projects which may occupy upwards of 100 acres but they're really insignificant at locally regulated scales (anything over 1 MW AC is regulated entirely by the CT Siting Council). The impact from a typical 2 lot subdivision would be greater and it would also be a permanent impact as opposed to a temporary impact from a solar installation.

**T. Penn:** When this section was written, it was always with the understanding that the number of parcels covered would be limited to anything under 1 MW. It was done to articulate a preference for solar development that takes open space and agricultural use into consideration, and to offer an incentive for developing solar uses that can coexist with agricultural activity. He has previously made the observation to me in conversation, regarding the temporary vs permanent impact of solar vs subdivision. That is a reasonable point to raise; but, I would suggest that the solution lies more in how we adjust the subdivision regulations next year, rather than by eliminating this section. Increasing renewable energy sources is desirable; but, if increasing those resources occurs without regard to the impact on conservation, then it engenders resistance from communities where green space is highly valued. This section is meant to reduce conflict between those interests. **Commission should discuss and confirm whether or not they want to keep this section, with or without any suggested edits.**

Commission discussed and confirmed keeping this section.

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**Article 5A, Section 4 Solar Photovoltaic (PV) Array Systems**

**E. Large-Scale Installations, Special Considerations**

**2. Lot Coverage Considerations**

a. A large-scale solar PV installation shall not cover more than 50% of the lot on which it is situated, with the exception of the considerations delineated below. Lot coverage includes the land covered by solar panels and all associated equipment

b. Any undeveloped portion of the remaining 50% of the lot not covered by the solar installation shall be maintained as one of the three land types defined in **Article 5A, Section E, 1** (above).

**D. Held:** This permits a GCR of 50% but requires that the other 50% is forest, farm land or open space. This is the space between the panels in the array. I'm not sure these two sections make any sense.

**T. Penn:** If I understand David's criticism correctly, then I think this could be clarified by editing the requirement to reflect that the percentage is derived from the footprint of the installation. Assuming that the Commission chooses to retain this section, I would welcome David's help in editing this for better clarity.

Tyra will clarify language.

**Page 62**

**Article 5A, Section 5 Wireless Communications**

**C. Dunne: Is applying to the state as required are there state guidelines for the applicant to also apply to the Town? The Wireless Communications are controlled by the State Citing Council what is the reason we are putting this in our regulations?**

**T. Penn: This section was added after the conclusion of the discussions to create the presentation draft, based on one or more Commissioners calling it to my attention that there is a section on Wireless in the existing regulations. The language presented here is largely carried over from that, with some light edits. Having said that, I am ambivalent about including it in the new regulations, precisely because the CT Citing Council is the organization with jurisdiction. The argument for including it is that it articulates our preferences for potential developers; but, like Cindy, I also question its regulatory authority. The Commission should decide whether to keep or retain the section, with or without any edits.**

**Commission agreed to retain this section.**

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**Article 5A, Section 5 Wireless Communications**

**D. Permitted and Special Permit Uses**

**3. Wireless telecommunication facilities where a tower is located on property occupied by one or more towers erected prior to the effective date of these telecommunication zoning amendments (August 24, 1998), provided the following standards are met:**

**C. Dunne: Whose Zoning amendments the town or the state? and what zoning amendment?**

**T. Penn: This was definitely carry-over language from the existing regulations. If PZC keeps this section, I can edit this for better clarity. No Commission action required.**

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**Article 5A, Section 5 Wireless Communications**

**H. Telecommunication Site Plan Review Fee**

**Telecommunications site plan review fee is \$500.00.**

**M. Butts: Why is the only place in the draft regs a specific fee amount is identified is on page 66 (\$500 for a telecommunications site plan review fee)?**

**C. Dunne: Why is fee mentioned here I don't think any other section has a fee mentioned**

**R. Roberts: You can delete the dollar amount here. That way you won't have to amend the zoning regulations in order to change the fee in the future.**

**T. Penn: If the section is retained, will edit to refer the applicant to the table of fees to be added to the appendix. No Commission action required.**

Page 69

**Article 5A, Section 7 Adult Entertainment Businesses**

**No special permit for an adult entertainment facility shall be granted except in accordance with the following conditions and requirements:**

- 1. Shall not be located within a radius of 1,400 feet of any type of residence.**
- 2. Shall not be located within a radius of 1,400 feet of any school, library, day-care center or teaching facility, whether public or private, governmental or commercial.**
- 3. Shall not be located within a radius of 1,400 feet of any church, synagogue, or permanently established place of religious services or other house of worship.**
- 4. Shall not be located within a radius of 2,000 feet of any other adult entertainment facility.**

**M. Butts: Question: should applicants be required to submit documentation stating where the nearest residence, school, library, day care center, church, synagogue or other known permanent place of religious services or house of worship etc. to show compliance with the limitations in the proposed subsection E or will that be the responsibility of the ZEO or Commission to determine? Does the application require the submission of a site plan if the applicant is using an existing structure/facility – if yes, do you want to reiterate it here?**

**C.Dunne: What was the criteria for coming up with 1400 ft. Alcoholic Beverage distance is 1500**

**A. Landry: Why 1400 ft?**

**R. Roberts: Agree that the applicant should demonstrate compliance with the distance requirements.**

**T. Penn: The original suggested separation distance of 1400 was cribbed from one of the sets of sample regulations I used to draft this section. Since that time, Carolyn put in a bit of work to find any parcel that would satisfy that, or some other set of separation distances. As a reminder: the burden in writing this section was to identify at least one parcel that satisfies the physical distance requirements, otherwise it would fail legal scrutiny. The only parcel Carolyn could find was, essentially, in the middle of the golf course for the speedway, and even then the distances needed to be reduced to 1250 ft. No Commission action required, this is the best we could do. As to the suggestion that the requirement to show the separations from other uses be added to the special permit criteria: agree and will edit accordingly. Also no Commission action required on this piece. Re: Marla's final comment regarding site plan for an existing facility: a site plan is required with every special permit application unless otherwise specifically waived, so I don't feel it is necessary to reiterate that here, but if the Commission prefers to make that statement, I will edit accordingly.**

**Commission agreed to keep statement.**

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**Article 5A, Section 7 Adult Entertainment Businesses**

**F. Application for a special permit must include the following information:**

- 1. Name and address of the legal owner of the adult entertainment facility.**
- 2. Name and address of all persons having a fee, equity and/or security interest in such facility. In the event a corporation, partnership, trust or other entity is listed, the name and address of every person who has an ownership interest and/or beneficial interest in the entity must be listed.**

**3. Name and address of the manager.**

**4. The number of employees, or proposed number of employees, as the case may be.**

**5. Proposed security precautions, and the physical layout of the premises.**

**M. Butts: Suggest switching subsection E with subsection F to place the application process before any decision approval/limitations.**

**R. Roberts: Switching the two sections makes sense**

**T. Penn: Agree and will make the change. No Commission action required.**

**3. Next Meeting**

**TBD**

**4. Adjourn**

**John Lenky moved and Alvan Hill seconded the motion to adjourn. Meeting adjourned at 9:24pm.**

*Respectfully Submitted,  
Gloria Harvey  
Recording Secretary*