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(d.b.a.) Connecticut Planning & Development, LLC.

Town of North Stonington, Connecticut

Zoning Regulation Review

Findings and Recommendations

March 12, 2012

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Juliet Leeming, ZEO/Planner
Planning Department
New Town Hall
40 Main Street
North Stonington, CT 06359

RE: Zoning Regulation Review

Dear Ms. Leeming:

I write this letter as a brief introduction to the following report on my review of the Zoning Regulations. As you are aware, the Town of North Stonington retained me to conduct a comprehensive review of its zoning regulations. The aim of this review was to assess the Zoning Regulations in the context of economic development and the economic development goals in the Plan of Conservation and Development. In addition, this report reviews how the Zoning Regulations may encourage or discourage economic development.

The following report provides a detailed look at zoning and the regulations through the lens of economic development. The report, its findings, and its recommendations, are an independent assessment from outside the existing land use system in North Stonington. In no way are the findings and recommendations intended to be critical or to judge North Stonington as good or bad, right or wrong, in its existing practices. Rather my purpose is to explain how zoning relates to and interacts with economic development. Most important, the report provides North Stonington with an opportunity to view zoning and the role of zoning, as it relates to economic development, from a new perspective and to make changes to the regulations that I believe will maintain the desired regulatory authority and at the same time better encourage economic development.

It has been a great pleasure for me to work on this project and to provide this report. The two greatest rewards in working on projects like this are learning and educating. I have learned much throughout this process, not just about North Stonington's zoning regulations, but also about the challenges of maintaining high standards for development and balancing those standards with the need for economic development. In addition, I am hopeful that North Stonington will find my analysis and recommendations educational and will move to a program of implementation that will reduce barriers to economic development.

I am pleased to present this report to the Town of North Stonington, and I look forward to meeting with you and the land use agencies to discuss my findings and answer any questions.

Respectfully submitted,



Donald J. Poland, AICP
Connecticut Planning and Development, LLC

Town of North Stonington, Connecticut

Zoning Regulation Review

I. Introduction

The Town of North Stonington retained me to conduct a comprehensive review of its Zoning Regulations in the context of economic development. Basically, I conduct a general review of the regulations as a planner who has represented developers and worked with many communities in developing strategies to encourage investment. Therefore, I want to start by defining *economic development as the business of attracting investment capital to your community*. This is a broad definition of economic development that allows us to consider any investment as economic development. In this context, *investment can be time, effort, and money and includes investment in both residential and commercial land uses*. For example, a homeowner putting an addition on her house is economic development—the attraction of investment in the community.

The Planning and Zoning Commission play an important role in the physical development and character of a community. Zoning regulations can be a powerful tool to both shape the community and to encourage investment. However, the very nature of zoning regulations (government regulation of private property and the free-market) can also discourage development and create a barrier to investment. *The Planning and Zoning Commission must keep in mind that what they (the Commission representing the community) want and desire and what the market can support and will develop may be two very different things*. Therefore, the role of the Commission is to work within the context of existing conditions, market demands and future potentials to create regulations that will foster investment in a way that meets as many of the needs of the community as possible. This is easier said than done and is the very reason why zoning and economic development are so challenging.

Before I begin discussing the specifics of my findings and recommendations, I want to challenge the Commission to expand their view of zoning, land use, and economic development. Therefore, the following section presents a reimagining of zoning and land use as a system of land use. This will be followed by a short section on encouraging economic development through zoning. The report will present my specific findings related to the zoning regulations, followed by a short section on applicant expectations regarding the application and permitting process.

The intent of this report, more specifically, the sections other than my specific findings and recommendations, is to encourage the Commission and the community of North Stonington to open up their understanding and perspective of zoning. Zoning can be a powerful tool for encouraging investment. However, for this to occur, communities must be willing to consider alternative means of implementing zoning and letting go of all too common practices that foster the status quo and undermine predictability and investment.

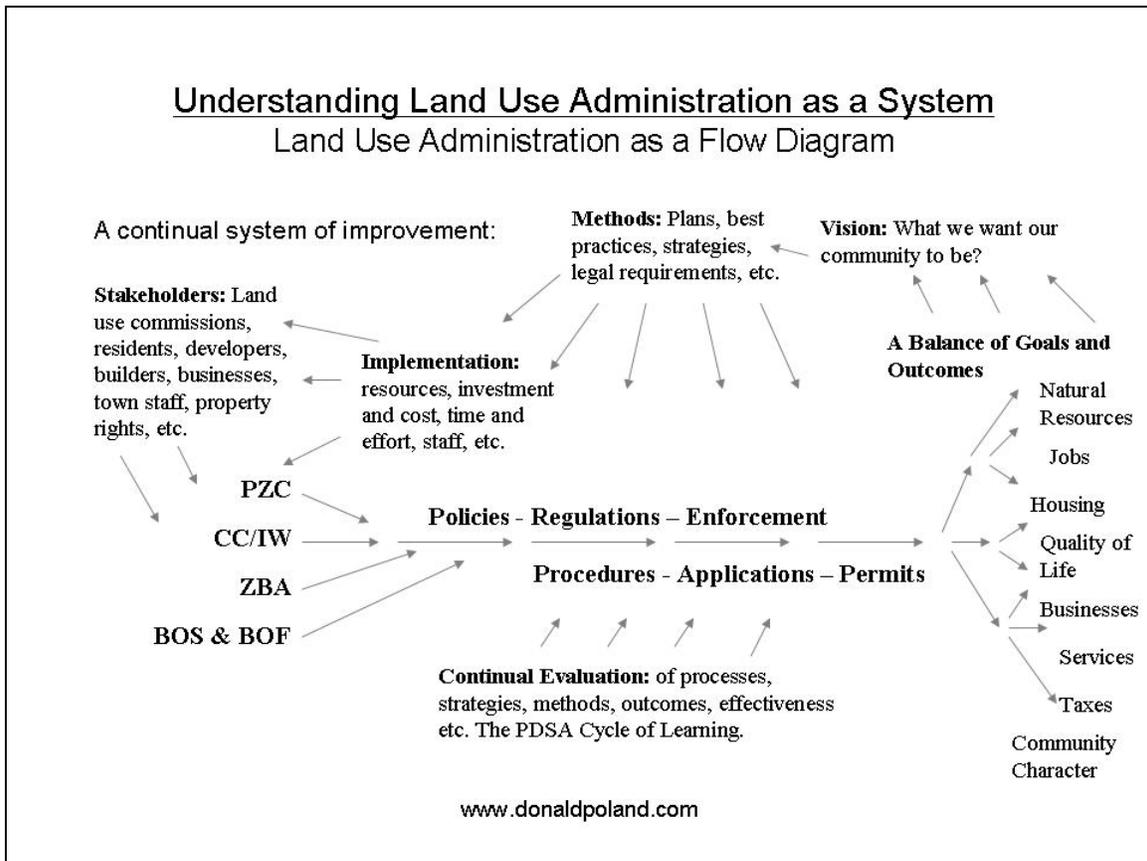
II. Understanding Land Use as a System

Planning, zoning, economic development, and land use in general, unfortunately, are rarely viewed as a system, but as a set of individual components, with disparate needs, desires, goals, and outcomes. It is, in fact, a system where commissions work against developers, where regulations conflict with markets and property rights, where boards and commissions view their roles in opposition to each other, and where the goals of conservation and economic development are viewed as opposites (one being good and the other being bad depending on a persons point of view). It is this disjointed or singular view and administration of the land use that is often the cause of tension, conflict, and inefficient or ineffective processes and policies. Therefore, to adequately analyze the process, role, and relationships of land use with the intent of minimizing or eliminating tension, conflict, and to improve processes and policies, we must first recognize that planning, zoning, conservation, and development (including economic development) are all part of a complex system of land use. So how do we define and understand a system?

Dr. W. Edwards Deming, the quality control guru and system theorist, defines a system as a “network of independent components that work together to try to accomplish the aim of the system.” Deming continues, “A system must have an aim. Without an aim, there is no system. The aim of the system must be clear to everyone in the system. The aim must include plans for the future.” Last, Deming states, “A system must be managed.” (Deming, *The New Economics*, 1993)

Deming’s definition of what a system is and the importance of a system’s aim and the management of a system provides context for understanding the administration of the land use system at the municipal level of government. To understand the land use system, we must define it, understand its aim, and manage it. So what is the land use system? The Land use system is a “network of independent components that work together to try to accomplish the aim [vision for the community] of the system” (Deming, 1993). The aim of a land use system is too effectively and efficiently plan for the use of land and to regulate such use of land in a way that balances the social, economic, and environmental needs of the community. The land use system is made up of many components or a “network of components” that includes government agencies and policies (boards, commissions, regulations, plans, and the related application and permit processes), participants (commission members, administrative, technical, and professional staff, property owners, applicants, developers, and all the related professionals involved in land development and conservation), influences (market conditions, geographic location, topography, and natural resources), and considerations (the balance of law with community needs and individuals rights).

Each board, commission, regulation, application, permit, and the individual actors and stakeholders are all part of this land use system. That is, the authority, role, and function of each independent component of the system must be working together, toward the common aim, and the system must be managed, not by a top-down method or approach (an organization chart that puts someone or some entity in charge), but by a collective bottom-up approach where all the individual components work together to manage and improve the system. The following diagram, based on the work of Deming, depicts the land use system as a flow diagram. The system is a continual loop—a process that is complex, but understandable. It can be managed from within, provided each component of the system understands the overall system, the aim of the system, and its individual role within the system.



So why is this important in the context of North Stonington and this report? When reviewing the Zoning Regulations two themes were evident—conservation and the concern over development and change. The first theme, conservation, focused on both the conservation of aesthetic (the look, feel, character, and charm of North Stonington) and the environment (the protection and conservation of environmentally sensitive and valued areas). The second theme, concerns over development and change, was evident in the restrictive nature of the regulations and the regulations attempt to regulate every specific detail of some uses.

As a planner, I understand why Commissions are concerned about development pressures and the need for conservation. I also understand the motivations to regulate specific details and to individualize regulations to uniquely address specific uses. However, in the context of economic development—encouraging investment—such attempts can be counter-productive, sending a mixed message to the market regarding the community’s commitment to economic development and its willingness to encourage and allow investment. Therefore, viewing land use as a system—recognizing that conservation and development do not have to be viewed as opposing and unrelated objectives and are part of a larger system—allows us to approach the regulatory portions of the land use system from new perspective. Recognizing that change is inevitable, new development will occur, and investment is important, allows us to balance and manage development and conservation. However, this does not mean we must sacrifice

conservation for the sake of investment. Rather, it means that we must be intentional in how we encourage and regulate investment without compromising our commitment to conservation.

III. Encouraging Investment with Zoning Regulations

It is important for the Planning and Zoning Commission to understand the role zoning regulations can play in encouraging investment. *All codes and regulations impact market demands and create a regulatory hurdle for development.* In addition, the land use application and permitting process adds time and money to the cost of development. Therefore, zoning regulations and the application and permitting process can and do affect the flow of investment into a community.

The primary reason for zoning regulations is to protect the public health, safety, and general welfare. In addition, zoning regulations also function as tools that can aid a community in implementing its plan or vision for what the community wants to be—including a vision for economic development. Therefore, zoning regulations become a balance among market demands and private sector interests and the wants, desires and needs of a community, while protecting the public health, safety, and welfare.

Most planning and zoning commissions have experienced applications and development projects that either did not turn out as expected or were actually misrepresented by a less than honest developer. While these experiences are not the norm, they have a significant effect on land use commissions and often create a sense of distrust. In addition, land use commissions also tend to feel a lack of control as a result of these experiences. This often results in the commissions creating additional or more restrictive regulations to ensure they do not get ‘burned again’ in the future. While such a reaction by a commission is understandable, it is not often the best means to encourage investment and development and if excessive, can result in a disincentive to development.

North Stonington is a charming and picturesque community that values its rural New England aesthetic. This, I believe, creates a scenario where it is more likely for the Commission to be cautious and to opt for more restrictive regulations in an attempt to maintain as much control as possible over new development. However, such an approach may become a barrier to investment. Therefore, it is important that the Commission find that middle ground where reasonable regulations protect and maintain community character, but do not discourage investment.

To achieve this balance, the zoning regulations should be designed to firmly assert the community’s standards and requirements for development to ensure high quality architectural and landscape design that protects and maintains community character and adds value to property. However, there is a difference between firmly asserting standards and requirements for development that encourage investment and creating over-restrictive regulations that discourage investment. I like to think of this as being intentional—planning for what the community wants and then using zoning to encourage it. I will further explain being intentional below.

IV. Creating a Vision for North Stonington

When reviewing the Plan of Conservation and Development and the Zoning Regulations, it was evident that a clear vision for North Stonington does not exist. In addition, while fragments of a vision appear in the Plan of Conservation and Development, they do not appear in the Zoning Regulations in any meaningful way. Consider the following statements from the Plan's "Looking Toward the Future" 2009 Vision Statement:

North Stonington's commitment to being a rural community is clear from the way the town has developed – with abundant open space, working farms, and homes on large lots. Planning for preservation of rural attributes is evident in the town's recent acquisition of significant open space, its support for agriculture, its formation of a Conservation Commission, and the completion of the Plan for Conservation and Recreation Lands.

A town must grow as an extension of its own tradition, with its own vision for the future. The vision should be arrived at through consensus of the town commissions and with the approval of town residents. It should be expressed through a planning process to which developers must adhere. By and large developers welcome planning specifics to minimize the speculative aspect of the approval process.

With foresight and vision and town can continue to demonstrate how conservation and development can be mutually supportive and continue to create a home for living in harmony with nature.

Where is the vision in these statements? There is a lot of talk about vision, the need for a vision, and how a vision can be created, but there is no actual vision statement. Planning begins with a vision and a clear vision statement must be the foundation to the entire planning process—starting with the plan and continuing through the tools and strategies employed to achieve the vision, including the land use regulations. Without a vision (a clear vision statement), the plan and land use regulations become a disjointed assemblage of good ideas, but lack the cohesion required for meaningful implementation. Most important, without a clear vision, the community will never know what it wants to be, will not achieve its potential, and may diminish its existing assets and quality of life.

So what are a vision and a vision statement? I like to think of the vision and vision statement as the community answering the question, "what does the community want to be when it grows up?" A meaningful answer to this question establishes an outcome for the future—a tangible goal to strive for. In regards to a community, growth and change are inevitable, but how a community will grow and change, are not. Creating a vision and vision statement for the community provides the end (or goal) and the planning process, the plan, and implementation tools and strategies are the means to that end—the answer to the question, "how do we get there?" Therefore, through the visioning process, the vision, and the vision statement, a community has the ability to influence and shape its future—to become the community it wants to be. This is the foundation and essence of planning.

Unfortunately, the North Stonington Plan does not provide a clear vision for the future of North Stonington. This is evident not only in the Plan, but also in the Zoning Regulations. Consider the following statement from the Plan regarding mixed use development:

A Mixed-Use Village is not a minor undertaking and certainly would require a major commitment on the part of the town. The chances of success are greater, however, if the community “buys into” it through a cooperative planning process involving extensive public participation. There are several ways a mixed-use village could be created, all of which should involve flexibility of use and stringent design requirements. Additional study will be necessary to determine what method is best suited to meet the goals of the *Plan of Conservation and Development*. It is essential that the Planning and Zoning Commission guide this process and that suitable consultants be hired to identify the attributes and pitfalls of each approach.

At first glance of this section of the Plan, it appears that a mixed-use village is something the Commission/community want. But as you read through this paragraph it becomes evident that the Plan is doing little more than considering to study the possibility of a mixed-use village style development. Why bother creating a Plan and discussing mixed-uses in the Plan, if the recommendation is nothing more than to study this kind of development in the future. This sends a strong message to me that North Stonington does not know what it wants to be—the community has no coherent vision for the future, nor can the community make a decision as to whether or not it wants mixed-use village development. The Plan, as well as the zoning regulations, need to be intentional as to the vision and what the community wants. Does North Stonington want mixed-use villages? If so, then create a regulation that encourages them. If not, then there is no need to discuss them in the plan or push them off to the future.

V. Findings and Recommendations

The following are my general findings related to the review of the North Stonington Zoning Regulations. The North Stonington Zoning Regulations are much like typical zoning regulations found in most communities. It would not be fair to say that they are good or bad regulations, but that they are adequate and typical for the general regulation of uses and development by zoning districts. However, this does not mean that the regulations could not benefit from some changes and improvements. The following are items worthy of mention and recommendations that would improve the regulations:

1. **Length of Regulations:** The length of the Regulations is overwhelming. Other than in some large cities, I have never encountered a 340 page regulations. My first impression, when encountering such a long set of regulations, is that the community is over-regulating and trying to provide regulations that will address every possible scenario. Such extensive regulations send a negative message, in the context of economic development—that the community is very restrictive and not business friendly.
 - o **Recommendation:** The regulations need to be reduced dramatically to fewer than 200 pages. I am confident that this can be achieved without reducing the regulatory force of the regulations. To accomplish this, the regulations should be reorganized into a more meaningful and user friendly order, duplicate language

and provisions should be eliminated and consolidated, and tables and diagrams should be used.

2. **Reorganization of the Regulations:** The organization and format of the regulations are cumbersome and do not provide for ease of use by residents and others.
 - **Recommendation:** The Commission may want to consider a comprehensive reorganization of the regulations to create a more user-friendly document. Such a reorganization would place all similar regulations under the same section/chapter heading. For example, all residential regulations would be included in the section/chapter for Residential Zone.
3. **Zoning Districts:** The number of zoning districts, fourteen including overlay zones, in the regulations is excessive for the size and general character of the community.
 - **Recommendation:** The Commission should review the districts—uses and bulk and area requirements—for each district to see if some of the districts can be consolidated to reduce the number of zoning districts.
4. **Purpose and Intent of Zoning Districts:** Related to the zoning district review is the need to review the intent of each district. While reviewing the regulations it was evident that some of the districts, the commercial and industrial districts, send mixed messages as to what kind of district they are. For example, industrial districts where 90 percent of the uses are general business/commercial uses may not be functioning as intended and sending mixed messages to the market. If the intent is to provide a district for industry, then design such a district.
 - **Recommendation:** The Commission should review the districts in the context of the intent and the uses permitted with the aim of aligning the intent with the uses.—uses and bulk and area requirements—for each district to see if some of the districts can be consolidated to reduce the number of zoning districts.
5. **Permitted and Conditional Uses:** When reviewing the district uses, the Commission should review those uses permitted as-of-right (permitted uses) and those uses permitted by conditional use (special use permit). The North Stonington Regulations, as do many other community's regulations, rely heavily on special permit uses. However, from the perspective of economic development—attracting investment—special permits can create barriers to investment. Since the special permits gives the Commission the authority to require additional standards for consideration and since those standards tend to be more subjective, the Commission has greater discretion to deny an application. The subjective nature of special permits and the greater discretion to deny reduce predictability and confidence for the applicant. Therefore, investments may pass by a community if the investment can be achieved in another community where predictability and confidence are greater. From the perspective of economic development, zoning regulations can be used as a tool to encourage investment, or at the very least, to minimize barriers to investment.
 - **Recommendation:** The Commission may wish to consider reviewing the intent of zoning districts, the permitted and special permitted uses within districts, and the goal of economic development. In the process of doing this, the Commission

should identify the uses that best serve the goal of economic development and permit those uses as-of-right. The only uses that should require a special permit, should be those uses that truly have the potential to create negative impacts if greater consideration is not provided as part of the approval process. A prime example of this in the North Stonington Zoning Regulations is the requirement for retail uses, as small as 10,000 square feet in the Highway Commercial District. The Highway Commercial District is where you want to encourage retail development, so why be so restrictive?

6. **Site Development Standards:** The regulations are lacking in site development standards that promote high quality and modern site design standards. This is most evident in Section 1400 that provides specific development standards for individual uses. The result of Section 1400 is a very cumbersome and repetitive regulation that lacks continuity and well defined standards for development, especially commercial and industrial site design.
 - o **Recommendation:** The Commission may wish to consider, as part of a comprehensive reorganization of the regulations, creating a section/chapter dedicated to site development standards. Such a section would include all regulatory provisions related to site development. This section would include, landscape design, parking, signage, lighting, refuse storage, outdoor storage, and so on.
7. **Being Intentional:** What I mean by being intentional is understanding the relationship between planning and the plan of conservation and development and zoning and the regulation of use by district. The process of planning and the creation of the plan of conservation and development is the time for a community to make decisions about its vision, goals, strategies, and outcomes. This includes decisions on the appropriate use of land and what types of uses should be permitted in specific locations within the community. The zoning regulations are the most powerful tool a community has to implement the plan of conservation and development. Through the process of adopting or amending the zoning regulations, the Commission should consider the recommendations of the plan of conservation and development, including the appropriate use of land in each zoning district. Section 8-2 explains, “such regulations shall be made with reasonable consideration as to the character of the district and its peculiar suitability for particular uses and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality.” Therefore, zoning districts should encourage the most appropriate uses based on the land use decisions made in the plan of conservation and development. The Zoning Regulations and Zoning Map as a collective document create what is known as the Comprehensive Plan of Zoning that sets forth the community’s future development plan.

Many, if not most communities in Connecticut have lost sight of this relationship. By doing so, communities fail to realize that the most critical decision on use—the appropriate use of land—should be made during the planning process and then incorporated into the zoning districts as permitted uses. Unfortunate, when many communities incorporate the uses into the zoning district, an over-reliance on special use permits occurs, shifting the actual decision on the “appropriate use of land” to the end of the process—the application and permitting process. This shifting of use decisions to the

application process and special permits undermines predictability and creates a barrier to investment.

- **Recommendations:** Trust in the planning process and plan of conservation and development to make decisions on the “appropriate use of land.”
- When incorporating uses into the zoning districts consider the plan of conservation and development, including the vision, goals, and outcomes desired for those areas of the community and the related appropriate uses.
- Decide what uses are most appropriate to achieve the vision, goals, and desired outcomes of the plan and allow them as-of-right. Reserve special permits uses for only those uses that may not be appropriate in all locations within the zoning district and may create potential concerns. Use special permits sparingly.
- Do not use special permits for uses which the community does not want or does not feel are appropriate in a given zoning district. If uses are not appropriate, do not allow them.
- Avoid over restricting and regulating uses that are determined to be appropriate. This includes both restrictive regulations and requiring special permits.

Specific Examples: The following are some specific examples of uses and regulatory provisions in the North Stonington Zoning Regulation that demonstrate how not being intentional in what the community wants can result in reduced predictability and barriers to investment. The intent of these examples is to demonstrate the importance of thinking critically about uses, being intentional, and showing how regulations can create barriers to investment.

- **Bed & Breakfast:** The regulations allow Bed & Breakfast uses in the Rural Preservation Zone by special permit. Allowing this use makes sense and fits with the New England character and charm of North Stonington. However, we can still question the regulation and reimagine the desired outcome of encouraging investment.
 - Why is a special permit needed? Since allowing Bed & Breakfast establishments is consistent with the rural character of the district, promotes the New England charm of the community, and may even provide for historic preservation of old farm properties, why not allow such a use as of right—provided adequate regulations are in place to address parking and landscape screening from other properties?
 - Assuming the Commission retains the special permit requirements, why prohibit food service at lunch and dinner time?
 1. How is serving lunch and/or dinner different than serving breakfast in the context of the use?
 2. Why restrict service to only overnight guests? Does this mean if I am in town on business, I cannot ask a client to join me for breakfast?
 - I understand that the concern is the operation of a restaurant in a rural residential area. However, regulatory provisions can be created to ensure that the food service operation is accessory and remains small scale. In addition, allowing lunch and dinner service and allowing the general public to dine here may

increase the economic vitality of a Bed and Breakfast or may be the difference between success and failure. Allowing expanded food service may also result in hiring of a trained chef, resulting in job creation.

- **Restaurants in the Highway Commercial District:** The regulations allow Restaurants less than 5,000 square feet as-of-right and restaurants more than 5,000 square feet via special permit. Restaurants are uses consistent with and appropriate for a highway commercial zone.
 - Based on the less than and greater than 5,000 square feet requirements, which permitting process applies to restaurant that is exactly 5,000 square feet? While this may seem like nit picking, this regulatory language creates confusion, undermines predictability, and may result in investment passing by North Stonington.
 - What is the difference between a restaurant that is 4,999 square feet and one that is 5,001 square feet that justifies a special permit for the larger one?
 - Many full service restaurants today, especially higher end restaurants are between 5,000 and 10,000 square feet. Why would you create such a barrier to investment? The potential outcomes:
 1. Existing space that may be well suited for a restaurant over 5,000 square feet may be passed by as an option due to the stricter permitting process, lack of predictability, and higher up-front cost to open the business.
 2. May promote fast-food over full service restaurants.
 3. May reduce the number of restaurants, resulting in fewer jobs and reduced real estate values and taxes.
- **Light Manufacturing:** The regulations allow Light Manufacturing in the Industrial District. Light Manufacturing less than 20,000 square feet is allowed as-of-right and Light Manufacturing greater than 20,000 square feet requires a special permit. The Light Manufacturing as a use is consistent with and appropriate for an industrial zone.
 - Once again, based on the less than and greater than 20,000 square feet requirements, which permitting process applies to such a use that is exactly 20,000 square feet? The regulation also creates this confusion with retail and all uses differentiated by size.
 - Differentiating between light and heavy manufacturing makes sense in the context of special permits, even though one could question why North Stonington would even consider or want heavy manufacturing. However, the determination has been made that this is an area suitable for industrial uses. Therefore, why differentiate between the size of light manufacturing uses? Also, while demand for manufacturing space is weak, there has been some better demand for light manufacturing flex space between 15,000 and 30,000 square feet. What message does this send to the market?
 1. North Stonington likes the idea of light manufacturing but does not want light manufacturing.

2. This is not an industrial zone, but a commercial zone—evident by more commercial and institutional uses being allowed in the zone than industrial uses.
3. The messages being sent by this Industrial District are mixed and confusing, and may result in being a barrier to investment.

The above are three examples of how specific regulations and uses can conflict with predictability and create barriers to investment. The intent is to show how we can think more critically about zoning, the role of zoning, and the need to be intentional in its application to encourage investment. I recommend that the Commission consider reviewing all uses in each district, asking similar questions about the intent and outcome of the regulatory provisions and how they may discourage investment.

VI. Action Agenda

The following are recommendations for activities that I believe North Stonington should engage in to create a meaningful land use planning process to ensure the future success of the community. While I understand there can be substantial cost associated with such activities, the cost should be viewed as an investment in the future of the community. Investing in a meaningful planning process will save time, money, and effort in the future. It will also ensure that North Stonington has a say in what the community will be in the future.

1. **Plan of Conservation and Development:** North Stonington should invest in completing a comprehensive update to the Plan.
 - a. Updating the Plan is not just about the Plan but is also about engaging in a meaningful planning process. Therefore, I recommend hiring a planning consulting firm to administer and facilitate the planning process. I believe this is the best approach to plan updates since such firms have extensive experience with the process. In addition, it provides an outside perspective—a view from outside the system is valuable and often opens up new perspectives and potentials.
 - b. The planning process should include an intensive visioning process at the front end of the process. Based on my review of the existing plan and regulations, I believe that the community, not just the Commission, needs to engage in an open and honest discussion and debate about what North Stonington wants to be when it grows up.
 - c. The planning process should also include an evaluation and discussion of zoning districts, the purpose and intent of each district, and the uses permitted and specially permitted in each district. This should result in specific recommendations for uses by district.
2. **Zoning Regulations:** North Stonington, upon completion of the Plan, should invest in a comprehensive update to the Zoning Regulations.
 - a. I also recommend that the update of the Zoning Regulations be accomplished by a planning consulting firm, for the same reasons mentioned above.

- b. The recommendations of this document should be considered in the process of updating the regulations.
 - c. I did not conduct a meaningful review of the Subdivision Regulations, but they should also be considered for updating once the new plan is complete.
3. **Commission and Staff Continuing Education:** North Stonington should invest in an ongoing continuing education program for all members of land use commissions, related staff members, and others who engage in planning and economic development activities.
- a. I recommend that all land use commission and economic development commission members attend the Community Builders Institute's Crash Course to Planning and Economic Development I and II on April 3 and 10, 2012. The program is sponsored by SECTER and will be held Groton.
 - b. The following is a list of other organizations that provide training. In addition, some of these organizations will provide training sessions for members free of charge for in-town training sessions on specific topics.
 - Connecticut Association of Conservation and Inland Wetlands Commission. See <http://www.caciwc.org>
 - Connecticut Bar Association - Connecticut Land Use Law Seminar for Municipal Land Use Agencies, Boards and Commissions. www.ctbar.org
 - Connecticut Association of Zoning Enforcement Officers. www.cazeo.org.
 - Connecticut Chapter of the American Planning Association. www.ccapa.org.
 - State Department of Environmental Protection – Municipal Inland Wetland Commissioners Training Program. www.ct.gov/dep/cwp/view.asp?a=2720&q=325686&depNav_GID=1654
 - University of Connecticut – Center for Land Use Education and Research. Land Use Academy. <http://clear.uconn.edu>
4. **All Boards and Commissions Meeting:** I recommend North Stonington consider implementing an annual all boards and commissions meeting for the sole purpose of reviewing and discussing the Plan, changing conditions, and the implementation schedule. As implicit in the name, this meeting should include all town boards and commission and also management level staff.
- a. The meeting should be facilitated by the Planning Department and Commission.
 - b. Each board and commission chair and each department head should come prepared to share their progress on implementation, changing conditions, and challenges.
 - c. It is useful to consider holding the meeting in January before the budget process begins.

VII. Zoning Applications and Permitting

As part of the review of the Zoning Regulations, I reviewed the administrative requirements for applications and permits related to the Zoning Regulations. The permitting and approval process is the complex and collective process of administering regulatory requirements to ensure that proposed improvements and developments comply with existing regulations. The application process can often be confusing and frustrating to applicants who may not have a good understanding of the purpose of the process and its requirements.

Based on my experience in many communities, I have observed that the application and permitting process is often cumbersome and more complex than it needs to be. In most cases this stems from communities being overly cautious. In some cases it stems from communities fearing the potential impact of new development. However, it is also important for any community to recognize and understand that the land use permitting and approval process has a direct impact on economic development and investment in a community. *All codes and regulations impact market demands and create a regulatory hurdle for development.* In addition, the land use permitting and approval process adds time and money to the cost of development. Therefore, land use codes and the permitting and approval process can affect the flow of investment into a community.

The primary reason for zoning is to protect the public health, safety, and general welfare. In addition, zoning regulations also function as tools that can aid a community in implementing its plan or vision for what the community wants to be. Therefore, zoning regulations become a balance among market demands and private sector interests and the wants, desires and needs of a community, while protecting the public health, safety, and welfare.

Most planning and zoning commissions have experienced applications and development projects that either did not turn out as expected or were actually misrepresented by a less than honest developer. While these experiences are not the norm, they have a significant effect on land use commissions and often create a sense of distrust. In addition, land use commissions also tend to feel a lack of control as a result of these experiences. This often results in the commissions creating additional or more restrictive regulations and more complex and cumbersome permitting processes. While this reaction is understandable, it is not often the best means to encourage investment and development, and if excessive, it can result in a disincentive to development.

North Stonington's zoning application and permitting process is typical of most communities in Connecticut. I did not find anything wrong with the process and procedures, therefore I do not have any specific recommendation for change or improvement to the process. However, I do want to make two suggestions and then provide the Commission with an applicant's expectation of the permitting process. My first suggestion, as stated above, is to reduce the number of uses that require special permits. The discretion provided to the Commission on applications for special permits reduces predictability on the part of investors, developers, and applicants. Therefore, special permits should be used sparingly. This can be accomplished by the Commission, and the Commission does not have to feel like it is losing or giving up control. This can be accomplished by being intentional in two aspects of the zoning regulations. First, determine the uses that the community wants to see in each zoning district and allow them as-of-

right. Investment flows to the path of least resistance and by making the uses the wants as-of-right approvals will go a long way to encourage investment.

The key to feeling comfortable about allowing more uses as-of-right is to ensure that the regulations provide high quality site development standards. Therefore, my second suggestion is to invest the time in creating and adopting comprehensive site development requirements and standards for commercial and industrial uses. While site development requirements may add cost to a development, developers are more willing to spend more on design if the design and cost provide a more predictable approval process. Therefore, requiring high standards of site design along with as-of-right site plan approvals will encourage investment more than conditional use with discretionary approvals.

Understanding what applicants—residents, developers, and investors—want and expect from the zoning application and permitting process can be helpful in creating the regulations and application procedures and in administering the application and permitting process. In the article, “The Development Review Process: A Means to a Noble and Greater End” published in *Zoning Practice* by the American Planning Association, planner James van Hemert, AICP, identifies a very insightful list and explanation of what applicants want and expect from the permitting process.

What Applicants Want

1. Predictability

- Clear expectations, no surprises
- Clear process and decision points

2. Fair Treatment

- Rules are the same for everyone
- No “good” or “bad” developers—offer trust and be trustworthy

3. Accurate and Accessible Information

- Easy to find and understand
- Clear application requirements and standards

4. Timely Process

- Establish early tentative dates for hearings
- Guaranteed review turn-around times
- Published commission and council meeting dates

5. Reasonable and Fair Costs

- Application fees
- Development commitments
- Impact fees

6. Competent Staff

- Staff team should have a balance of “hard” technical skills and “soft” people skills

7. Elegant Regulations

- That fit
- That are easy to navigate
- That are rational
- The most desired outcomes are easy to meet

The summary provides a good guideline as to what land use agencies should try to achieve when developing or improving their application and permitting process. In addition, it provides insight into other aspects of the process such as fees, treatment, and regulations. I provide this a tool for North Stonington to consider and use in the future when creating regulations, policies, and procedures.

VIII. Conclusion

While this report is at times critical of North Stonington's Zoning Regulations, the criticism should not be viewed as a negative. North Stonington's regulations are not much different than the regulations in most Connecticut communities. Therefore, this report tells a rather typical story of zoning in Connecticut and the barriers that it creates for investment. Moreover, this report provides North Stonington an opportunity to approach zoning differently—to innovate—and to encourage investment.

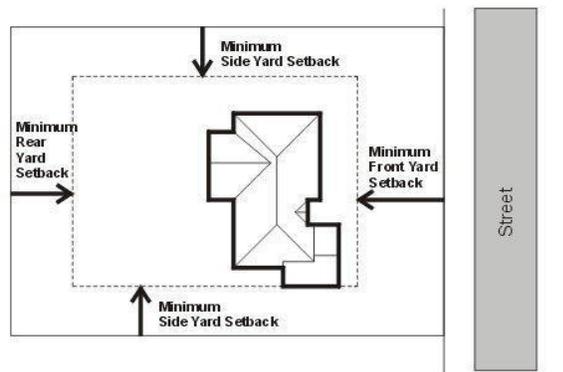
Being intentional can go a long way in creating opportunity for investment. Developers, investors, business owners, and home owners really just want to know what is expected and required for them to gain approval for their chosen investment. Therefore, the role of the land use system is to provide a clear vision for the community, regulations that are easy to understand and follow, and a permitting process that is fair and predictable. From a land use perspective, if North Stonington can do that then the community will be in a very good position to allow investment. The remaining challenge will be the hard work of economic development.

Appendix. Using Graphics

This appendix demonstrates how diagrams can be utilized as part of the Zoning Regulations to best define and explain how provisions are applied to lots and building.

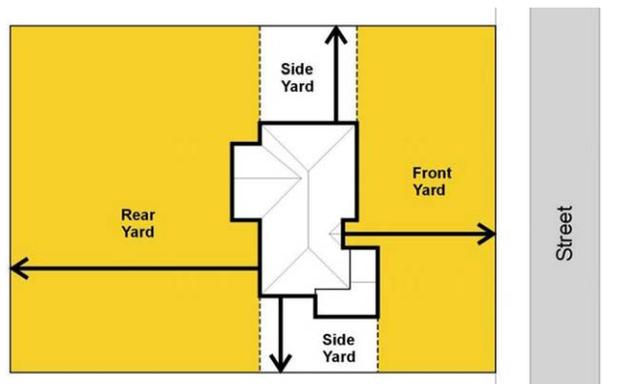
Utilizing Diagrams and Graphics in Zoning Defining Minimum Setbacks and Yards

Minimum setbacks - front, side, and rear setbacks



Source: Bloomfield Zoning Regulations

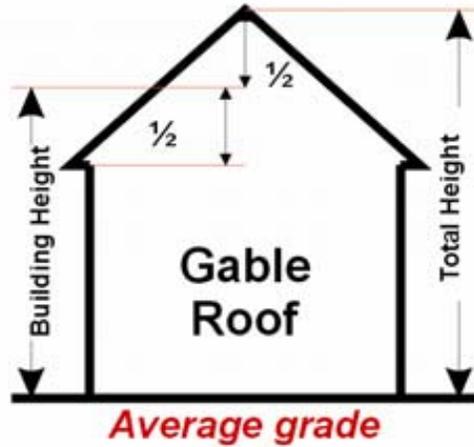
Establishment of yards



Source: Bloomfield Zoning Regulations

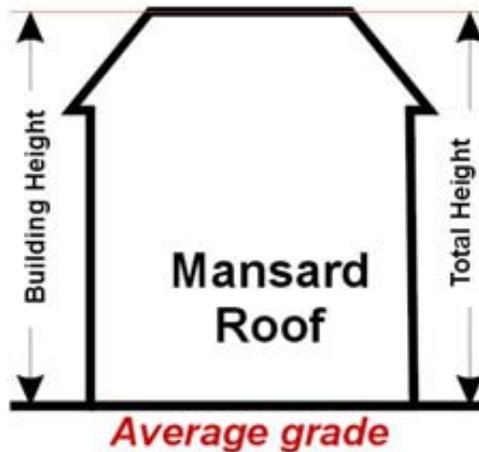
Utilizing Diagrams and Graphics in Zoning
Measuring Building Height

Maximum building height and
measurement for Gable Roof



Source: Bloomfield Zoning Regulations

Maximum building height and
measurement for Mansard Roof

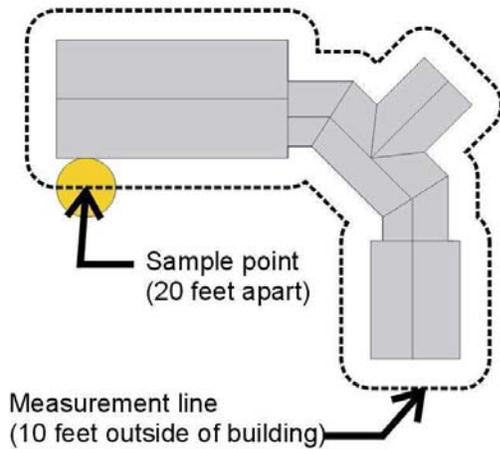


Source: Bloomfield Zoning Regulations

Utilizing Diagrams and Graphics in Zoning
Measuring Average Grade

Average Grade (Building)

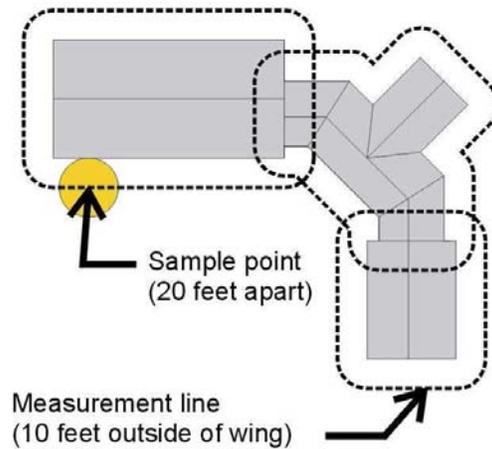
Take the lowest spot elevation within ten (10) feet of sample points located every twenty(20) feet along the measurement line for the entire building and average all of the elevations.



Source: Bloomfield Zoning Regulations

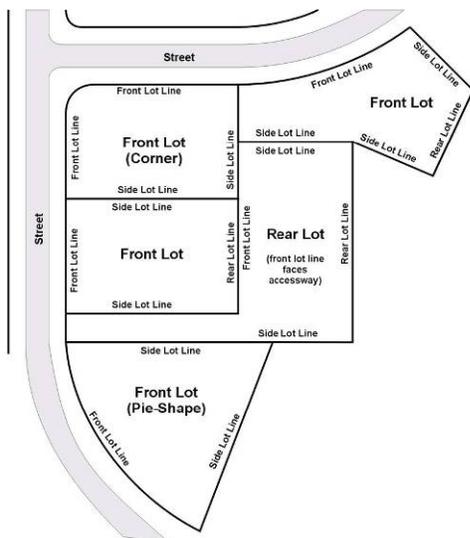
Average Grade (Building Wings)

Take the lowest spot elevation within ten (10) feet of sample points located every twenty(20) feet along the measurement line of each wing and average the elevations for each wing separately.

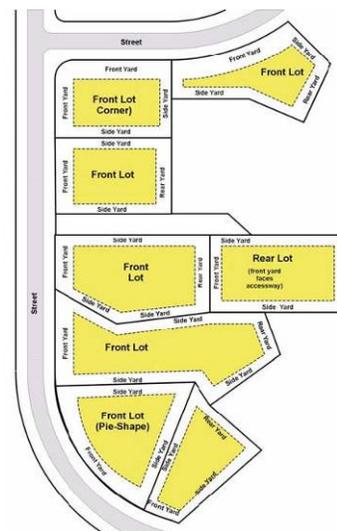


Source: Bloomfield Zoning Regulations

Utilizing Diagrams and Graphics in Zoning
Defining Lots and Yards



Source: Bloomfield Zoning Regulations



Source: Bloomfield Zoning Regulations

Sample Zoning Regulation Organization

1.00 INTRODUCTION

Authority, Purposes, Zoning Regulations, Zoning Districts

2.00 INTERPRETATION

General Interpretation, Interpretation of Terms, Definitions

3.00 GENERAL REGULATIONS

Applicability, General Provisions (Yard Projections), Nonconforming Uses/ Lots/ Structures, Coastal Area, Flood Hazard Areas, Lot Design Standards, Consolidated Parcels

4.00 RESIDENTIAL ZONES

Purpose, Principal Uses, Accessory Uses, Accessory Buildings and Structures, Special Permit Uses, Area, Yard, and Bulk Requirements

5.00 COMMERCIAL AND INDUSTRIAL ZONES

Purpose, Permitted Uses, Accessory Uses, Accessory Buildings and Structures, Special Permit Uses, Area, Yard, and Bulk Requirements

6.00 LAND USE & SITE DEVELOPMENT REGULATIONS

Site Design, Landscape Regulations, Off-Street Parking Regulations, Sign Regulations, Performance Regulations, Soil Erosion & Sediment Control, Earth Products, Drainage, Refuse, Lighting, Access Management

7.00 CONDITIONAL USE PERMIT CRITERIA

Provide specific criteria for conditional uses

8.00 SPECIAL REGULATIONS

Multi-Family Development, Cluster Development, Affordable Housing, Elderly Housing, Wireless Communications, Assisted Living Facilities, Motor Vehicle Repair, Alcoholic Beverages

9.00 ADMINISTRATION

Administration (Commission, Staff), Enforcement, Authority, Zoning Board Of Appeals, Validity, Effective Date

DONALD J. POLAND, MS, AICP, PHD CANDIDATE
HUMAN GEOGRAPHER AND URBAN PLANNER
PROFESSIONAL BIOGRAPHY

Mr. Poland is a human geographer and professional planner with eighteen years' experience in planning, community development, and executive level management. He has worked in public, private, non-profit, and academic sectors as a municipal planning director, planning consultant, executive director, and as a university lecturer in human geography and urban planning.

Mr. Poland earned a Bachelor of Arts degree, majoring in both Geography and Psychology, from Central Connecticut State University (CCSU) and studied abroad at the University of Bolton, Bolton, England. He earned a Master of Science in Geography, concentrating in planning, also from CCSU and is a member of Gamma Theta Upsilon, the International Geographical Honor Society. He is currently a PhD candidate in the Department of Geography, *Cities and Urbanization* program at University College London, London, England. His research interests include the remaking of urban space, suburban histories and spatial formations, neighborhood reinvestment, urban culture and lifestyle, and utopian planning.

As a planning professional, Mr. Poland is a member of the American Institute of Certified Planners and is a Certified Zoning Enforcement Official. Mr. Poland is accepted as an expert witness in the areas of land use planning and neighborhood redevelopment in the United States District Courts. Over the course of his career, Mr. Poland has held the positions of Director of Planning and Development for the Town of East Windsor, Connecticut and Executive Director/CEO for the Neighborhoods of Hartford, Inc. In addition, he ran a nationally recognized planning consulting business; worked on post-Katrina planning, land use, and redevelopment strategies in St. Bernard Parish, Louisiana, prepared a HUD NSP-2 application for Venango County, Pennsylvania through his association with CZB in Alexandria, Virginia, and conducted a comprehensive review of the land use administration process for the Town of Salisbury, CT. Mr. Poland has also represented dozens of real estate developers before public agencies for commercial, residential, industrial, and mixed-use development projects.

As an engaged and dedicated professional, Mr. Poland is Past-President of the Connecticut Chapter of the American Planning Association (CCAPA) and Past Chairman of the CCAPA Government Relations Committee. Mr. Poland is a founding member and Secretary for the CT Partnership for Balanced Growth. He also serves on the Board of Trustees for the CT Trust for Historic Preservation, The Bushnell Park Foundation, and is a public member and governor appointee on the State Board of Examiners for Professional Engineers and Land Surveyors.

Mr. Poland has established himself as a leader in planning policy. As Government Relations Chair for CCAPA he assisted the Legislature's Planning and Development Committee with bill screening and drafting legislation. Mr. Poland worked on the American Planning Association's development of a smart growth policy guide and was a member of the National Delegates Assembly that adopted APA's Smart Growth Policy Guide.

Mr. Poland, as an adjunct lecturer, has taught introduction to geography and urban geography at Manchester Community College and urban and regional planning at the University of Connecticut. He is a member of faculty in the Geography Department at CCSU teaching topics related to human geography and urban planning. He was awarded the Connecticut Homebuilders 2003 Outstanding Land Use Official Award and is an alumnus of the Hartford Business Journal's Forty Under Forty business and community leaders, 2004. Mr. Poland is a licensed private pilot and lives in the city of Hartford.

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