

## **North Stonington**

### **A Discussion of Zoning Uses and Economic Development**

#### **Introduction:**

The intent of this document is to guide the Commission meeting scheduled for August 9, 2012, and any subsequent discussion regarding permitted and special permitted uses by zoning district in North Stonington. The aim is to understand why specific uses are or are not allowed in each district; why some uses are permitted as-of-right (permitted uses) and others are conditional uses (special permit uses); how these uses relate to economic development; and how adjustments to the uses allowed by district will create greater potential for economic development.

To accomplish this, I have reviewed the allowable uses by zoning district and will go through my review with the Commission to determine why uses are permitted, not permitted, and specially permitted. My intention is to challenge the Commission and the community to think through the uses, how the uses are allowed, and the zones in which the uses are allowed. This will enable us to discuss and debate each use, how said uses are permitted, and how to manage the use moving forward. The desired outcome is to be intentional about uses, making adjustments that will increase the number of uses that are permitted as-of-right, while decreasing the number of conditional uses. This will help to increase the potential for economic development by providing greater predictability in land use applications and approvals.

#### **Permitted and Conditional Uses:**

Permitted uses are uses that are allowed as-of-right, require site plan approval, and do not require a public hearing. Permitted uses are the uses we want to encourage, and shall be approved if they comply with the requirements of the zoning regulations (i.e. bulk, area, and site design).

Conditional uses are a frequently misunderstood and misused area of zoning. Therefore, I want to take a moment to discuss and clarify the role of conditional uses. Section 8-2 of the

Connecticut General Statutes (CGS) states that the zoning commission “may provide that certain classes or kinds of buildings, structures or uses of land are permitted only after obtaining a special permit...subject to standards set forth in the regulations and to conditions necessary to protect the public health, safety, convenience and property values.”

In doing so, the law recognizes that while a use may be desired and acceptable in a specific zoning district, the use may not be suitable in all locations within said district. Therefore, the Commission may establish specific standards and conditions that must be demonstrated and met before a special permit is granted. Special permit applications require a public hearing to ensure the public interest is served by the Commission’s subjective decision making process.

When considering any application for special permit, the Zoning Commission “must determine that; (1) the proposed use of the property is expressly permitted under the zoning regulations, (2) the standards in the regulations are satisfied, and (3) any conditions necessary to protect public health, safety, convenience and property values as provided by Section 8-2 of the CGS can be established” (Robert Fuller, *Connecticut Practice Series: Land Use Law and Practice*, 1999: 136). If all three requirements are satisfied, the Commission must approve the application.

In regard to zoning and economic development, conditional uses should be reserved for those uses that pose a threat to ‘the public health, safety, convenience, and property values’ and should not be a way for the Commission to wield excessive discretion in their decision-making processes. Therefore, we want to reduce conditional uses only to those that pose threats.

### **The Questions**

We will consider the following questions regarding uses allowed by zoning:

- Is this use suitable for this district? If so, why?
- Should this use be a permitted or conditional use? Does the use pose a threat?
- Which threats to ‘the public health, safety, convenience and property values’ justify a use being conditional?
- Are there other uses that should be allowed in this zoning district?