

# MEMORANDUM

To: Cindy Greengold, Planning Commission Chairwoman

From: Christopher Jakubiak, Planning and Zoning Administrator

cc: Holly Wahl, Town Administrator  
Sharon Humm, Planning Commission Clerk

Date: July 14, 2022

Re: Addressing Text Amendments Per the Town Council Meeting

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Following our transition meeting last week with Holly Wahl, Sharon Humm, and former Chairman Larry Brown, I viewed, as requested, the videos of the Town Council's discussion at both its June 6<sup>th</sup> work session and its June 9<sup>th</sup> regular meeting. At both, the Council discussed the text amendments, including the table of permitted uses, and the draft zoning map. I was asked to consider comments especially those directed at ensuring the amended Zoning Ordinance would remain logical and helpful.

1. One concern expressed was that the names of the zoning districts referenced in Section 290-11 would need to be updated considering that the text amendments created several new districts and renamed or eliminated several others. For instance, the draft table of permitted uses refers to RV-1 and RV-2 Districts, but Section 290-11 still refers only to the RV District. I agree these clerical changes should be made. It is worth noting that changes to Section 290-11 are wholly and directly dependent on the table of permitted uses. The changes necessary to ensure that Section 290-11 matches the table are however housekeeping changes. At the hearing I will mention this and of course the final package that staff sends to the Council would reflect these housekeeping changes. The Town Attorney's office can also incorporate these changes into the officially formatted ordinance which he would write based on the Planning Commission's eventual recommendations.

2. A second comments made centered on the idea that the Planning Commission should go through the individual list of conditions (in Section 290-11) that pertain to various land uses. It was noted that this effort was important, it would take time, but it needn't delay getting the Immediate Term text amendments back to the Council with a recommendation so the Council can act on them. I would ask the Commission to consider taking up this matter beginning in the Fall along with other matters we discussed during our transition meeting.
  
3. A third comment related to a different definition of the term "building height". While the Planning Commission discussed changing the definition at several meetings, no motion to change the definition was ever approved. As things now stand, the text amendments would cap building height town-wide at 35 feet and height would be measured per the definition now in the code—that is, from the finished grade at the front door of the building up to the midpoint of the roof when the roof is sloped or simply to the highest point on the roof when the roof is basically flat.
  
4. After having listened to the Council work session and meeting I read the current Zoning Ordinance anew to uncover any logical inconsistencies that might arise upon adopting this first phase of text amendments. Here below are four instances that I found that I will also address on the record at the Public Hearing on July 27<sup>th</sup>.
  - A. In the first case, Section 290-19G(2) (see below), the RV District is mentioned but will be replaced by the new districts, RV-1 and RV-2. Section 290-19G(2) concerns self-supporting decks in the RV district. Logically, RV would be replaced with RV-1 and RV-2.

§ 290-19 Tables; requirements; exceptions.

- G.** Accessory buildings in side and rear yards.  
 [Amended 10-11-2006 by Ord. No. O-06-12]
- (1) Completely detached accessory buildings may occupy required side and rear yards but shall not be located closer than five feet to any side or rear property line.
  - (2) In R-LD, R-MD, R-HD, R-V and RPC Districts, self-supporting decks of less than 500 square feet may occupy required side and rear yards but shall not be located closer than five feet to any side or rear property line. A deck is self-supporting if it is not reliant upon a connection to the dwelling for structural support.
  - (3) No outdoor storage shall take place in the required front yard, parking or loading areas, or in the Buffer or any other buffer area unless otherwise permitted in this chapter.

- B. The second instance concerns Landscaping and Screening Requirements in Section 290-21E(3) (see below). This section says that when a parking lot's landscaping strip is adjacent to an RV District, a compact evergreen hedge...is required to reduce the visual impact of a parking facility. Logically, RV would be replaced with RV-1 and RV-2.

§ 290-21 Landscaping and screening requirements.

- (3) Where noise is likely to be a factor, the screen shall be of sufficient construction to be an effective noise buffer.
  - (4) The screening shall be located so as to provide a maximum of visual screening.
- E. Perimeter parking lot landscaping. All off-street parking facilities, whether or not located on the same lot as the use to which they are accessory, containing five or more parking spaces shall meet the following perimeter landscaping requirements:
- (1) A landscaping strip five feet in width shall be located between the parking facility and the adjoining lot lines.
  - (2) A minimum of one shade tree for every 40 feet of lot perimeter shall be planted in the landscaping strip. Deciduous shade trees with ground cover or low shrubs shall be used as the primary landscape material.
  - (3) On the landscaping strip adjacent to a street right-of-way, or to an R-LD, R-MD, R-HD, R-V or RPC District, a compact evergreen hedge, an ornamental wall, or a wooden fence of not less than four feet in height or greater than six feet in height is required to reduce the visual impact of the parking facility.

- C. The third instance, in Section 290-22B(4), concerns signs. Here, for the purpose of applying sign regulations, the various zoning districts are categorized as either "residential" or "commercial". The residential districts include the RV District, which would be replaced by RV-1 and RV-2. The commercial districts are listed and include C and M. These would be replaced with NC, TC, CP, and MC.

§ 290-22 Signs.

- B. Intent and exemptions from the terms of this article.
- (1) No sign shall be erected, hung, placed, or painted in any district except as hereinafter provided.
  - (2) Tacking, painting, posting, or otherwise affixing of signs or posters of a miscellaneous character on the walls of buildings, barns, sheds, trees, posts, poles, fences, walls, or other structures, except as provided for in this chapter, is prohibited.
  - (3) No sign erected before the enactment of these regulations shall be altered in any respect or moved, except in compliance with the provisions of this chapter.
  - (4) The residential districts include the R-LD, R-MD, R-HD, R-V, RC and RPC Districts. The commercial districts include the C and M Districts.

D. In the fourth instance, the Commercial District is mentioned in the context of a “use it or lose it” rezoning provision of Section 290-13 (see below). This unique provision would apply in the event the Town Council were ever to approve a rezoning of a property to the Commercial (C) District based on a petition filed by the owner. It basically gives an owner a narrow window within which to use the new Commercial District zoning before the property reverts to its original zoning classification. The provision would become null and void once the Commercial District is removed.

§ 290-13 **Maintaining commercial district zoning.**

The procedure for maintaining any change of zoning district classification to a Commercial District duly enacted and adopted in accordance with the provisions contained herein, such change having been petitioned by persons other than the Town Council or Planning Commission, shall be as follows:

- A. Within three years of the granting of Commercial District, zoning permits for the land so zoned shall be applied for, otherwise the zoning for the Commercial District shall revert automatically to its prior district classification without notice and public hearings.
- B. Within two years after issuance of zoning permits, construction shall be commenced on the land so zoned, otherwise the zoning for the Commercial District shall revert automatically to its prior district classification without notice and public hearing.
- C. Within three years of the issuance of zoning permits for the land so zoned, the subject land shall be substantially devoted to such use or uses as may be permitted in the zoning district, otherwise the zoning for the Commercial District shall revert automatically to its prior district classification without notice and public hearing.