

SECTION 15

SPECIAL PERMITS

15.1.1 General.

Certain uses of land, Buildings and other Structures, and the construction, reconstruction, Extension, moving and Alteration of Buildings, and other Structures and site development in connection therewith, and any changes in site development of a previously approved site development plan, are, as specified in Sections 4A through 14A of these Regulations, permitted in a District subject to the securing of a Special Permit from the Planning and Zoning Commission or Zoning Board of Appeals as designated on such Sections. The provisions which follow establish the application and submission requirements, the GENERAL STANDARDS and SPECIAL STANDARDS applicable to Special Permits and the procedures to be followed by such Commission or Board, hereinafter referred to, for simplicity, as “the Commission.”

15.1.2 Informal Preliminary Considerations.

The Commission recommends that, prior to the submission of an official application for Special Permit, the applicant initiate a pre-application conference with the Commission and subsequently prepare and present a preliminary plan for informal consideration by the Commission. The preparation of the preliminary plan is recommended to facilitate the general consideration of factors and problems affecting the development of the land before the applicant proceeds with the official application and the preparation of final maps, plans and documents required for formal consideration by the Commission. The presentation of a preliminary plan will more readily and economically facilitate alterations and changes recommended by the Commission. Neither the pre-application conference nor the formal consideration of the preliminary plan shall be deemed to constitute any portion of the official and formal procedure of applying for a [Site Plan Review/Special Permit]. Neither the proponent nor the Commission shall be in any way bound by statements made in such informal discussions, their purpose being only to minimize delay, expense and inconvenience to the public, the proponent, and the Commission upon the future receipt, if any, of a formal application for Designed Development Zone. In accordance with PA 03-184 (codified as §7-159b in the Connecticut State Statutes), such review and any results or information obtained from it may not be appealed under any provision of the Connecticut General Statutes. A pre-submission concept shall be placed on file in the Planning and Zoning Office. Following any informal discussion, the Commission may suggest that the proposal, or certain aspects thereof, be referred to other municipal, State, or Federal agencies for review and comment, or may suggest that additional information is or will be required prior to action on a formal application for change of zone.

15.2 Purpose and Requirement; Waiver

15.2.1 Purpose.

Uses permitted as Special Permit uses subject to the approval of the Commission are deemed to be permitted uses in the districts specified, subject to the satisfaction of the requirements and standards of this Section. Special Permit uses that may be permitted in a District are unusual uses which under favorable circumstances will be appropriate, harmonious and desirable uses in the District but that possess such special characteristics that each use must be considered as an individual case.

The Commission may waive the requirement for a Special Permit where it finds that: (a) One Special Permit Use is being substituted for another similar Use on the same Lot which was previously granted a Special Permit by the Commission; (b) The new use will require no greater parking or loading than the original, as set forth in Section 21 of these Regulations; (c) The new use shall entail no exterior change to the Building or Premises; and (d) The new use shall have no impact on the site, the neighborhood, or the Town which is different from the original, such impact to be measured by the standards set forth in Section 15.4 of these Regulations.

15.3 Application Procedure.

15.3.1 Who May Apply.

The following persons may apply for a Special Permit: An owner, or all of the joint owners, of the property upon which the use is to be located; the prospective purchasers of such property, pursuant to a written purchase agreement, option agreement, bond for deed, or similar document, provided, however, that the said document accompanies the application and authorizes the prospective purchaser to apply for zoning permits from the Town, or, in the alternative, the written consent of the owner of the fee simple interest accompanies the application; the lessee of a leasehold interest, provided that either the written consent of the owner of the fee simple interest accompanies the application or, in the alternative, that a written lease, which must accompany the application, provides that the lessee is authorized to apply for zoning permits from the Town.

15.3.2 Application.

Application for a Special Permit shall be submitted in writing to the Land Use Office, shall be accompanied by an application for a zoning permit and shall also be accompanied by the following:

A. Application and Fee.

An application for approval of a Special Permit on forms approved by the Commission or Board having jurisdiction and signed by the applicant and by the owner if different from the applicant, and an application fee as set by such Commission or Board pursuant to Town Ordinance.

B. Site Development Plan.

A site plan and other documentation consisting of the Statement of Use, Site Plan, Architectural Plans, Soil Erosion and Sediment Control Plan, Traffic Impact Report and other reports and lists as specified in Section 14.2 of these Regulations for Site Development Plans. Eight (8) copies shall be submitted. The Commission is aware of the holding in the case of SSM Associates Limited Partnership v. Plan & Zoning Commission 211 Conn. 331, 334 (1989). The reference herein to Section 14.2 is for convenience only to avoid the repetition of the information contained there, and shall not be construed as creating a separate application or request for Site Development Plan review. The materials required to be submitted in connection with a Special Permit application are to allow the Commission to evaluate the Special Permit and determine compliance with the standards of this Section 15.

15.3.3 Review and Modification of Submission.

The Commission, upon written request by the applicant, may by resolution:

- 1) determine that the required submission of all or part of the information required under Section 14 is not necessary in order to decide on the application and need not be submitted or
- 2) determine that required submission of part of such information is deferred for submission and decision at a later date, and the Commission may by resolution otherwise determine that additional or alternate information is necessary and required to be submitted in order to make a reasonable decision on the application under the standards of these Regulations.

15.3.4 Complete Application.

A complete application shall consist of the application form and fee, together with the required information set forth in this Section 15. The date of receipt of any such application shall be the next regularly scheduled meeting of the Commission or thirty-five (35) days following, the submission of such application, whichever shall first occur.

15.3.5 Notices Mandated by Statute.

The Commission shall notify the clerk of any adjoining municipality of the pendency of any application concerning any Special Permit in accordance with Conn. Gen. Stats. § 8-3h.

In accordance with Conn. General. Statutes. § 8-3i, in any Special Permit application for any property which is within the watershed of a water company, as defined in Conn. General. Statutes §16-1, the applicant shall provide written notice of the application to the water company, provided such water company has filed a map showing the boundaries of the watershed on the Land Records of the Town. Such notice shall be by certified mail, return receipt requested, and shall be mailed at the time of application. The applicant shall submit evidence of such notice to the Commission at the time of application. Such water company may, through a representative, appear and be heard at any hearing on such application.

15.3.6 Posting of Sign.

No less than ten (10) days prior to the opening of any public hearing, or the consideration of any Site Development Plan, the applicant shall post a sign on the property which is the subject of any application as prescribed in Section 30.9. It shall be the obligation of the applicant to post such sign on the property in a location which is plainly visible from the nearest Street, and to maintain the sign until the opening of the public hearing or meeting of consideration. No sign need be posted for the continuation of a public hearing once it has opened.

15.3.7 Submission for Review.

In addition to the requirements set forth in the preceding paragraph, the Commission may, in its sole discretion, submit any plans or other information to consultants, employees, or other governmental agencies for comment and recommendations.

15.3.8 Time Limits.

The Commission shall, within sixty- five (65) days of receipt of any application, schedule a public hearing thereon, said public hearing to be noticed in accordance with the requirements of the Connecticut General Statutes. The applicant or his/her authorized representative shall attend the public hearing, and the absence of the applicant or his/her authorized representative shall be proper grounds for the denial of the application. Said public hearing may be held open for no more than thirty-five (35) days following the opening thereof. Within sixty-five (65) days following the close of said public hearing, the Commission shall act upon said

application. The applicant may request an extension of any of the time limits set forth in this paragraph for a period not to exceed a cumulative total of sixty-five (65) days. These time limits are in accordance with Connecticut General Statutes as of the time of adoption of these Regulations; any subsequent amendment to such Statutes shall control, and be used in place of the preceding, without amendment of these Regulations.

15.4 General Standards.

The proposed special permit use, buildings and other structures and site development shall conform to all of the requirements of these Regulations including the following General Standards and any Special Standards that may be contained elsewhere in these Regulations for particular Uses:

15.4.1 Complete Application.

The application shall contain all information required by this Section 15, and the number of copies required, and said information has been prepared by persons possessing the necessary expertise to prepare it. Information shall be presented with adequate clarity and professionalism to permit the Commission to understand it and determine compliance with these criteria. The presentation of a complete application, as described herein, is the obligation of the applicant, and failure to meet these criteria shall be grounds for denial without prejudice to future, complete applications.

15.4.2 Compliance with Regulations.

See Section 14.3.2 of these Regulations

15.4.3 Conformance with Criteria of Section 14.3.

Any application for Special Permit shall, at a minimum, conform to all of the General Standards for Site Development Plans of Section 14.3. Those standards and criteria are considered the basic ones for all uses and premises in Haddam, other than uses permitted as of right, with the criteria of this Section 15.4 being over and above those of Section 14.3.

15.4.4 Character.

The location, type, character and extent of the use and of any building or other structure and site development in connection therewith shall be in harmony with and conform to the appropriate and orderly development of the Town and the neighborhood and shall not hinder or discourage the appropriate development and use of adjacent property or impair the value thereof.

15.4.5. Lot Size.

The Lot on which the use is to be established shall be of sufficient size and adequate dimension to permit conduct of the use and provision of buildings, other structures and facilities in such a manner that will be in harmony with and not be detrimental to the neighborhood or adjacent property.

15.4.6 Public Health and Safety; Environmental Protection.

The site and building plans shall be designed so as to minimize any delay, inconvenience, and expense of providing for the public health, safety and welfare, including, but not limited to the following: Adequate access for emergency vehicles and equipment; adequate water supply for firefighting, in accordance with recommendations of the Fire Marshal or his/her designee; adequate utility capacity; flood proofing measures which may be desirable, even if over and above the minimum requirements of these Regulations or applicable State or Federal standards; protection of the natural environment; potential environmental impact of the proposed project on Town resources and on water bodies adjacent to the Town; avoidance of glare visible from streets for adjacent properties.

15.4.7 Appropriateness of Use.

The proposed use shall be appropriate for the designated location with regard to: The size and intensity of the proposed use, and its relation to existing land uses, and shall be such as to be in harmony with the appropriate and orderly development of the area in which it is to be situated and will not be detrimental to the orderly development of adjacent properties; the capacity of adjacent and feeder streets to accommodate peak and average traffic volumes, and special traffic characteristics of the proposed use, and the avoidance of non-residential traffic through residential Streets; the development will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof; the obstruction of light or air, or the emission of noise, light, smoke, odor, gas, dust, and/or other offensive emissions without adequate buffering or controls; the overall impact on neighborhood property values, and the special problems of fire or police protection inherent in the proposed use; the preservation of the character of the neighborhood in terms of scale, density and intensity of use, architectural character, and similar factors; the availability of adequate effluent disposal, water supplies, storm water disposal systems, and other special burdens on utilities which the Use

may entail; the degree of population concentration and building density resulting from the use is not excessive and existing provisions for fire and police protection, transportation, water, sewerage, schools, parks and other public requirements are adequate; the Use may be carried out so as to protect and enhance, and without the undue destruction of, valuable historic or natural resources or the pollution of lakes, streams, and other water bodies, while providing the best possible design of structures and land uses compatible with the shape, size and topographic and natural character of the site.

15.4.8 Architectural Character, Historic Preservation, Site Design.

The overall architectural character of the site and building designs shall not be detrimental to property values in the neighborhood or the Town, and shall preserve and enhance the Town's historic and rural character in terms of scale of Buildings and Structures, the preservation of scenic vistas and public access, materials used, roof lines, door and window details, site and building lighting, street furniture, paving materials, landscaping, Signs, colors, and all other features of the site and buildings which are visible from the exterior of any building on the site or from adjoining properties or Streets, or which may impact the character or quality of life on Abutting properties, in the neighborhood, or throughout the Town. Failure to maintain any landscaped area or buffer strip required by these Regulations shall constitute a violation of these Regulations.

In multi-building commercial or industrial developments, all Buildings shall reflect a common architectural theme through the use of similar materials, roof lines, and other exterior treatments.

Preservation of the Natural and Traditional Riverway Scene of the Connecticut River.

The overall character of site structure designs for the properties within the Gateway Conservation Zone shall not be detrimental to the protective mission of the Gateway Commission as codified in Sections 25-102a through 102s of the Connecticut General Statutes or to the “*natural and traditional riverway scene*” within the lower Connecticut River. Designs for new construction, or additions to existing structures, shall minimize visual bulk to the greatest extent practical and preserve scenic vistas and the natural context of a site to the greatest extent possible, consistent with the standards included in Section 10 of this document. Every effort shall be made to retain tree cover and other vegetation so as to visually buffer the development

from view from the river and the opposite shoreline while still affording the property owner views of the river.

15.4.9 Uses In, Adjacent to, or Impacting Residential Areas.

In addition to the above, in the case of any use to be located in, or directly adjacent to, or served by way of, a Residential District or area of residential uses, the Commission shall find that:

- A. The location and size of such use, and the nature and intensity of operations involved in or conducted in connection therewith, shall be such that both pedestrian and vehicular traffic to and from and in the vicinity of the Use will not be hazardous or inconvenient to, or detrimental to the character of the said residential district or conflict with the traffic characteristics of the neighborhood. Commercial and industrial buildings shall be oriented away from residential areas and access to them shall not disrupt or disturb adjacent residential areas or residential zones. Access, parking, service areas, lighting, signs and landscaping shall be designed so as to protect the residential character of surrounding residential neighborhoods or residential zones.
- B. Where any lot, or part thereof, adjoins or is separated by a street from a residential zone, the Commission may require additional setbacks or buffers for uses which pose special potential for adverse impacts due to their hours of operation, lighting, noise, odor, and any other similar characteristics.
- C. The location and height of buildings, the location, nature and height of walls and fences, and the nature and extent of landscaping on the Premises shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.
- D. No outside storage of materials, products or refuse shall be permitted unless specifically authorized by the Commission, and such authorized outside storage shall be screened in such manner as the Commission may require. All loading areas shall be oriented away from residential areas and public ways and adequately screened from view by appropriate landscaping.
- E. All buildings in multi-building developments shall be logically related to provide convenient access to a common open space.

15.4.10 Specific Recommendations and Requirements for Sites and Buildings.

The following recommendations and requirements are provided to assist the applicant in determining the specific items which the Commission will examine in evaluating any application for Special Permit, and the preferred or required features, as the case may be:

A. Mechanicals.

All roof-mounted ventilation, heating, and air conditioning equipment, including solar collectors, should, where possible, be recessed or otherwise incorporated into the roof design so that they are not visible from any adjacent property at the height of the proposed Building.

B. Landscaping and Screening.

All parking, service and storage areas shall be reasonably screened by landscaping and/or fences or walls; the general grading, improvement and landscaping of the site shall be designed so as to protect and enhance the historic and rural character of the Town and the subject neighborhood, and to provide all-season visual buffers between the proposed use and any incompatible use of adjacent property through the use of grade separation, landscaping, buffer areas, and/or open spaces. All parking areas should include landscaped islands to direct vehicular and pedestrian circulation and to reduce the visual impact of large paved areas. All deciduous trees shall have a minimum caliper measured at breast height of two and one-half inches (2 ½" DBH), all evergreen trees shall have a minimum height of six (6') feet, and all shrubs shall be of a size at least one-third their mature potential. All artificial trees, shrubs or grass are prohibited, except for seasonal, festive, or other temporary decoration. The Commission may require that any or all buildings shall have foundation plantings.

15.4.11 Special Standards –Various.

The proposed Special Permit use, and the buildings, structures and site development proposed in connection therewith, shall also conform to any other applicable standards of these Regulations.

15.4.12 Special Standards – Conservation Subdivisions; Housing for Elderly and/or Handicapped Persons; and Continuing Care Residential Community.

Conservation Subdivisions, and the buildings, structures, and site development proposed in connection therewith, shall also conform to the provisions of Section 4A, Conservation Subdivisions. Similarly, Housing for Elderly and/or Handicapped Persons, and the buildings, structures, and site development proposed in connection therewith, shall also conform to the provisions of Section 13; and Continuing Care Residential Communities and the Buildings, Structures, and site development proposed in connection therewith, shall also conform to the provisions of Section 13A.

15.5 Action on Applications

15.5.1 Time Limits.

The Commission shall, within sixty-five (65) days of receipt of any application, schedule a public hearing thereon, said public hearing to be noticed in accordance with the requirements of the Connecticut General Statutes. The applicant or his/her authorized representative shall attend the public hearing, and the absence of the applicant or his/her authorized representative shall be proper grounds for the denial of the application. Said public hearing may be held open for no more than thirty-five (35) days following the opening thereof. Within sixty-five (65) days following the close of said public hearing, the Commission shall act upon said application. The applicant may request an extension of any of the time limits set forth in this paragraph for a period not to exceed a cumulative total of sixty-five (65) days. These time limits are in accordance with Connecticut General Statutes as of the time of adoption of these Regulations; any subsequent amendment to such Statutes shall control, and be used in place of the preceding, without amendment of these Regulations.

15.5.2 Action.

The Commission shall review the application for conformance with the criteria of this Section 15. The Commission may approve, modify and approve, or disapprove the application. If the Commission determines that the application is incomplete, the same may be denied without prejudice to any future complete application. If such re-application is made within one (1) year of the denial without prejudice, the Commission may, in its sole discretion, waive all or a part of the application fee to reflect the cost of staff review expenses previously performed.

The Commission may state, upon the record, the reasons for its action, and shall publish notice of such action as required by Connecticut General Statutes. The Commission shall, in addition, send written notice of its decision under the signature of the Commission's Secretary or clerk, by certified mail, to the applicant within fifteen (15) days of its action.

15.5.3 Endorsement and Filing.

Within sixty-five (65) days of the Commission/Board approval, the applicant shall submit one (1) set of final plans on a reproducible material suitable for filing in the Town Clerk's Office to the Land Use Office, reflecting all conditions or modifications required by the Commission, and accompanied by signed, sworn statements of the applicant's land surveyor, engineer, architect, and any other professional who has participated in the preparation of the application materials, to the effect that the plans submitted are the same as those approved by the Commission except for the depiction of modifications and conditions required by the Commission/Board in its approval vote.

If, upon considering the statements and reviewing the plans submitted, the Commission shall find them to be in accordance with the final approval, and if all required accompanying documents (such as financial guarantees, per Section 15.6 of these Regulations) have been provided, the plan shall be endorsed by the signature of the Chairman, Vice Chairman, or Secretary of the Commission, as the case may be. Thereafter, it shall be the responsibility of the applicant to file one (1) set of endorsed final plans in the Office of the Town Clerk. In accordance with Section 8-3d of the Connecticut General Statutes, no Special Permit shall be effective until the final, endorsed plans are filed with the Town Clerk, and any plans not so filed within ninety (90) days following the Commission's vote of approval shall become null and void. The Commission may grant extensions of such period for good cause shown. Any Special Permit site plan filed in the Town Clerk's Office without the endorsement of the Commission's Chairman, Vice Chairman, or Secretary shall likewise be void. Such filing is a prerequisite to eligibility for issuance of a zoning permit for the proposed Use. The Commission may establish an effective date for the special permit, which shall be on or after the date of such filing with the Town Clerk; in the event the Commission shall fail to designate an effective date, such date shall be presumed to be the date of filing with the Town Clerk.

15.6

Financial Guarantee:

The Commission may require as a condition of approval that the applicant post a financial guarantee to assure conformance with all proposed improvements to be conveyed to or controlled by the Town of Haddam or to assure the implementation of any erosion and sediment controls required during construction activities. The financial guarantee will be in a form, amount and duration, not to exceed one year after acceptance of such improvements, acceptable to the Commission and its legal counsel. Except for a financial guarantee to assure the implementation of any erosion and sediment controls required during construction activities, no financial guarantee will be required to be posted prior to an applicant's seeking a certificate of zoning compliance or occupancy. Should the site developer be unable to complete the required site improvements, the financial guarantee will be used by the Town to complete work necessary for the protection of public health, safety and welfare. No certificate of zoning compliance will be issued until all work is completed in accordance with the approved plan and any conditions of approval. A separate financial guarantee may be required for installation of sedimentation and erosion controls, which financial guarantees shall be posted prior to the commencement of construction. All financial guarantees will be calculated based on construction costs as of the date that the financial guarantee is to be posted and shall include a contingency figure not to exceed ten (10%) percent. Financial guarantees posted under this Section shall be released within sixty-five (65) days after receiving written request from the applicant unless the Commission provides the applicant with a written explanation as to the additional site improvements that must be completed before such financial guarantee or a portion thereof is released.

15.7

Commencement and Completion of Work.

All work in connection with a Special Permit shall be completed within two years of approval, provided, however, that the Commission, for good cause shown, may extend the deadline for completion for up to an additional three years for a total extension of five years. Any Special Permit for which the work is not completed in accordance with this Section shall, upon notice to the property owner and an opportunity to be heard, be null and void.

15.8

Conformance to Approved Plans, Specifications, and Representations; Changes; Enforcement.

No person who has obtained a Site Development Plan approval or Special Permit shall attempt to erect any Building or Structure, or establish any use of land, which is not in substantial conformance with any element of the plans, descriptions, applications and

supporting materials, information, specifications submitted, or any representations of fact made, before the Commission without an amendment as

provided in these Regulations. Likewise, no person who has obtained a Site Development Plan approval or Special Permit shall violate any condition imposed thereon. Violation of this provision shall be grounds for the Commission to void said Site Development Plan or Special Permit following a public hearing with notice to the subject property owner and permit holder, and to take such other legal action as may be required to secure compliance with said Site Development Plan or Special Permit, and the conditions attached thereto.

15.9 Changes to Plans; Revocation of Approval.

- A. The Commission may by resolution permit the Zoning Enforcement Officer to authorize minor, non-substantial deviations from approved Site Development Plans and Special Permits. In the case of Special Permits in Residential Districts, the Zoning Enforcement Officer may approve minor modifications of an approved foundation location, provided that all provisions of these Regulations, the Haddam Subdivision Regulations, or the Haddam Inland Wetlands and Watercourses Regulations, and any conditions or requirements of any permit issued thereunder, continue to be met.
- B. Major and/or substantial changes to Site Development Plans and Special Permits shall be treated as new applications for approval, and shall be submitted and acted upon in accordance with these Regulations.
- C. In the event that the Commission or the Board, as the case may be, determines or discovers that information submitted to it in support of any application for Site Development Plan or Special Permit was incorrect or invalid, the Commission or Board may, following a public hearing with notice to the subject property owner and permit holder, void such approval, and shall state the reasons for such action on the record.