

**Remarks Regarding the 7/14/26
Meeting of the Ad Hoc Committee to Evaluate Separation of the PZC**

Eric Treaster
7/27/26

In my opinion, the Committee's 7/14/26 discussion on the advantages and disadvantages of a combined versus a separate Planning Commission and Zoning Commission fell into eight overlapping categories. Based on my experiences as a member of the Zoning Commission from 1987 through 2012, my role as its Chairman for over two years, my experience in proposing zoning regulations, and my continued interest in land use and the development of our Town, I believe it would be best if the combined Planning and Zoning Commission is restored to a separate Zoning Commission and a separate Planning Commission. The following comments are intended to be helpful:

Category 1 – Consistency of Zoning Regulations with the POCD

Everyone should have the same understanding of the POCD and its statutory relationship to the Zoning Regulations.

≈**12:40 DS** (Dave Schroeder) Indicated that the zoning regulations "*must*" or "*shall*" be made in accordance with the POCD.

≈**12:50 KD** (Kevin Dombrowski) Indicated that the zoning regulations "*must*" be in concert with the POCD. "*So it has to be consistent.*" "*Zoning regulations need to be in concert with the POCD.*"

≈**21:20 KD** Indicated that "*All that I have to do is add a statement that we reviewed the regulations and believe they are consistent with the POCD. That is all we have to say is that regulations are within the framework of the POCD.*"

However, under the statutes, the Zoning regulations are *only required* to be made "in consideration" of the POCD. This is supported by the following:

CGS §8-2(b) "Zoning regulations adopted pursuant to subsection (a) of this section shall:

(1) Be made ... in consideration of the plan of conservation and development adopted under section 8-23."

CGS §8-3(b) "... In making its decision, the Commission shall take into consideration the plan of conservation and development, ..., and shall state on the record its findings on consistency of the proposed establishment, change or repeal of such regulations and boundaries with such plan."

As such, the zoning regulations are not required to be "*in accordance*," "*in concert*," or "*consistent*" with the POCD.

Consistency with the POCD is *only required* to be "considered" when amending the zoning regulations.

The Commission is, however, required to make a "*finding*" if proposed regulations are, or are not, "*consistent*" with the POCD. Legally, it does not matter if the zoning regulations are *consistent* with the POCD, which is reasonable because, otherwise, conflicting goals in the POCD would result in conflicting and ambiguous zoning regulations.

The "*finding*" requirement was presumably intended to ensure the Commission truly *considered* the POCD when it develops and adopts zoning regulation amendments. However, in the real world, PZC motions to adopt proposed zoning amendments, if remembered, include only the perfunctory phrase that "*the proposed change is consistent with the POCD.*" The statement is normally meaningless because explicit "goals" in the POCD are seldom, if ever, discussed during the PZC deliberations or identified in its approval motions.

The ≈37:30 entry on page 4 identifies an example (#4) of what happened when the PZC forgot the "*finding*" requirement. The PZC also overlooked the "*finding*" requirement when it adopted the recent parking amendments to the regulations. I am not aware of the "finding" requirement being overlooked when the Zoning Commission adopted amendments to its zoning regulations before 2012.

Category 2 – Efficiency of Combined versus Separate Commissions

≈32:00 KD, TC (Tony Capon) Initiated a discussion regarding the efficiency of meetings of a combined commission versus the efficiency of separate commissions.

≈50:05 KD Said that "*A lot of times, a site plan review goes to Planning first before it goes to Zoning.*"

≈1:53:45 KD & BR (Beth Ribe) Asserted that the combined Commission was doing the same amount of work in one meeting per month today as the separate commissions were doing in three or four meetings per month (before 2012) because of the types of applications it is processing.

They claimed, but provided no examples, that combined commissions would be more efficient by avoiding the need for an applicant to appear before both commissions. One said that the Planning Commission could require a public hearing (up to 120 days) before the Zoning Commission would see the application, followed by the Zoning Commission having its public hearing, which could take another 120 days, which would not be efficient. They agreed that if wetlands were involved, it could require three hearings.

I am not aware of examples of site plan applications that required a meeting or hearing with the Planning Commission followed by a meeting or hearing with the Zoning Commission. A subdivision application would require a hearing with the Planning Commission, and, after approval, the proposed development of uses in the subdivision (i.e., a warehouse, office building, apartment complex, etc.) would require a hearing with the Zoning Commission. It is also possible that an applicant may require a regulation change before he can submit his application, which would also require two hearings.

The assertion that such applications happen "*a lot of times*" should be confirmed by listing examples processed by the Planning Commission and the Zoning Commission before 2012, and by the PZC, wearing its Planning hat and then wearing its Zoning hat, after 2012. I believe such situations may be possible but are exceedingly rare. I can provide an electronic copy of the 2009, 2010, 2011, and 2012 Zoning Commission and joint Planning/Zoning meeting minutes, which may be helpful.

Category 3 – A "Healthy Tension" Between the Planning Commission and the Zoning Commission

≈22:23 **KD** Said that the Planning Commission once disagreed with proposed zoning regulations, and a supermajority vote of the Zoning Commission was required. He indicated that although he was opposed to the new regulations, they were adopted.

≈36:55 **BR** Suggested that there is, and should be, a "*healthy tension*" between the Planning Commission and the Zoning Commission. She suggested "*quality*" as perhaps the reason, not size, workload, or budgets, for why some towns have separate commissions. DS agreed.

≈1:08:55 **TC** Said that "*All of our decisions are unanimous.*"

≈1:12:40 **KD** Said that, when he was on the Zoning Commission, he adamantly abhorred an application, but voted in favor of it anyway because he had no choice under the regulations.

≈1:56:34 **TC** Asked, if separate commissions are a great idea, why do not more than 5 out of 59 of the sampled communities have separate commissions?

If *all decisions are unanimous*, then alternative ideas were likely not adequately reviewed and considered. A variety of opinions means that alternative ideas were discussed, argued, and adopted or discarded, especially when the Commission is reviewing complex zoning regulation amendments, or when a proposed use should or should not require conditions of approval for a special permit. Separate commissions would more likely have the time to engage in robust discussions that result in non-unanimous decisions than a combined commission, which would be good for our Town.

Regarding the statement that a Commissioner voted in favor of an application he abhorred – I do not remember this event. It would be interesting to know why the application was approved. Applications that comply with well-written regulations should not be abhorrent.

There are multiple reasons towns may prefer separate instead of combined Planning and Zoning Commissions. Perhaps they believe it is important to have checks and balances, aka a "*healthy tension*," because it results in better and more useful POCD's, better Affordable Housing Plans, better subdivision regulations, better zoning regulations, better CAM reviews, and better and more attractive overall development. They may believe that quality is more important than efficiency, that separate commissions have more time to do quality work, and separate commissions are less dependent on planners and consultants.

Or perhaps they believe that volunteers would be more effective if they had time to specialize in "Planning" or specialize in "Zoning," depending on their interests, and did not need to have an interest in both planning and zoning. For example, how many people who have a high level of interest in planning for the development of our Town also have a high level of interest in writing zoning regulations, such as the regulations that limit the number of chickens and rabbits allowed on a residential lot, defining what is a "farm," or a definition of "height"?

Separate commissions with complementary duties would likely attract more volunteers than if their duties were the responsibility of a single commission. Separate commissions would also provide more time for their members to make better decisions and be less dependent on staff.

Category 4 – The Number of Lawsuits of Combined vs. Separate Commissions

≈2:27:05 TC Indicated that the PZC has been sued *very rarely*.

≈37:30 TC Suggested looking at the number of Lyme Zoning Lawsuits (which has separate commissions) and emphasized how many suits were filed as a result of it being a separate zoning commission compared with suits filed against combined commissions of other towns.

Except for the appeal of the Zoning Commission's denial of an 8-30g affordable housing three-unit multifamily at 83 Inchcliffe Drive, I do not remember the Zoning Commission being sued between 1987 and 2012.

However, the combined Ledyard Planning and Zoning Commission has been sued multiple times. These include:

1. The GFI's appeal of the PZC's denial of its special permit application to excavate 4,000,000 cubic yards over 10 years from Decatur Mountain. (IMO, this costly suit would have been avoided if the regulations were clear.)
2. Third Garden Park, L.P. vs. Ledyard Zoning Commission et al. (2013) (Regarding Stonegate Village MHP.
3. The City of Groton's recent appeal of the Ledyard Planning and Zoning Commission's approval of the Avery Brook Homes development.
4. Appeal of the PZC approval of new zoning regulations (2018) due to noncompliance with the POCD "*finding*" requirement and material deficiencies in its approved regulations. (I have an electronic copy of the complaint.)
5. Thomas A. Riffle Et Al. v. Town of Ledyard Planning and Zoning Commission, November 28, 2017 (Regarding an open space subdivision).

Category 5 – Staffing, Workload, and Dependency of Combined vs. Separate Commissions

≈42:00 BR Reported that "... *staffing must be a concern ...*" and that "*it is hard to find a Planner who finds it hard to work with a zoning commission,*" "*We are a small town, lots of us who have been on multiple commissions and not everyone is joining commissions, with two separate commissions, how will we get people to serve on two commissions?*"

(TC disagreed, believes staffing is not an issue.)

≈49:15 TC Reported that the ZEO *does not review site plans*. He stated that "*You need the Planner to review site plans, not the ZEO, unless the ZEO is planner certified.*"

≈56:45 TC Said that the Commission *does not write regulations*; the Planner is the one who writes the regulations.

≈1:02:30 TC Said that "*We already have a problem in this town, we cannot staff the commissions we have.*"

≈1:56:00 BR Said she has a lot of confidence in our land use director and our staff, and that has helped a lot She did not see a shortfall.

≈2:05:00 KD Alleged that the state mandated more uses to be allowed as-of-right, which *reduced the load* on the combined PZC.

≈2:10:35 KD Indicated that the PZC *has had nonmembers participate in the preparation of the POCD*. When asked when, he said he did not know, but said it has been done.

≈2:14:34 - KD, TC, CG (Carmen Garcia-Irizarry) - Entered into a discussion regarding the hiring of consultants to prepare the POCD.

There are, of course, many mandates, but few, if any, materially reduce the load on the PZC.

There is a mandate that allows accessory apartments as-of-right, which is reflected in the POCD and the current Zoning Regulations, but is of little significance. It allows a single accessory dwelling unit in a rear, side, or front yard, as-of-right. Very few residents want an accessory dwelling unit on their property, and due to septic and well constraints, few will take advantage of this law. It is a non-issue as far as PZC workload is concerned.

The new enabling statute (PA25-1) allows for "*priority housing development zones*," which permit a minimum of 10 units per acre as-of-right for a multifamily development. However, priority housing development zones are not mandated, and Ledyard does not have any "*priority housing development zones*." It does not impact the workload on the PZC.

A separate Zoning Commission, to protect health, safety, convenience, and property values, would likely have time to develop and promulgate regulations, consistent with the explicit POCD goal that the zoning regulations must *carefully protect the character* of Ledyard, would likely require a special permit, limit multifamily height to three stories, and, importantly, reestablish reasonable character requirements for multifamily and mixed uses. [Contrary to what was reported at 2:07:25, Zoning Regulations can impose character requirements on residential developments. An example is provided on page 10 & 11.]

A separate Zoning Commission, consistent with the explicit POCD goal to "*promote the development of diverse types of housing units*," would likely restore the regulations for age-restricted land-lease communities, which resulted in the development of Stonegate Village, Ledyard's 17th-largest taxpayer.

The Committee should determine why a consultant is needed to establish the development goals for Ledyard. The preparation of the POCD should be the duty of the PZC (wearing its Planning hat) or, preferably, a separate Planning Commission.

If a town is satisfied with its POCD, and a consultant is hired, all the consultant is likely to do is update the POCD cover with a new date and make minimal changes necessary to comply with amended statutes, if any. Is the PZC, when wearing its Planning hat, satisfied with the current POCD? It should know the answer to that question before deciding it needs a consultant. If it is not satisfied, what changes to the POCD does it recommend? A consultant should not be necessary to answer fundamental land development *policy* questions. The only time the cost of a consultant might be justified is when the PZC and the Town Planner do not have time to plan for the future of our Town.

It would be good for the Town to develop a POCD, without conflicts and ambiguity, that can, in reality, be used as a tool for amending the zoning regulations necessary to guide the development of Ledyard in a manner that enhances the quality of life and protects the health, safety, convenience, and property values of town residents.

IMO, the allegation that "*the PZC has had nonmembers participate in the preparation of the POCD*" is mistaken. During the last update of the POCD, I believe the PZC Chairman assigned responsibilities for one or more sections of the POCD to individual commissioners, but I do not remember if anyone outside of the PZC was asked to submit changes. It is my understanding, based on budget line items, that between 2007 and 2020, the Planning Commission and the PZC did not contract with consultants to support POCD updates. However, support may have been provided from other sources. The Chairmen may remember if consultants were hired to help prepare the POCD's, and the cost of such support.

IMO, Commissioners should be responsible for and exercise their own independent judgment. However, the lack of time, as a result of the workload assigned to the combined Planning and Zoning Commission, versus the responsibilities and workload that would be split and assigned to a separate Planning Commission and a separate Zoning Commission, may have created a situation where the PZC has become overly dependent on its staff and consultants. It appears that the Town Planner and her consultants, due to a lack of time and the PZC's inability to provide oversight, are establishing land use policy. IMO, the PZC, wearing its Planning hat, should establish land use policy, not the Town Planner and her consultants.

For example, during the recent public hearing on the parking regulation amendment to the Zoning Regulations, more than 38 comments and suggested improvements to the application were submitted by members of the public. I remember that only two were discussed during the Commission's deliberations, neither of which was adopted, and that the Commission adopted staff's and the consultant's recommendations without considering the POCD.

IMO, the PZC did not properly evaluate the 38 comments and suggestions, and as a result, did not make an informed independent decision. Was the public hearing, due to lack of time, only a show mandated by statute, or did it help the Commission make an informed decision? I believe this is an example, due to the PZC's lack of time, of the Town Planner and her consultant establishing land use policy?

There was also no discussion or "finding" of whether the new parking regulations were consistent with the POCD, even though a "finding" was required by statute. One amendment to the application was posted in the Clerk's office for 9 days before the hearing was continued, even though the law required proposed regulations to be posted for at least 10 full days before the public hearing. Did the Commission's workload contribute to these mistakes? Before 2012, the Zoning Commission was not as dependent on staff and did not make these types of mistakes.

Page 23 of the Town Charter shows that "*The Town Planner shall have the duty of assisting and advising ... the Planning and Zoning Commission on planning and on a master plan of development and land use, ... and ensuring that economic development projects are consistent with the Town's Plan of Conservation and Development, and shall ... have the duty of advising any office or agency concerning the effect of any office or agency on the plan of development.*"

The "*master plan of development and land use*" consists of the zoning regulations and zoning map. It is not the POCD.

As such, under the Charter, the Planner assists and advises the PZC on the development of the POCD, the zoning regulations, the zoning map, and whether economic development projects are consistent with the POCD. The Planner is not required to develop the POCD or the Zoning Regulations. She is not required to review zoning applications, review site plans, or assist the Commission to interpret the zoning regulations or land use statutes as they apply to individual land use applications. The Planner is not required to establish land development policies, which, IMO, is the duty of the Planning Commission, or the PZC while wearing its Planning hat.

Page 22 of the Town Charter shows that "*The Zoning Official shall have the duty of assisting and advising ... the Planning & Zoning Commission ... on land-use issues and State laws, the ... zoning regulations, and perform such other duties as the Mayor may prescribe, including enforcement, The Zoning Official shall have the duty of advising any office or agency concerning the effect of any action of said office or agency on the zoning regulations.*"

As such, under the Charter, our CAZIO-certified (or about to be certified) ZEO assists and advises the Commission (wearing its Zoning hat) on the development and review of Zoning

Regulations, the review of zoning applications and site plans, and on the interpretation of the land use statutes. She does not write zoning regulations or establish land use policy.

IMO, because the PZC is responsible for Planning (Subdivisions, POCD, Affordable Housing Plan, etc.) and for Zoning (Zoning regulations, site plan reviews, and special permit applications), the PZC is overworked and has become overly dependent on the Town Planner and her consultants. As a result, the PZC appears unable to independently perform both its "Planning" duties and its Zoning duties, and instead has little choice but to endorse the Planner's recommendations, often with little or no debate.

I believe that if the workload were split into a planning component and a zoning component, and the planning component were assigned to an independent Planning Commission and the zoning component to an independent Zoning Commission, the workload on each Commission would be less than the workload on the current combined Planning and Zoning Commission.

I also believe that the Planner's workload would be reduced and she would be able to do more high-level "*assisting and advising*" and "*promoting of economic development*," consistent with the Charter and the POCD, if our ZEO provided technical support to the Zoning Commission. There would be no change in the number of evening hours per month the ZEO attends in support of Commission meetings. The benefits of separating the PZC into two commissions would include:

- The Town Planner's "zoning" workload would be reduced;
- The Planning Commission "zoning" workload would be reduced;
- The need for consultants would be reduced;
- The POCD would likely be improved, with fewer conflicting goals;
- The POCD would more likely become a useful tool for the development of the Town;
- The AHP would likely be reviewed and improved;
- The Subdivision regulations would likely be reviewed and improved;
- The Zoning Regulations would likely be reviewed and improved.

There may also be other reasons why commission staffing might be an issue. It may be because the need for volunteers is not adequately publicized; the amount of knowledge required to make meaningful contributions on a land-use Commission requires too much time and effort to acquire; the workload on a commission may be too much; or perhaps the emotional reward for a volunteer's service is insufficient to justify the required effort.

For example, the time and effort to be a productive member of the Library, Cemetery, or Senior Citizen Commissions are likely less than the time and effort required to be an effective member of a combined Planning and Zoning Commission.

Many residents may not want to be in a position where they have to deny an application submitted by a neighbor. They may not want to be involved in litigation when the Commission is sued, which, IMO, is more likely for land use commissions than for other commissions. Or, it may be because many residents believe that property owners should have the right to do whatever they wish with their property, if they pay their taxes and the use does not harm their neighbors.

Category 6 – Quality of the POCD and the Zoning Regulations

≈1:37:00 CG indicated that the 2020 POCD contains internal conflicts, which is one of the reasons the Planner is requesting a consultant to resolve. She asked *if a separate planning commission would have helped avoid the conflicts?*

≈1:46:25 BR Asked, *"Where are we failing?"*

≈2:06:30 KD Stated, 5 years ago, *"there were a lot of things that were very discretionary to the Commission approval that the state has mandated that you cannot do anymore."*

≈2:07:25 TC Said, regarding the *"character of the town - the law states that we cannot use character of the Town"* [to deny an application].

The current POCD has multiple internal conflicts, which means it is ambiguous and is not a useful tool. (i.e., Economic development vs affordable housing development vs. protection of the quality of life, etc.) As a result, virtually any proposed zoning text amendment would be both consistent and inconsistent with the current POCD, which means the POCD is not useful.

For example, the POCD recommends allowing multifamily developments that can consist of an unlimited number of units, *as-of-right*, in Gales Ferry Village. This is consistent with the POCD's explicit housing goals, but conflicts with its explicit protection of character and quality-of-life goals. It also conflicts with what the majority of town residents want – reasonable development but without the "urbanization" of our Town.

The Zoning Regulations contain multiple deficiencies and conflicts, such as two different definitions for a multifamily development; ambiguous zoning regulations for major excavation (which were misinterpreted by GFI as permitting over 4,000,000 cubic yards of crushed rocks to be removed from Mount Decatur over a 10-year period); the multi-year omission of parking requirements imposed on multifamily and mixed use developments; the failure to require a public hearing for 8-30g applications, which would increase the probability that health and safety issues would be identified that outweigh the need for affordable housing; the excessive height (was 65', now 50', still excessive) permitted for multifamily and mixed uses in Gales Ferry; the fact that massive developments are permitted without a public hearing or the ability to impose conditions of approval; overly complex site plan submittal requirements for small as-of-right developments; the fact that some definitions reference forward into the regulations (circular logic); the fact that several definitions are for words and phrases that are not used in the regulations; and the omission of Village District regulations and regulations for age-restricted land lease communities, even though they were good for our Town and supported by most residents.

And, as previously mentioned, the regulations are so ambiguous and so poorly written that the Planner reported, on the record during the final PZC deliberations, that the GFI Decatur excavation application was *"in material compliance with the zoning regulations."* And then, a few hours later, the PZC commissioners unanimously (and correctly) denied the application because it did not comply with 13 requirements in the zoning regulations.

Better regulations would likely have prevented the Applicant from preparing an expensive application and avoided the legal and third-party expert costs for the Applicant, the Town, and the two Interveners.

Unfortunately, the PZC deleted the "character" requirements in the Zoning Regulations, even though they only needed to be amended. The mistake was likely due to a misunderstanding of the statutes that specify what must be in the regulations to regulate "character." The regulations for "character" are listed in CGS §8-2(d)(10), which states that:

"(d) Zoning regulations adopted pursuant to subsection (a) of this section shall not: ... (10) Be applied to deny any land use application, including for any site plan approval, special permit, special exception or other zoning approval, on the basis of (A) a district's character, unless such character is expressly articulated in such regulations by clear and explicit physical standards for site work and structures, ..."

As such, all that is necessary to regulate "character" is to amend the zoning regulations to include clear and explicit physical standards for site work and structures for new multifamily developments?

The following example shows regulations, consistent with the POCD and CGS §8-2(d)(10), that would help protect the character of Ledyard. A question the Committee may want to consider is why the PZC hasn't adopted similar regulations.

Physical Standards For Site Work And Structures [Sample]

Site Standards

- *Building Orientation: Ensure buildings relate to the street to enhance visibility and accessibility.*
- *Entry Visibility: Provide prominent and visible entries for each unit to create a welcoming atmosphere.*
- *Setback Patterns: Maintain existing setback patterns to ensure consistency with neighboring structures.*
- *Private Open Spaces: Each unit should have access to private outdoor areas such as patios, balconies, or yards.*
- *Public Open Spaces: Design public areas for recreational and social activities, ensuring they are visible from individual units for safety and supervision.*
- *Plant Selection: Use hardy, native plant species that require minimal maintenance and provide environmental benefits.*
- *Shade and Aesthetics: Incorporate trees and shrubs to soften the impact of hardscapes and enhance visual appeal.*
- *Parking Design: Position parking lots at the rear or side of buildings to prioritize street-facing units.*

Standards for Structures

- *Architectural Features: Avoid blank walls by incorporating decorative elements or landscaping to enhance visual interest.*

<i>Attribute</i>	<i>Recommendations</i>
<i>Material Selection</i>	<i>Choose durable materials like concrete, steel, or engineered wood for longevity and efficiency.</i>
<i>Load Distribution</i>	<i>Plan for efficient load-bearing walls and columns to optimize space and reduce costs.</i>
<i>Foundation Strength</i>	<i>Ensure foundations are designed to support the structure's weight and resist environmental factors.</i>

My purpose in including the above example is to encourage the Committee to determine whether or not the combined PZC (versus separate commissions) contributed to the deficiencies in the POCD and the deficiencies and omissions in the Zoning Regulations, and if its failure to comply with statutory *posting* and *finding* requirements are isolated events, or if they are due to an overworked commission and an overworked Planner?

IMO, deficiencies in the POCD and the Zoning Regulations would have been less likely if the Commissions were separate and each had more time to do their respective duties. I also believe the PZC has chosen to adopt Zoning Regulations that place a higher priority on economic development than on the protection of the quality of life, the character of our Town, the protection of property values, and the quality of new development, even though the respective goals in the POCD have equal priority. We did not have these types of deficiencies and omissions in the Zoning Regulations when the Commissions were separate.

Category 7 - Miscellaneous

≈53:15 **BR** Brought up the subject of "Summary Review," and who would be responsible for its conduct. She appeared to be concerned about the amount of effort and time that will be required for the PZC to complete the mandated "*summary review*."

The "*Summary Review*" requirement is in the new Zoning Enabling statute, which means, IMO, that the PZC, wearing its "Zoning hat", would be responsible for conducting the review. It would be the Zoning Commission if the commissions were separate. The review should not take much time.

Statutorily, per CGS §8-2r as amended, the "Summary Review" is a process to help determine:

"... (2) The identification, to the extent practicable, of specific zones or parcels that may be developed to meet the municipality's affordable housing goal through the process of summary review, as defined in section 8-2r of the general statutes, as amended by this act, together with the maximum allowed residential density for each such area; ..."

§8-2r provides: *"(a) For the purposes of this section, (1) "summary review" means able to be approved in accordance with the terms of a zoning regulation or regulations, including, but not limited to, requirements concerning setbacks, lot size and building frontage, applicable to a proposed development, and without requiring that a public hearing be held, a variance, special permit or special exception be granted or some other discretionary zoning action be taken, other than a determination that a site plan is in conformance with applicable zoning regulations and that public health and safety will not be substantially impacted, ... "*

Identifying uses that do not require special permits or other discretionary actions should require only that the PZC prepare a list of the as-of-right uses that are in the zoning regulations, plus a list of uses that currently require a site plan review or a special permit that should be designated as as-of-right uses.

Many of the as-of-right uses that require site plan review listed in the Zoning Regulations should require a special permit. This is because they are currently mistakenly being required to comply with subjective criteria, such as adequacy of screening, adequacy of dumpster locations, adequacy of site lines, appropriateness of proposed lighting and landscaping, lack of glare, adequacy of snow banking, traffic mitigation, dust, noise, vibrations, and other subjective issues. A zoning commission or a combined PZC does not have the authority to make subjective decisions or impose conditions of approval to mitigate the risks of such uses unless they require a special permit.

There are currently about 37 as-of-right uses listed in the Zoning Regulations that require a site plan review by the Commission instead of review and approval by the ZEO. A determination of which of these 37 uses should be reviewed by the ZEO, which should require a site plan review by the Commission, and which should require a special permit, could likely be completed as an agenda item during one or two regular meetings of the Commission.

The decisions should be based on factors such as whether a use that complies with the use and bulk requirements in the Zoning Regulations has a reasonable chance of harming our Town, and if yes, should the PZC have the authority to impose conditions of approval to mitigate the risks when necessary to protect public health, safety, convenience, property values, or natural resources.

Category 8 – Additional Questions

What should the relationship be of the PZC or the Planning Commission to the Town Planner?

Does the PZC, wearing its Planning hat, propose land use policies with assistance from the (expert) Town Planner, or does the Town Planner have the duty of proposing land use policies that are reviewed and approved by the PZC?

Even though land use commissions are composed of volunteers, I believe the PZC, wearing its Planning hat, should take the lead in developing land use policies, with assistance and advice from the Planner.

What does the Council think? The answer may influence the recommendation as to whether the PZC should be divided into independent commissions.