CENTRAL CONNECTICUT REGIONAL PLANNING AGENCY

Serving Berlin, Bristol, Burlington, New Britain, Plainville, Plymouth, and Southington

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TO: COMPREHENSIVE PLAN COMMITTEE
FROM: Timothy Malone, Associate Planner
DATE: March 27th, 2013

RECEIVED BY CCRPA ON: March 1st, 2013
REFERRAL NAME: Plainville zoning regulation amendments

INITIATOR: Town of Plainville

MUNICIPAL HEARING: April 9th, 2013
REFERRED TO: CCRPA

DESCRIPTION: The Town of Plainville is proposing seven revisions to their zoning regulations. Each revision is being proposed individually. The revisions are as follows:

1. Wood burning furnaces: clarifies the definition of wood burning furnaces and prohibits them;
2. Fences: adds regulations regarding the materials that fences are made of, makes numerous changes regarding where they can be erected (substituting "building" or "property" lines with "required setbacks"), requires that fences not interfere with sightlines, and establishes guidelines for timely repairs;
3. Home occupations: defines two categories of home occupations, "low impact", which involve no visiting employees or customers and "moderate impact", which have no more than one employee and one customer at a time; "low impact" is allowed by right whereas "moderate impact" is allowed by special exception from the PZC.
4. Accessory apartments: modifies regulations to require site plan approval by the zoning commission (a zoning permit issued by the zoning enforcement officer was previously required), establishes stricter dimensional and layout requirements, limits the number of units, and clarifies reporting procedures;
5. Residential/mixed use: clarifies that residential units are only permitted above first-floor retail in mixed-use zones;

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6. Commercial vehicle storage: adds a definition of commercial vehicles (previously they were undefined) based on dimensions and weight;
7. Attached garages: adds requirements specific to attached garages that are designed to prevent commercial grade structures being built in residential zones by limiting their square footage, height, and materials.

COMMENTS: Steve Schiller commented: "No objections from New Britain, looks like some good stuff that we may borrow upon at some point."

STAFF RECOMMENDATION: CCRPA recommends that all seven amendments in this proposal be found ***Not in Conflict*** with the Regional Plan of Conservation and Development or any other Agency plan. CCRPA notes that these amendments are reasonable and add clarity to existing regulations. CCRPA also notes that many of these amendments—"home occupations" and "accessory apartments" in particular—support the intent of the regional POCD by expanding the supply of housing and low-cost business space.

TOWN OF

PLAINVILLE

ONE CENTRAL SQUARE, PLAINVILLE, CONNECTICUT 06062-1955

MARK S. DEVOE, AICP
Director of Planning and Economic Development
(860) 793-0221, Extension 210
(Fax 860-793-2285)

VIA EMAIL: referrals (at) ccrpa.org

March 4, 2013

Mr. Carl Stephani, Executive Director
Central Connecticut Regional Planning Agency
225 North Main Street, Suite 304
Bristol, CT 06010

Re: Proposed Text Amendments to the Zoning Regulations, Plainville, Connecticut
Multiple Sections

Dear Mr. Stephani:

In accordance with Section 8-3b of the Connecticut General Statutes, as amended, please be advised that the Plainville Planning and Zoning Commission has initiated a zoning text amendment application proposing revisions to the regulations as detailed in the attached materials. The public hearing on the proposed amendments may be scheduled no sooner than April 9, 2013 at 7:30 p.m. in the Plainville Municipal Center.

If you have any questions regarding the proposed zoning regulation changes, please do not hesitate to contact me at (860) 793-0221, extension 210. We anticipate and appreciate your consideration and comment.

Sincerely,

Mark DeVoe, AICP
Director of Planning and Economic Development

Enclosures

TOWN OF

PLAINVILLE

ONE CENTRAL SQUARE, PLAINVILLE, CONNECTICUT

MARK S. DEVOE, AICP
Director of Planning and Economic Development
(860) 793-0221, Extension 210
(Fax 860-793-2285)

TO: **Plainville Planning and Zoning Commission**

FROM: **Mark DeVoe, Director of Planning and Economic Development**

SUBJECT: **Proposed Text Amendments**

DATE: **March 1, 2013**

The attached zoning regulation amendments have been discussed at previous meetings and have been deemed ready for action. We have therefore selected April 9, 2013 as a public hearing date. The following revisions are attached for your review:

1. Outdoor Wood Burning Furnaces – new Section 4.12
2. Fences – revised Section 4.05
3. Home Occupation – revised Section 1.02.B.1, Article 9, new Section 1.04.I
4. Accessory Apartments – revised Section1.04.A
5. Mixed Use Residential/Commercial – revised Section 2.04.C
6. Commercial Vehicle Storage – revised Section 1.02.B.3, Article 9, new Section 1.04.H
7. Attached Garages – revised Section 1.03.B

While the proposed amendments are made under one application, each should be deliberated individually. The Commission must approve, modify and approve, or withdraw each amendment.

Outdoor Wood Burning Furnaces – Section 4.12 - Proposed Revision to Plainville's Zoning Regulations to Ban

January 23, 2012 – Draft 3 reviewed and approved for PH by PZC 11/13/12

All new language is in bold and underlined

Purpose: To prohibit the public nuisance of OWBF.

Proposed Amendments:

1. Define outdoor wood burning furnaces for clarity.

Section 9.02 Definitions

For the purposes of these regulations, the following terms, phrases, words and their derivations shall have the meaning given herein.

OUTDOOR WOOD BURNING FURNACE: An outdoor accessory structure or appliance designed to transfer or provide heat through the burning of wood, solid waste, or any other material designed to be used in such equipment, for heating interior residential or commercial space or for providing any other ancillary heating needs including, but not limited to the heating of domestic hot; swimming pool, Jacuzzi, or hot tub water; or any commercial process, but does not include a fire pit, wood burning barbeque, or chiminea.

2. Prohibit new outdoor wood burning furnaces.

Section 4.12 Outdoor Wood Burning Furnaces

After due consideration, given the dense settlement patterns in the Town of Plainville, the Commission has determined that outdoor wood burning furnaces cannot be regulated in sufficient manner to protect the health, safety and general welfare of the public.

1. **To assure that public nuisance is avoided, outdoor wood burning furnaces are prohibited in every zone within the Town of Plainville.**

The proposed revisions establish a new section specifically prohibiting outdoor wood burning furnaces. This method of prohibition is not normal, as the regulations are generally permissive and what is not permitted is otherwise considered prohibited. In this case, we do not want to prohibit every manner of outside structure or appliance (air condensing or handling units come to mind), so it is necessary to narrow the focus on the offensive equipment and move to outright prohibition. Three CT municipalities do the same: Hebron, Granby and Tolland. It is worth noting that the three towns reviewed are much less populous than Plainville and do not have the dense settlement patterns that Plainville has.

Fences – Section 4.05 - Reviewed and approved for PH by PZC on 11/13/12 with revisions (no 8' fence in industrial front yards).

Purpose: The Commission is aware that current zoning regulations are subject to more than one reasonable interpretation. This leads to inconsistencies in the way that fences are regulated. We are proposing the following changes to state the purpose of this section and to clarify its intent.

Proposed modifications are in **bold and underlined**.
Deletions are ~~stricken~~.

Section 4.05 Fences

1. **Purpose: This Section is intended to control the size, location, and type of fences and walls in all zoning districts in order to allow for the protection of neighborhood aesthetics and to provide for the privacy and protection of real and personal property while not infringing on public safety and general welfare, or adversely affecting adjoining property values.**

2. All fences erected in the Town of Plainville require a Fence Permit issued by the **Building Official** ~~**or Zoning Enforcement Officer**~~. **Prior to the issuance of a permit, the permitting official shall consider the purpose of this section when reviewing fence design.**

3. The following types of fences may be erected between the ~~**street**~~ **front property** line and the **required front yard setback** ~~**building**~~ line in **residential, commercial and industrial zones:**
   a. A stone**,** ~~**or**~~ **masonry,** ~~**wall a**~~ **wood, vinyl or metal** ~~**picket**~~ fence **or wall** no more than thirty-six (36) inches high**, except that installation of wire mesh or grid, chain link, fabric and/or material fences shall be prohibited**.
   b. A two or three rail ranch or split rail fence with posts no more than four feet-six inches (4'6") high and the top rail no more than four (4) feet high.
   c. On a corner lot with two front building lines, fences **not exceeding six (6) feet in height may be** ~~**of a type not allowed in a front yard shall be**~~ permitted to extend to within three (3) feet of ~~**the street**~~ **one front property** line on the portion of the lot designated as the rear yard. The area designated as the rear yard shall be determined to be the area that begins where the main structure abuts the rear yard ~~and shall~~ extend**ing** to within three (3) feet of the ~~**street**~~ **front property** line. **In no case shall such fence be allowed closer than 25 feet from any corner. The corner shall be considered a point at which the continuation of the two front property lines intersects.**
   d. **Exception: rear lots may erect a six (6) foot fence of a type and style permitted below along all property lines except for those property lines comprising the boundaries of the required access way.**

4. The following fences may be erected behind the **required** front **yard setback** ~~**building**~~ line **in residential and commercial zones**:
   a. **A stone, masonry, wood, vinyl or metal fence or wall** ~~**Fences manufactured of new materials**~~ that do**es** not exceed six (6) feet in height**, except that installation of fabric and material fences shall be prohibited**.
   b. **Proposed fencing in a commercial zone shall require Commission approval; opaque fencing may be required.**
   c. **Plastic or vinyl opaque privacy slats shall be permitted in chain link fences.**
   d. **The permitting authority may make a height exception allowing a fence up to eight (8) feet in height to be installed in the rear or side yard of a residential property only where such property abuts an existing industrial use.**

Fences – Section 4.05 - Reviewed and approved for PH by PZC on 11/13/12 with revisions (no 8' fence in industrial front yards).

5. **The following fences may be erected behind the front building line in industrial zones by permission of the Commission:**
   a. **A stone, masonry, wood, vinyl or metal fence or wall** ~~Fences~~ which do**es** not exceed eight (8) feet in height may be erected **on property lines in rear and side yards only** ~~between the street line and the building line~~ in Restricted and General Industrial Zones **in accordance with site plan requirements and by permission of the Planning and Zoning Commission except that installation of fabric and material fences shall be prohibited**. ~~provided that the location of such fences shall not obstruct, restrict, limit and/or impair visibility of motorists and pedestrians.~~
   b. **The Commission may require opaque fencing in industrial zones.**
   c. **The requirements found in this subsection shall not apply to fences providing security for utility installations within the site.**
   ~~d. The following standards shall be met:~~

6. **General requirements affecting fence installations:**
   a. Fences located in commercial and industrial zones shall be installed with steel posts set in concrete.
   b. The supporting structure shall be located on the interior side of the fence.
   c. **No fence shall be installed that restricts visibility or sight lines of vehicles or pedestrians exiting or entering a property.**
   d. ~~Any~~ ~~w~~**W**ire fence**s of any type** shall not have ~~any~~ sharp edges at the top of the fence, except where ~~permitted~~ **required** by ~~the~~ state statute~~s~~ for barbed wire fence installation.
   e. All fencing shall be maintained in good repair **and shall be repaired as needed within four (4) weeks of an order to do so by the Building Official or Zoning Enforcement Officer**.
   f. Any repairs to an existing fence shall be of the same material.

Home Occupations –Section 1.02.B.1; add Definitions (Article 9); Standards (1.04.A.I) - reviewed and approved for PH by the PZC on February 26, 2013

Home occupations, also known as home based businesses, are permitted by many communities in Connecticut. Almost every regulation we reviewed had provisions for this use – some very limited, some very permissive. The 2009 Plan of Conservation and Development makes the following recommendations:

If Plainville is to maintain its economic and spatial integrity, it must promote well-balanced development that buffers the Towns residents and tax base from the unpredictability of economic cycles. Plainville's economic development goal is to establish a business and service mix that meets the needs of the community and maintains a sustainable revenue stream for the community. In order to achieve this goal Plainville should focus on the following economic development issues.

- Develop business retention program
- Provide tax incentives
- Identify appropriate business mix
- Encourage "Green" buildings and site development
- Promote Business/ Job Skill Training & Business Assistance
- Develop Business Incubator Space/ Home Business Regulations
- Update Industrial/ Business Park Regulations

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The Town can play an active role in developing and managing the incubator space or could serve a supporting role, providing assistance to a private investor who would develop and manage the space. Typically, when communities consider expansion of existing businesses or development of new businesses, they think in terms of the "traditional" business – those that operate from a store front or in a commercial location. An often-overlooked idea is to help the local entrepreneurs who want to start or expand their home-based business.

A person considering a home-based business needs to gather a variety of information about starting a business. He or she will need valid information about the product/service chosen, about marketing opportunities, the economic environment, existing trends, and about the competition. The Community can assist with many of these important considerations. Local government officials and community leaders can help home-based businesses start or expand in a number of ways. Communities that express support for new business formation through public resolution and policy statements can encourage people to begin new businesses.

Of particular importance to prospective home-based businesses are local zoning regulations that govern the operation of home based businesses. Zoning regulations can either help or hinder home-based business start-ups. Zoning codes that allow home-based businesses in residential areas mean there is one less barrier for potential entrepreneurs to overcome in starting a business. The character and quality of life in residential neighborhoods should not be compromised in exchange of home-based business operations. Plainville should consider developing detailed home based business regulations that clearly articulate the types of home-based bushiness that are permitted and how they must operate in order to protect the health, safety and welfare of residential communities.

Actions steps to Support Homes Based Businesses:

- Develop clear regulations on what type of home-based businesses are permitted, under what circumstances and the process for receiving town approval to conduct the business
- Encourage the Chamber of Commerce to support home based business and the role they play in the overall economy of Plainville

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Zoning Ordinance Considerations:

- Asses current buffer requirements between resource extraction activities and residential uses and evaluate ability to prevent land use conflicts - ***Done***
- Consider reorganizing the zoning ordinance to focusing on user friendliness and readability - ***Done***
- Consider using diagrams and figures to improve functionality of zoning ordinance - ***Done***
- Develop clear regulations on what type of home-based businesses are permitted, under what circumstances and the process for receiving town approval to conduct the business
- Other suggested revisions to the zoning ordinance described elsewhere within the Plan include: Sign Regulations, Commercial Landscaping Standards, Village District Zoning Regulations, Home Based Business, Low-Impact Development Techniques, Environmental Review Standards and residential density requirements in General and Central Commercial Zones and Reorganization of the Regulations

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The Planning and Zoning Commission approved the 2009 Plan, and should consider implementation of the Plan where possible. The Commission can review the Plan and make changes to the text of Zoning regulations where appropriate to implement the Plan without the expenditure of major resources.

Staff compiled the following recommendations after a review of over 15 municipal home occupation zoning regulations. The recommendations are by no means final, but have been prepared for the Commission as a guide to permit your consideration of a text amendment.

PROPOSED AMENDMENTS

Additions are **underlined and bold**
Deletions are ~~stricken~~

1.02 Permitted Uses & Structures (residential zones)

B. Permitted Accessory Uses & Structures

The following uses and/or structures, including signs in accordance with Section 4.02, may be permitted as accessory uses and/or structures in accordance with the provisions of these Regulations provided:

- No accessory structure shall be constructed or located on any lot prior to the time of construction of the principal building to which it is accessory.
- No such accessory use or structure shall be permitted in a common interest or multi-family community unless approved by the Commission.
- It is accessory and clearly subordinate to the principal use.

Home Occupations –Section 1.02.B.1; add Definitions (Article 9); Standards (1.04.A.I) - reviewed and approved for PH by the PZC on February 26, 2013

1. Home ~~Based Business~~ Occupations	R-40	R-20	R-15	R-12	R-11	R-10	R	NPH / GAR
1.1. Low Impact Home Occupation in accordance with section 1.04.H.1 ~~A professional or personal business office conducted by a resident of the premises, provided that such use is secondary to the use of the premises for dwelling purposes and does not change the residential character thereof.~~	A	A	A	A	A	A	A	A
1.2. Moderate Impact Home Occupations in accordance with Section 1.04.H.2		SE	SE	SE	SE	SE		

Add to: Use Regulations

1.04.A

I. Home Occupations (NEW)

1. **Low Impact Home Occupations - In order to support telecommuting, and to legitimize a growing population of home occupations, the Commission finds that minor home office operations used to support a home occupation, or to provide telecommuting opportunities, and which are otherwise unnoticeable from adjacent properties, is permitted by right in any residential zone provided the following criteria are met:**
   a. **The office is situated in a principal single family dwelling unit and shall occupy no more than 10% of the total living area of the dwelling unit, including storage areas for goods and materials. No home occupations, or storage related thereto are permitted in accessory structures.**
   b. **Only those residing in the dwelling may engage in the home office use.**
   c. **No clients, customers, or outside employees may visit, receive services or work from the premises in which the home office is located.**
   d. **No business shall be conducted from the premises except by phone, computer, facsimile machine, email or standard mail.**
   e. **The premises must maintain the appearance of a residential dwelling at all times.**
   f. **Goods, materials or supplies of any kind related to the home office may be delivered to or from the premises by passenger automobile and delivery vehicles such as a UPS or Federal Express van, but not by tractor trailer.**
   g. **No goods, materials or supplies of any kind related to the home office may be stored outside of the premises containing the home office.**
   h. **Home offices that exceed the requirements of this section may be permitted as medium impact home occupations by special exception under section 1.04.H.2.**
   i. **One sign may be installed in accordance with Section 4.05 of these regulations.**

2. **Moderate Impact Home Occupations – Moderate impact home occupations may reduce commuting traffic and improve economic conditions as well provide an effective incubator for small business. Recognizing that they may also have potential for negative impacts on surrounding residential properties, regulatory oversight is indicated. Moderate home occupations exceeding the requirements of Section 1.04.H.1 may be permitted in single family residential dwellings in zones R, R-10, R-11, R-12 or R-15 by special exception in accordance with Section 7.02 of these regulations, provided the following criteria are met:**
   a. **The home occupation is situated in a principal single family dwelling unit and shall occupy no more than 20% of the total living area of the dwelling unit. No home occupations are permitted in accessory structures.**

b. **In addition to those residing in the dwelling, not more than one outside employee may engage in the home occupation.**
c. **No sale of items shall be permitted from the premises; this provision does not apply to items sold by catalog and shipped from an alternate address directly to the consumer.**
d. **The premises must maintain the appearance of a residential dwelling at all times.**
e. **No display of articles in connection with the home occupation shall be visible from outside of the premises at any time.**
f. **No goods, materials or supplies of any kind related to the home occupation may be stored outside of the premises at any time.**
g. **The applicant for special exception shall present a site plan, including sufficient information for the Commission to make a determination that such use will have adequate parking for the intended use.**
h. **Because the granting of a Special Exception is tied to the property, and not the applicant, the Commission shall use the highest discretion in granting an approval under this section.**
i. **The Commission may apply reasonable conditions to a special exception approval to avoid adverse impacts to neighboring properties, including, but not limited to:**
    1. **Hours of operation**
    2. **Days of operation**
    3. **Buffer and screening requirements**
    4. **The manner in which the items related to the Moderate Impact Home Occupation may be delivered to and from the premises**
    5. **Site plan revisions deemed necessary to accommodate the proposed use.**
j. **One sign may be installed in accordance with Section 4.05 of these regulations.**

3. **Home occupations, including those listed below, exceed the requirements of this section and are not permitted:**
    a. **Contractor's business of any kind except a home office as permitted in Section 1.04.H.1.**
    b. **Classes, school or instruction where greater than one student at a time will be instructed.**
    c. **Personal and/or professional service businesses where greater than one client is served at any given time.**
    d. **Any equipment, process or instruction which can be reasonably determined to create noise, vibration, glare, fumes, odors or electrical interference discernable from the property line of the home occupation.**
4. **Failure to comply with the conditions of approval shall subject Special Exception to revocation by the Commission.**

Potential Definitions:

Home occupation, low impact - an occupation or business activity conducted entirely within a dwelling unit in a manner clearly subordinate to the residential use of the dwelling unit. Such use occupies no more than a prescribed percentage of the dwelling unit, does not affect the residential character of the neighborhood, and does not create a nuisance in the neighborhood. Such use does not involve the servicing of any clients from the premises.

Home occupation, medium impact - an occupation or business activity conducted entirely within a dwelling unit in a manner clearly subordinate to the residential use of the dwelling unit. Such use occupies no more than a prescribed percentage of the dwelling unit, but may have the potential to negatively affect the residential character of the neighborhood, and create a nuisance in the neighborhood. Such use may involve the servicing of clients directly from the premises.

Summary: The proposed revisions make home offices with no visiting employees, customers or large deliveries a "by right" use in all zones. Moderate impact home occupations as defined in subsection 2 above would require approval of a special exception from the Planning and Zoning Commission. Staff has taken care to emphasize the need for a thorough review of any proposal and emphasizes that a special exception may be revoked with due process if the approval, including conditions is violated at any time.

Accessory Apartments - Section 1.04.A - add new definition to Article 9 - Reviewed and approved for PH by PZC with revisions on 12/11/12

Purpose:

1. To include a definition of Accessory Apartment in our regulations.
2. To revise the permitting process to require a site plan application in lieu of a zoning permit.
3. To better define what areas can be included as eligible space.
4. To permit a more comprehensive review, ensuring that the nature and character of single family neighborhoods are not adversely affected.
5. To require that for new approvals, declarations are filed in the land records indicating accessory apartment status and placing potential buyers on notice of the requirements.
6. To require new buyers to certify acceptance of the recorded declarations.
7. To clarify effective dates and amended dates.

Proposed modifications are in **bold and underlined**.
Deletions are ~~stricken~~.

Proposed Amendments:

F. Accessory Apartments

The requirements set forth herein are adjudged to be the standards necessary and reasonably related to the purpose of permitting the introduction of accessory apartments within single family dwellings in a manner that promotes housing opportunity without undue detriment to community health, safety, and general welfare. To maintain these standards and promote the community health, safety, and general welfare, the requirements of this section shall not be varied by the Zoning Board of Appeals.

1. Accessory apartments may be established within single family dwellings upon issuance of a **site plan modification approval** ~~zoning permit~~ by the **Commission** ~~Zoning Enforcement Officer~~.
   a. The requirement to file an A-2 survey may be waived by the Commission where it can be determined that one is not required.
   b. The applicant shall not be required to file a Mylar of the approved plan in the Town Clerk's Office.

2. **A detailed scale drawing of existing and proposed floor plans shall be provided by the applicant to allow an accurate review of these requirements.**

3. **If the A-2 Survey is waived, a site plan, drawn to scale, and based on the best available information at the time of the application, shall be required to illustrate compliance with applicable zoning requirements.**

4. Accessory apartments are permitted only in single family dwellings in all ~~residence~~ **residential** zones.

5. Accessory apartments shall not be permitted in any accessory and/or detached structure.

6. Not more than one accessory apartment may be established in a single family dwelling; a single family dwelling containing an accessory apartment shall not be considered a multi-family dwelling under **this** zoning **regulation**.

7. The principal dwelling and accessory apartment shall remain under common ownership; the owner of the property shall reside in the principal dwelling or in the accessory apartment so long as the accessory apartment is maintained**.** ~~and shall provide a notarized statement to the Planning Department upon establishing the accessory apartment and every two years thereafter certifying that the property owner resides on the property.~~

8. An accessory apartment and the principal dwelling shall meet all applicable housing, building, and life safety codes and shall be inspected by the Building Official prior to its first-time occupancy.

Accessory Apartments - Section 1.04.A - add new definition to Article 9 - Reviewed and approved for PH by PZC with revisions on 12/11/12

9. An accessory apartment shall be at all times subordinate to the principal dwelling.

10. **The permitted floor area of** an accessory apartment shall **contain a minimum of 400 square feet, but shall** not contain more than thirty percent (30%) of the floor area of the entire structure or ~~more than~~ 800 square feet, whichever is smaller.
    - **a. For the purposes of this section, floor area shall be defined as interior, finished, habitable space.**
    - **b. Addition of interior finished, habitable space, proposed as part of an application for an accessory apartment, may also be counted as habitable floor area.**
    - **c. Conversion of existing interior uninhabitable space such as a garage, proposed as part of an application for an accessory apartment, may also be counted as habitable floor area.**
      1. **No such converted area shall be counted as floor area for the purposes of determining permitted square footage of an accessory apartment unless it is demonstrated that such areas may be legally converted to interior, finished, and habitable space meeting all applicable codes.**
    - ~~**d. An accessory apartment shall contain not less than 400 sq. ft.**~~
    - d. Entry to the accessory apartment shall be provided and maintained at all times through the principal dwelling**.** ~~and from a separate, e~~ **This entryway may be kept locked or unlocked. At least one e**xterior doorway **shall be provided for the primary dwelling and accessory apartment. Any new door openings shall be allowed only** ~~**located**~~ on the side or rear of the structure.
11. The entire structure shall be maintained in appearance as a single family dwelling.
    - **a.** ~~;a~~**A**n addition may be made to the side or rear of the structure for use in total or in part as an accessory apartment ~~**provided the appearance of the structure as a single family dwelling is maintained and the other requirements of these regulations are met.**~~
    - **b. The Commission may request photographs of existing conditions and an architectural rendering of any proposed exterior improvements, including elevation drawings and material specifications, in order to confirm compliance with this section.**
    - c. The accessory apartment shall be equipped with its own **sleeping,** kitchen and bath **facilities**~~;~~**.**
    - d. ~~t~~**T**he accessory apartment may share utilities in common with the principal dwelling **or** ~~and~~ may have separate metering devices.
    - **e. The construction and layout of the accessory apartment shall be completed in such a manner so as to provide for ease of decommissioning should present or future owners wish to remove the facilities.**
    - **f.** Off-street parking for two motor vehicles shall be provided for the accessory apartment in addition to **the required** off-street parking for the principal dwelling. ~~**no**~~ **A**dditional driveway**s are discouraged, but may** ~~**shall**~~ be established for the accessory apartment ~~**unless a site plan showing it is approved**~~ by **permission of** the Commission.

12. **Prior to the issuance of a building permit for renovations and/or a building addition to accommodate an approved accessory apartment, the owner shall cause a Declaration to be filed on the land records providing notice of the right to establish an accessory apartment in accordance with the provisions of the Plainville Zoning Regulations.**
    - **a. Said Declaration shall state that approval of an accessory apartment may transfer to a new owner of the premises provided that the new owner must submit a notarized affidavit to the Planning Office indicating they are aware of the regulations governing such use and will continue to abide by such regulations until such time as they may seek to decommission the accessory apartment through a valid permit process, or vacate said premises in favor of a new owner. Failure to record the Declaration within 90 days of the approval shall render the approval null and void.**
    - **b. Failure to comply with the transfer provisions of the recorded Declaration within the first three months of ownership shall render the accessory apartment approval null and void and continued use of the premises as an accessory apartment shall constitute a zoning violation.**

13. **Accessory apartments approved after October 15, 2006, but prior to *the effective date of this amendment*, shall be liable to comply with the provisions of the regulations in effect at the time of approval. Accessory apartments established prior to October 15, 2006 by valid building permit shall hereafter be considered an existing nonconforming use.**

Accessory Apartments - Section 1.04.A - add new definition to Article 9 - Reviewed and approved for PH by PZC with revisions on 12/11/12

~~**14. No accessory apartment shall be used for income-producing purposes other than rental income to the property owner.**~~

~~15. The requirements set forth herein are adjudged to be the standards necessary and reasonably related to the purpose of permitting the introduction of accessory apartments within single family dwellings in a manner that promotes housing opportunity without undue detriment to community health, safety, and general welfare. To maintain these standards and promote the community health, safety, and general welfare, the requirements of this section shall not be varied by the Zoning Board of Appeals.~~

Section 9.01 Definitions

For the purposes of these regulations, the following terms, phrases, words and their derivations shall have the meaning given herein.

ACCESSORY APARTMENT: A separate living unit that is attached to, housed within, and collectively having the appearance of a single-family residence, including full sleeping, cooking and sanitary facilities. Such accessory apartment unit shall not change the residential classification of a single family dwelling to a two family dwelling.

Accessory Apartments - Section 1.04.A - add new definition to Article 9 - Reviewed and approved for PH by PZC with revisions on 12/11/12

DECLARATION OF ACCESSORY APARTMENT

Be aware that on *date* _____, *owner(s)* _____, owner(s) of the single family home located at *street address* _____, received approval from the Plainville Planning and Zoning Commission on the condition that the accessory apartment and the primary residence are occupied in a manner consistent with the zoning regulations of the Town of Plainville. A record of such approval is on file with the Plainville Planning Office.

1. Such Declaration shall be recorded at the Plainville Town Clerk's Office.

2. Such approval shall not be deemed to reclassify the single family dwelling to a two family dwelling.

3. The owner(s) shall at all times reside in the primary or accessory unit.

The owner(s) seek to notify all purchasers, successors, heirs and assigns that any change in ownership through sale, transfer, inheritance, or other means requires that a signed and notarized affidavit be delivered to the Planning Office by the new owner(s) signifying intent to:

1. Maintain the approval and comply with the zoning regulations regarding said accessory apartment in effect at the time of the original approval, or
2. Abandon the approval with the intent to apply for a building permit to dismantle the accessory apartment and discontinue the use.

The new owner shall file the required affidavit with the Planning Office within 90 days of the recording of the conveyance deed. Thereafter, the new owner shall have 120 days from the recording of the conveyance deed to record said affidavit on the Plainville Land Records.

Failure of the new owners to file the required affidavit with Planning Office within 90 days of recording the conveyance deed shall render the any previous approvals null and void and continued use of the premises as an accessory apartment will constitute a zoning violation.

ACCESSORY APARTMENT AFFIDAVIT
INTENT TO MAINTAIN APPROVAL

I Owner _____, the undersigned owner of the property located at _ Street _____ in Plainville, Connecticut, acknowledge the existence of an accessory apartment as approved by the Plainville Planning and Zoning Commission on _ Date of approval _____at the aforementioned premises and do hereby agree to abide by the Plainville Zoning Regulations with respect to such approval.

_____ _____

Witness Signature

Subscribed and sworn to before me

this___ day of _____, 20____

_____

Signature of Notary Public

Date Commission Expires ____/____/____

ACCESSORY APARTMENT AFFIDAVIT
INTENT TO ABANDON APPROVAL

I _ Owner _____, the undersigned owner of the property located at _ Street _____, in Plainville, Connecticut, acknowledge the existence of an accessory apartment as approved by the Plainville Planning and Zoning Commission on _ Date of approval _____at the aforementioned premises and do hereby provide notice of intent to abandon said approval.

_____ _____

Witness Signature

Subscribed and sworn to before me

this___ day of _____, 20____

_____

Signature of Notary Public

Date Commission Expires ____/____/____

Residential / Mixed Use - Section 2.04.C - reviewed and approved for PH by PZC with revisions on 12/11/12.

Staff is recommending a revision and a format change to the following text in order to clarify the Commission's intent to allow residential only on the upper floors of buildings within the C Zones. Section 1 has been mistakenly interpreted to permit residential on the first floor, as it can *appear to be separable* from Sections 2 and 3. Residential use on the first floor and as a standalone use in the C Zones is discouraged in the Plan of Conservation and Development. It should be noted that condominiums and multi-family developments are still permitted in C Zones by Special Exception with a minimum density of 8,750 square feet per unit. This density does not provide much incentive for multi-family only developments in the CC and GC Zones. Please note that staff has suggested removing the 100 foot frontage requirement as there are few (if any) lots that currently have that amount of frontage in the affected zones.

If the Commission finds they no longer wish to include efficiency apartments due to the saturation of this type of unit, they should refer to alternate section "b" on the following page and consider the repeal subsection "a" below.

The Use Tables will remain unchanged save the title of subsection 13; "**MIXED USE COMMERCIAL/**RESIDENTIAL USES". The required type of approval will remain Site Plan.

C. Residential / Mixed Use

1. Residential dwelling units may be permitted as part of a mixed use building in Central Commercial and General Commercial Zones provided that one hundred percent (100%) of the first floor level of the building is used for retail or office use **and the following standards are met**:

Previous subsection 2.a through f is now subsection a.i through iii.

a. **An** ~~e~~ **E**fficiency dwelling unit**s** **located above the required first floor commercial space** shall ~~**only**~~ be permitted in a General Commercial (GC) Zone subject to the following:
   - ~~**i. No more than 25% of the total residential units per property may be efficiency units.**~~
   - ~~**i. Each efficiency dwelling unit shall consist** of not more than one habitable room , **of one room only, exclusive of and any required** hall**way area of and bathroom, but shall include eating and sleeping facilities**. **not less than 400 or more than 500 gross square feet, exclusive of a bathroom and hallway together with and shall include exclusive** kitchenette and sanitary facilities.~~
   - i. Each **efficiency** dwelling unit shall contain a minimum of ~~**three**~~ **four** hundred (~~**300**~~ **400**) square feet **and a maximum of 500 square feet** of **gross** floor **area** ~~**space, inclusive of the bathroom and exclusive of the hal**~~l.
   - ii. There shall not be more than one **efficiency** unit per 2,000 square feet of lot area **and the number of efficiency dwelling units shall not exceed** ~~**25%**~~ **15% of the total number of residential dwelling units per lot**.
   - ~~**iii. The lot shall have a minimum frontage of 100 feet.**~~
   - iii. Adequate provision for parking, water and sewerage shall be made for the proposed site.

Previous subsection 3.a through f is now subsection b. i through vi.

b. ~~**A t**~~ **T**wo room or three room dwelling unit**s** **located above the required first floor commercial space** shall be permitted in the Central Commercial (CC) and General Commercial (GC) Zones subject to the following:
   - i. Any such unit shall be limited to one bedroom only.
   - ii. Each two room dwelling unit shall contain a minimum of 400 square feet, inclusive of bathroom and exclusive of hall.
   - iii. Each three room dwelling unit shall contain a minimum of 520 square feet, inclusive of bathroom and exclusive of hall.
   - **iv.** There shall not be more than one two-room dwelling unit per 3,000 square feet of lot area **and kitchen, dining and living room areas may be combined into one room.**
   - **v.** There shall not be more than one three-room dwelling unit per 4,000 square feet of lot area **and kitchen and dining areas may be combined into one room.**
   - ~~**vi. The lot shall have a minimum frontage of 100 feet.**~~
   - vi. Adequate provision for parking, water and sewerage shall be made for the proposed site.

Residential / Mixed Use - Section 2.04.C - reviewed and approved for PH by PZC with revisions on 12/11/12.

Alternate subsection b:

Apartment dwelling units are not typically described as two or three room; they are typically described as one or two BEDROOM units. In addition, the size of the units in the existing regulation does not comport to what could be reasonably expected in terms of square footage for the amount of bedrooms (see attached example). In order to promote variety and choice in housing types, clarify intent, and alleviate confusion, the Commission may want to consider the following amendment:

b. ~~**A two-room or three-room**~~ **One and two bedroom** dwelling unit**s** **located above the required first floor commercial space** shall be permitted in the **Central Commercial (CC) and** General Commercial (GC) Zone subject to the following:

~~**i. Any such unit shall be limited to one bedroom only.**~~

i. ~~**Each two-room**~~ -**A one bedroom** dwelling unit shall contain a minimum of ~~**400**~~ **525** square feet **of gross floor area**, ~~**inclusive of bathroom and exclusive of hall**~~**, at a density not to exceed one unit per 3,000 square feet of lot area**.

ii. ~~**Each three-room**~~ **A two bedroom** dwelling unit shall contain a minimum of ~~**520**~~ **725** square feet **of gross floor area**~~, **inclusive of bathroom and exclusive of hall,**~~ **at a density not to exceed one unit per 4,000 square feet of lot area**.

iii. Kitchen, dining and living room areas may be arranged in any manner to meet the requirements of this section.

~~**iv. There shall not be more than:**~~

~~**v. one two-room dwelling unit per 3,000 square feet of lot area.**~~

~~**vi. one three-room dwelling unit per 4,000 square feet of lot area.**~~

~~**iii. The lot shall have a minimum frontage of 100 feet.**~~

iv. Adequate provision for parking, water and sewerage shall be made for the proposed site.

If the Commission opines that two bedroom units should not be permitted in the Central Commercial Zone, section "b" above can be revised to remove that allowance, and you can add section "c" below to clarify that one bedroom units only are permitted in the CC Zone.

c. **One bedroom** dwelling unit**s** **located above the required first floor commercial space** shall be permitted in the Central Commercial (CC) Zone (enumerate the requirements of subsection b for one bedroom facilities in this section).

If this latter section is suggested as more appropriate, revisions to the use tables will be necessary to reflect the changes.

In addition, the Commission requested clarification of the definition of Efficiency Apartment:

DWELLING: A building arranged, intended or designated to be occupied by one or more families living independently of each other.

DWELLING UNIT: Living quarters for one family, as defined below.

DWELLING UNIT - EFFICIENCY: A dwelling unit **that shall** consist~~**ing**~~ of not more than one habitable **room and any required hallway area equaling not less than 400 or greater than 500 gross square feet,** ~~**exclusive of a bathroom and hallway together with**~~ **and shall include exclusive** kitchenette and sanitary facilities.

FAMILY: One person; a group of two or more people related by blood, marriage, legal adoption, or legal guardianship; or a group of not more than six unrelated people, living and cooking together in the same dwelling unit as a single housekeeping unit. A family may also include domestic help, but does not include roomers, boarders, or lodgers.

entrance	STOVE	C C C C C C			SINK	C C C C C C		REF

EXAMPLE OF A ONE ROOM EFFICIENCY APARTMENT

384 square feet total living space

16 X 24

We feel that a one room efficiency should not be less than 420 square feet to account for an increase in living, bath and storage area. They should not be permitted to exceed 500 square feet in total so as to curtail proliferation of this unit type and align with the specified definition of a one room dwelling unit.

24'

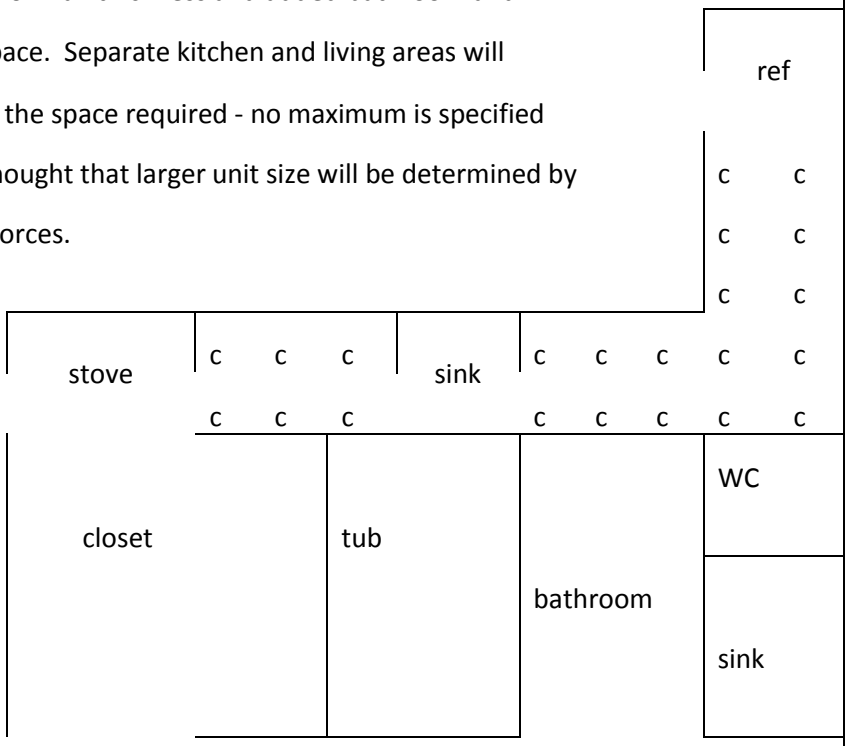
Closet/Storage 16'	tub	Bath	sink WC

entrance along this wall

EXAMPLE OF A ONE BEDROOM LIVING RM/DINING COMBO

17 X 30 living space, not accounting for walls - 510 sq ft

In this case, staff feels that a one bedroom unit should equal 575 square feet at a minimum. A two bedroom unit should equal 775 square feet at a minimum. The larger sizes account for wall thickness and added bathroom and closet space. Separate kitchen and living areas will increase the space required - no maximum is specified as it is thought that larger unit size will be determined by market forces.



170 square foot bedroom

10'

17'

Commercial Vehicle Storage – Section 1.02.B.3; add Definition (Article 9); add standards (Proposed section 1.04.H) - Reviewed and approved to move to Public Hearing by the PZC 2/26/13

Purpose:

Currently, we have no definition of commercial vehicle in our zoning regulations…

Example:

Commercial Vehicle – any vehicle used for over the road transportation of people and/or goods, service vehicles such as plow vehicles, food vendor vehicles and any manner of onsite service vehicle in connection with a commercial activity of any kind, which may include cars, trucks, vans and sport utility vehicles of any size including vehicles registered to a private individual or corporate entity.

We do have a regulation that defines storage of Commercial Vehicles (CVs) into two categories: A 1 ton capacity CV may be parked in a garage and a ¾ ton capacity CV may be parked outside "provided it is located in a private driveway or behind the building line and is accessory to a single family dwelling.

A vehicle's numeric designation (F-250 = ¾ ton and F-350 = 1 ton; C2500 = ¾ ton and C3500 = 1 ton) is used to determine capacity. In reality, larger capacity vehicles may be less obtrusive if they do not use rack systems. Conversely, even a smaller ½ ton full size vehicle outfitted with Heavy Duty (HD) rack systems and perhaps HD suspension kits and oversize cargo boxes can easily overshadow a vehicle with a larger capacity. Given that such a vehicle may not be commercial and therefore could not be regulated, it may be of no consequence. Nevertheless, capacity rating alone is perhaps not the only significant element of whether a commercial vehicle is offensive and does not always quantify the overall scale of the offending vehicle.

For classification purposes, a 2012 one ton CV Chevy Silverado C3500 has a gross vehicle weight [rating] of 10,400 pounds; a 2012 Dodge Ram: 12,200 pounds; and a Ford F-35 Super Duty: 13,300 pounds. We found that the newer models had a comparable (*slightly heavier*) GVW to older models.

The proposed language is offered as food for thought.

Proposed Amendments:

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3. Commercial Vehicle Storage	**R-40**	**R-20**	**R-15**	**R-12**	**R-11**	**R-10**	**R**	**NPH/ GAR**
3.1 One commercial vehicle ~~**not exceeding one ton in capacity**~~ **in compliance with Section 1.04.H** may be stored in a private garage **or driveway** when accessory to a single family dwelling.	**A**	**A**	**A**	**A**	**A**	**A**	**A**	
~~**3.2 One commercial vehicle not exceeding three-quarter (3/4) ton capacity may be parked or stored outside provided it is located in a private driveway or behind the building line and is accessory to a single family dwelling.**~~	~~**A**~~	~~**A**~~	~~**A**~~	~~**A**~~	~~**A**~~	~~**A**~~	~~**A**~~	

Commercial Vehicle Storage – Section 1.02.B.3; add Definition (Article 9); add standards (Proposed section 1.04.H) - Reviewed and approved to move to Public Hearing by the PZC 2/26/13

Proposed Section 1.04.H

The following standards regarding the storage of commercial vehicles are found to be necessary to protect the value and the reasonable enjoyment and use of residential property.

1. **The parking or garaging of commercial vehicles may be permitted in any residential district as an accessory use only in compliance with and subject to the following restriction:**
   a. **Only one commercial vehicle not exceeding 14,000 pounds gross vehicle weight (GVW) may be parked or garaged provided it also does not exceed ten (10) feet in height from the base of the wheel to the top (including any cargo) or ten (10) feet in cargo (box) length. For the purposes of this section, gross vehicle weight rating is the maximum operating weight/mass of a vehicle as specified by the manufacturer, including the vehicle's chassis, body, engine, engine fluids, fuel, accessories, driver, passengers and cargo but excluding that of any trailers.**
2. **All commercial vehicles, regardless of GVW, shall meet the following standards:**
   a. **No vehicle shall have more than two (2) axles.**
   b. **No vehicle shall be parked so as to obstruct the view of traffic from adjacent driveways or streets.**
   c. **No vehicle containing hazardous materials or waste may be parked on a residential lot.**
   d. **Construction equipment, including but not limited to backhoes, bobcats, bucket loaders, track vehicles, or similar machinery, self propelled or not, shall not be permitted.**
   e. **No tanker trucks or similar type vehicles used for hauling liquids including but not limited to, oil trucks, septic cleanout trucks, etc, shall be allowed.**
   f. **All commercial vehicles shall be parked on the driveway of the occupied residential lot, provided no commercial vehicle may be parked closer than five (5) feet from any adjacent property line unless appropriately screened by a fully opaque fence or vegetation of at least six (6) feet in height.**
   g. **The commercial vehicle shall be owned or operated by the permanent resident of the property on which it is to be parked.**
   h. **No maintenance or repair of a commercial vehicle shall be allowed on the residential property.**
   i. **There shall be no loading or unloading of commercial contents.**
   j. **No garbage hauling, dump trucks, or any other trucks that haul cargo that emits objectionable odors shall be permitted to park in a residential zone.**
   k. **No tractor and/or trailer shall be parked in a residential district at any time except in connection with a moving or delivery operation.**
   l. **No idling of diesel engines or operation of refrigeration equipment shall be permitted at any time the vehicle is stored on a residential lot.**
3. **Nothing herein shall be construed to permit a home occupation that is not otherwise permitted under the regulations. Any home occupation that is conducted in conjunction with the parking of a commercial vehicle must meet the applicable requirements.**
4. **Nothing herein shall be construed to prohibit commercial vehicles parked temporarily while engaged in providing products or services to the owner of the property.**
5. **Nothing herein shall be construed to prohibit commercial vehicles that are used as part of the following:**
   a. **Approved construction projects**
   b. **A permitted agriculture, farming, forestry, or nursery gardening use**
   c. **A permitted earth excavation (removal or deposition) activity**
   d. **Use of a facility operated by the Town of Plainville, a Fire Department, the State of Connecticut, or the Federal Government**
   e. **A maintenance facility in support of a multiple dwelling project on the lot, and/or in support of any Special Exception use, if authorized under such Special Exception.**

6. **No equipment associated with a commercial vehicle shall be allowed as outside storage on any residential property including, but not limited to, landscaping or construction trailers or equipment, construction supplies, snow plows, sanders or any visible product associated with the commercial vehicle, with the exception of those commercial supplies that fit into the bed of the vehicle or on a rack system without violating the height and length provisions of this section.**

Attached Garages –Section 1.03.B - Minimum Yard Requirements -reviewed and approved for PH by PZC with no revisions on 11/13/12

Staff Comments - This section contains footnotes that direct the size and placement of accessory structures. Currently, this section does not have requirements specific to attached garages (deemed an *attached* accessory structure). We have proposed a regulation **(bold and underlined)** below that would establish size limits for attached garages and require that building materials similar to those of the primary dwelling are used. Residential character and property values are sited as supporting the need to control aesthetics, which the regulations do not routinely set out to do. We do not see the regulation as overtly controlling design standards, but allows staff to exercise reasonable judgment to avoid potential *monstrosities* in residential zones. Drawbacks are that an overzealous official could use the language to make unreasonable requests e.g., require material no longer available, or impractical and/or cost prohibitive, i.e., slate roofing, field stone foundations, copper gutters, etc.

The primary goal of this regulation is to provide a means to deny commercial grade structures in residential zones, and limit the height so as not to exceed that of the existing primary structure that it serves.

(1) The minimum front yard shall be provided when no building line has been established by the Planning and Zoning Commission.

(2) The minimum front yard for property in any zone may be established at a dimension different than that prescribed in Section 1.03 by the initiative and action of the Commission in the administration of Section 7.02 if the Commission determines that a change in the front yard dimension will (1) effect better placement of structures, parking, and other site features related to new development or substantial redevelopment of a parcel and (2) advance a public interest in maintaining or improving the relationship between public and private spaces along the street on which the property fronts.

(3) Detached accessory structures not more than twelve (12) feet in height not used for human habitation or for the housing of animals, may be located in the required rear yard, providing that they are located not less than five (5) feet from any side or rear lot line, and provided further that they occupy, in the aggregate, not more than twenty (20) percent of the area of the required yard, or 700 square feet, whichever is smaller. Swimming pools and decks shall not be considered a part of the allowable structure area in required rear yards. Metallic structures up to 120 square feet are permitted. In an effort to reduce the profusion of structures having a commercial appearance in residential zones, sheds, pool houses, garages and other similar detached accessory structures in excess of 120 square feet shall be of a construction that reasonably matches that of the primary structure.

(4) Attached accessory garages not exceeding 700 (currently allowed detached limitation) square feet or 35% of the heated, habitable square footage (Farmington allows 75%) of the primary dwelling, whichever is greater, but never to exceed 1,350 square feet, are permitted in accordance with bulk requirements established for the zone, except that no attached garage shall exceed the height of the primary structure. Any such attached garage shall be constructed using like or similar materials and colors to preserve the residential character of the neighborhood and protect property values.

(5) ~~(4)~~ Swimming pools and decks shall comply with the following standards:

a. If attached to the primary structure, swimming pools and decks shall meet the minimum setback required for the zone. A swimming pool that is integral to an attached deck shall be considered an attached structure for the purpose of this section. Integral shall mean having direct access to the pool from the dwelling over an attached deck.

b. If detached from the primary structure, swimming pools and decks shall be located not less than 10 feet from the permitted property line.

(6) ~~(5)~~ Greenhouses may be exempted from the accessory structure area limitation of 700 square feet provided that:

a. The lot is two (2) acres or more in area.

b. The land is used primarily for commercial farming, forestry, truck or nursery gardening or education.

c. Location of the greenhouse is approved by the Commission.

d. A plan is filed with the Building Department showing the location of all structures on the land.

(7) ~~(6)~~ Except where otherwise provided for in these regulations, no building to be used as a dwelling, shall be constructed or altered in the rear yard of, or moved to the rear yard of a dwelling situated on the same lot. No building shall be constructed in front of or moved to the front of a dwelling situated on the same lot.

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MEMORANDUM

TO: Comprehensive Plan Committee
FROM: Timothy Malone, Associate Planner
DATE: March 27, 2013
FOR AGENDA: April 4, 2013
SUBJECT: Referral review procedures in the absence of a quorum

In March, a quorum of CPC members was unable to meet due to inclement weather; the agency board meeting for the month had also been canceled. Two referrals for the month, however, required action before the next CPC meeting would occur. In the absence of a quorum, it was decided that the CCRPA staff recommendation would serve as the final determination for all referrals from March. No objections were received from CPC members.

In cases such as these, where a CPC meeting cannot be held and the monthly board meeting has been canceled, the most expeditious course of action is to allow CCRPA to submit the staff recommendation as the agency's final determination. This follows procedures in place during summer months, when no board or CPC meetings are held. Making this an official policy of the CPC would clarify procedures and reduce the burden on committee members when their presence is not required at an agency board meeting. The following changes could be made to Article IV, section C of the agency board bylaws (changes in bold):

> *"Staff shall act on behalf of the Agency in response to all referrals received during the summer months when the CPC does not meet,* ***or when is not present and no agency board meeting is scheduled****. A full account of* ~~***summer***~~ *referral activity shall be provided to the CPC Members at the following* ~~***September***~~ *regular meeting. In cases where referrals are deemed significant by the CPC Chairperson a special CPC* ~~***summer***~~ *meeting may be called"*

RECOMMENDATION

That your committee

Recommend to the agency board that the above changes be adopted.