

University of Connecticut
Department of Geography
Urban and Regional Planning

Lecture 4. Understanding Land Use Regulations

Adjunct Lecturer:
Donald J. Poland, MS, AICP
E-mail: don@donaldpoland.com
Web: www.donaldpoland.com

Roles and Regulatory Requirements

Fundamentals of the Land Use System

How Municipalities Regulate Land Use

- Many ways this is done:
 - Comprehensive Plan
 - Zoning
 - Subdivision
 - Building Codes
 - Covenants and Deed Restrictions
 - Environmental Regulations (Wetlands)
 - Aesthetic and Architectural Controls

Fundamentals of the Land Use System

The Roles and Responsibilities of Land Use Agencies

Capacity:

- Legislative: Adoption of laws or regulations
- Administrative: Administering process—approving applications
- Quasi- Judicial: Determining the proper use and application of law.



Fundamentals of the Land Use System

The Roles and Responsibilities of Land Use Agencies

<u>Land Use Commissions</u>	<u>Authority and Role</u>	<u>Policy</u>	<u>Legislative</u>	<u>Administrative</u>
Planning Commission	Policy Legislative Administrative	Create, adopt, and implement Plan of C & D	Create and adopt Subdivision Regulations	Administer applications, permits, and enforcement
Zoning Commission	Legislative Administrative	X	Create and adopt Zoning Regulations	Administer applications, permits, and enforcement
Conservation Commission (wetlands)	Legislative Administrative	X	Create and adopt Wetland Regulations	Administer applications, permits, and enforcement
Zoning Board of Appeals	Quasi-Judicial Administrative	X	X	Administer hearings for Appeals and variances

www.donaldpoland.com

5

Fundamentals of the Land Use System

The Roles and Responsibilities of Land Use Agencies

<u>Land Use Commissions</u>	<u>Authority and Role</u>	<u>Policy</u>	<u>Legislative</u>	<u>Administrative</u>
Conservation Commission	Policy	Inventory open space and natural resources	X	May provide recommendations
Historic Commission	Policy Legislative Administrative	Inventory historic resources	Create and adopt Historic Districts and Regulations	Administer applications, permits, and enforcement
Economic Development Commission	Policy	Inventory economic resources and promote economic development	X	May provide recommendations
Redevelopment Agency	Policy Administrative	Create and implement Redevelopment Plan	X	Administer statutory process for redevelopment

www.donaldpoland.com

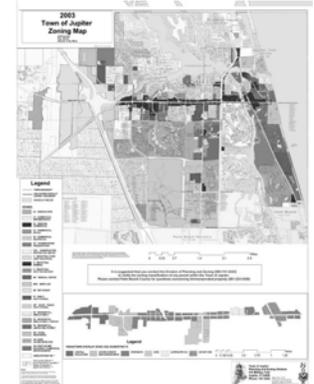
6

Zoning

Fundamentals of the Land Use System

Zoning – Standard Zoning Enabling Act (1922)

- Grants power to municipality for the purpose of "promoting health, safety, morals, or the general welfare of the community."
- Allows the division of community into districts or zones



www.donaldpoland.com

8

Fundamentals of the Land Use System

Zoning Basics

- What does zoning do?
 - Designated areas or zones of a municipality (use zones)
 - Regulates use, lot bulk, and lot area (density)
- Who is responsible for zoning?
 - Zoning is a local matter
 - Government body
 - A local commission (zoning commission)
 - Board of Appeals (Adjustments)
 - Staff

Fundamentals of the Land Use System

Statutory Authority – Zoning Commission (Chapter 124)

- C.G.S. Section 8-2 (Zoning Regulations):
 - The zoning commission of each city, town or borough is authorized to regulate...the height, number of stories and size of buildings and other structures; the percentage of the area of the lot that may be occupied; the size of yards, courts and other open spaces; the density of population and the location and use of buildings, structures and land for trade, industry, residence or other purposes, including water-dependent uses...and the height, size and location of advertising signs and billboards.
 - Such bulk regulations **may** allow for cluster development...
 - Such zoning commission **may** divide the municipality into districts of such number, shape and area as may be best suited to carry out the purposes of this chapter; and, within such districts, it may regulate the erection, construction, reconstruction, alteration or use of buildings or structures and the use of land.

Fundamentals of the Land Use System

Statutory Authority – Zoning Commission (Chapter 124)

- C.G.S. Section 8-2 (Zoning Regulations):
 - All such regulations **shall be uniform for each class or kind of buildings, structures or use of land throughout each district**, but the regulations in one district may differ from those in another district, and **may provide that certain classes or kinds of buildings, structures or uses of land are permitted only after obtaining a special permit or special exception**... the regulations **may**...designate, subject to standards set forth in the regulations and to conditions necessary to **protect the public health, safety, convenience and property values**.
 - Such regulations **shall be made in accordance with a comprehensive plan** and in adopting such regulations the commission **shall consider the plan of conservation and development**...
 - Such regulations **shall be designed to lessen congestion in the streets; to secure safety from fire, panic, flood and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population and to facilitate the adequate provision for transportation, water, sewerage, schools, parks and other public requirements**.

Fundamentals of the Land Use System

Statutory Authority – Zoning Commission (Chapter 124)

- C.G.S. Section 8-2 (Zoning Regulations):
 - Such regulations **shall be made with reasonable consideration as to the character of the district** and its peculiar suitability for particular uses and **with a view to conserving the value of buildings** and encouraging the most appropriate use of land throughout such municipality.
 - Such regulations **may**, to the extent consistent with soil types, terrain, infrastructure capacity and the plan of conservation and development for the community, **provide for cluster development...in residential zones**.
 - Such regulations **shall also encourage the development of housing opportunities**, including opportunities for **multifamily dwellings**, consistent with soil types, terrain and infrastructure capacity, for all residents of the municipality and the planning region in which the municipality is located...
 - Such regulations **shall also promote housing choice and economic diversity in housing**, including housing for both **low and moderate income households**, and **shall encourage the development of housing which will meet the housing needs identified in the housing plan**...and in the housing component and the other components of the state plan of conservation and development...

Fundamentals of the Land Use System

Statutory Authority – Zoning Commission (Chapter 124)

- C.G.S. Section 8-2 (Zoning Regulations):
 - **Shall** be made with reasonable consideration for their impact on agriculture.
 - **May** be made with reasonable consideration for the protection of historic factors and **shall** be made with reasonable consideration for the protection of existing and potential public surface and ground drinking water supplies.
 - The regulations **shall** provide that proper provision be made for soil erosion and sediment control...
 - Such regulations may also encourage energy-efficient patterns of development, the use of solar and other renewable forms of energy, and energy conservation. The regulations may also provide for incentives for developers who use passive solar energy techniques...in planning a residential subdivision development. The incentives may include...cluster development, higher density development and performance standards for roads, sidewalks and underground facilities in the subdivision.
 - Such regulations may provide for a municipal system for the creation of development rights and the permanent transfer of such development rights, which may include a system for the variance of density limits in connection with any such transfer.

Fundamentals of the Land Use System

Statutory Authority – Zoning Commission (Chapter 124)

- C.G.S. Section 8-2 (Zoning Regulations):
 - **No** such regulations shall prohibit the operation of any family day care home or group day care home in a residential zone.
 - Such regulations shall not impose conditions and requirements on manufactured homes having as their narrowest dimension twenty-two feet or more and built in accordance with federal manufactured home construction and safety standards or on lots containing such manufactured homes which are substantially different from conditions and requirements imposed on single-family dwellings and lots containing single-family dwellings.
 - Such regulations shall not prohibit the continuance of any nonconforming use, building or structure existing at the time of the adoption of such regulations. Such regulations shall not provide for the termination of any nonconforming use solely as a result of nonuse for a specified period of time without regard to the intent of the property owner to maintain that use. Any city, town or borough...may, by vote of its legislative body, exempt municipal property from the regulations prescribed by the zoning commission...but unless it is so voted municipal property shall be subject to such regulations.

Fundamentals of the Land Use System

Statutory Authority – Zoning Commission (Chapter 124)

- C.G.S. Section 8-2 (Zoning Regulations):
 - In any municipality that is contiguous to Long Island Sound the regulations...shall be made with reasonable consideration for restoration and protection of the ecosystem and habitat of Long Island Sound and shall be designed to reduce hypoxia, pathogens, toxic contaminants and floatable debris in Long Island Sound. Such regulations shall provide that the commission consider the environmental impact on Long Island Sound of any proposal for development.
 - In any municipality where a traprock ridge...or an amphibolite ridge...is located the regulations may provide for development restrictions in ridgeline setback areas...The regulations may restrict quarrying and clear cutting, except that the following operations and uses shall be permitted in ridgeline setback areas, as of right:
 - (1) Emergency work necessary to protect life and property;
 - (2) any nonconforming uses that were in existence and that were approved on or before the effective date of regulations adopted under this section; and
 - (3) selective timbering, grazing of domesticated animals and passive recreation.

Zoning Board of Appeals (Adjustments)

Fundamentals of the Land Use System

Statutory and Authority – Zoning Board of Appeals (Chapter 124)

- C.G.S. Section 8-6 (Powers and Duties):
 - To hear and decide appeals where it is alleged that there is an error in any order, requirement or decision made by the official charged with the enforcement of this chapter or any bylaw, ordinance or regulation adopted under the provisions of this chapter;
 - To hear and decide all matters including special exceptions and special exemptions under section 8-2g upon which it is required to pass by the specific terms of the zoning bylaw, ordinance or regulation; and



Fundamentals of the Land Use System

Statutory and Authority – Zoning Board of Appeals (Chapter 124)

- C.G.S. Section 8-6 (Powers and Duties):
 - to determine and vary the application of the zoning bylaws, ordinances or regulations in harmony with their general purpose and intent and with due consideration for conserving the public health, safety, convenience, welfare and property values solely with respect to a parcel of land where, owing to conditions especially affecting such parcel but not affecting generally the district in which it is situated, a literal enforcement of such bylaws, ordinances or regulations would result in exceptional difficulty or unusual hardship so that substantial justice will be done and the public safety and welfare secured, provided that the zoning regulations may specify the extent to which uses shall not be permitted by variance in districts in which such uses are not otherwise allowed.
 - Any variance granted by a zoning board of appeals shall run with the land and shall not be personal in nature to the person who applied for and received the variance.
 - A variance shall not be extinguished solely because of the transfer of title to the property or the invalidity of any condition attached to the variance that would affect the transfer of the property from the person who initially applied for and received the variance.

Fundamentals of the Land Use System

Problems with Zoning

- Nonconforming uses
- Spot Zoning
- Exclusionary Zoning
- Upzoning and Downzoning
- Rigid Land Use Control

Subdivision

Fundamentals of the Land Use System Standard City Planning Enabling Act (1928)

- Published by the Department of Commerce
- Adopted rapidly by many states
- Has developed into a significant regulatory tool

Fundamentals of the Land Use System Purpose of Subdivision

- Ensure subdivisions are properly designed
- Consumer protection
- Helps ensure the creation and preservation of adequate land records
- Determines the proper layout of roads and capital improvements
- Exactions

Fundamentals of the Land Use System Who is responsible for Subdivision?

- In Connecticut, the Planning Commission
- Has power to establish change or repeal subdivision regulations
- Approval of subdivision applications

Fundamentals of the Land Use System What else does Subdivision Regulate?

- Details on land division
- Street regulations
- Stormwater Management
- Water Quality
- Soil Erosion and Sedimentation Control
- Hazard Mitigation
- Open Space Mandates
- Landscaping and buffers

Fundamentals of the Land Use System

Subdivision and Streets

- Right-of-way
- Pavement Width
- Cul-de-sac length and radius
- Drainage
- Intersection sight-lines
- Utilities

Fundamentals of the Land Use System

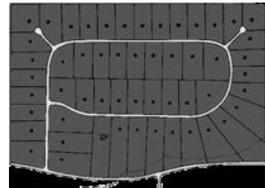
How Subdivision Relates to Zoning

- Zoning regulates the use of land
- Subdivision regulates the division of tracts into building lots and the provision of infrastructure
- In Connecticut, two separate commissions deal with each, but high frequency of combined commissions
- The lines are blurred

Fundamentals of the Land Use System

Statutory Authority – Planning Commission (C.G.S. Chapter 126)

- C.G.S. Section 8-18 (Definitions):
 - **Subdivision:** the division of a tract or parcel of land into three or more parts or lots made subsequent to the adoption of subdivision regulations... for the purpose, whether immediate or future, of sale or building development expressly excluding development for municipal, conservation or agricultural purposes, and includes resubdivision;



Fundamentals of the Land Use System

Statutory Authority – Planning Commission (C.G.S. Chapter 126)

- C.G.S. Section 8-18 (Definitions):
 - **Resubdivision:** a change in a map of an approved or recorded subdivision or resubdivision if such change (a) affects any street layout shown on such map, (b) affects any area reserved thereon for public use or (c) diminishes the size of any lot shown thereon and creates an additional building lot, if any of the lots shown thereon have been conveyed after the approval or recording of such map;



Fundamentals of the Land Use System

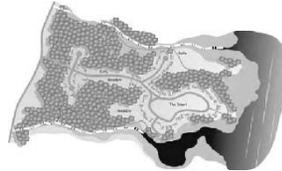
Statutory Authority – Planning Commission (C.G.S. Chapter 126)

■ C.G.S. Section 8-18 (Definitions):

- **Cluster Development:** a building pattern concentrating units on a particular portion of a parcel so that at least one-third of the parcel remains as open space to be used exclusively for recreational, conservation and agricultural purposes...



Source: Branford Plan of Conservation and Development



Fundamentals of the Land Use System

Statutory Authority – Planning Commission (C.G.S. Chapter 126)

■ C.G.S. Section 8-25 (Subdivision of Land):

- No subdivision of land shall be made until a plan for such subdivision has been approved by the commission... Before exercising the powers granted in this section, the commission shall adopt regulations covering the subdivision of land.
- Such regulations **shall** provide that the land to be subdivided shall be of such character that it can be used for building purposes without danger to health or the public safety, that proper provision shall be made for water, sewerage and drainage, including the upgrading of any downstream ditch, culvert or other drainage structure which, through the introduction of additional drainage due to such subdivision, becomes undersized and creates the potential for flooding on a state highway, and, in areas contiguous to brooks, rivers or other bodies of water subject to flooding, including tidal flooding, that proper provision shall be made for protective flood control measures and that the proposed streets are in harmony with existing or proposed principal thoroughfares shown in the plan of conservation and development...especially in regard to safe intersections with such thoroughfares, and so arranged and of such width, as to provide an adequate and convenient system for present and prospective traffic needs.

Fundamentals of the Land Use System

Statutory Authority – Planning Commission (C.G.S. Chapter 126)

■ C.G.S. Section 8-25 (Subdivision of Land):

- Such regulations **shall** also provide that the commission may require the provision of open spaces, parks and playgrounds when, and in places, deemed proper by the planning commission, which open spaces, parks and playgrounds shall be shown on the subdivision plan.
- Such regulations **may**, with the approval of the commission, authorize the applicant to pay a fee to the municipality or pay a fee to the municipality and transfer land to the municipality in lieu of any requirement to provide open spaces.
- Such regulations...shall provide that proper provision be made for soil erosion and sediment control...
- Such regulations **shall not impose conditions and requirements on manufactured homes** having as their narrowest dimension twenty-two feet or more and built in accordance with federal manufactured home construction and safety standards or on lots containing such manufactured homes which are substantially different from conditions and requirements imposed on single-family dwellings and lots containing single-family dwellings.

Fundamentals of the Land Use System

Statutory Authority – Planning Commission (C.G.S. Chapter 126)

■ C.G.S. Section 8-25 (Subdivision of Land):

- The commission **may** also prescribe the extent to which and the manner in which streets shall be graded and improved and public utilities and services provided and, in lieu of the completion of such work and installations previous to the final approval of a plan, the commission may accept a bond in an amount and with surety and conditions satisfactory to it securing to the municipality the actual construction, maintenance and installation of such improvements and utilities within a period specified in the bond.
- Such regulations **may** provide, in lieu of the completion of the work and installations above referred to, previous to the final approval of a plan, for an assessment or other method whereby the municipality is put in an assured position to do such work and make such installations at the expense of the owners of the property within the subdivision.
- Such regulations **may** provide that in lieu of either the completion of the work or the furnishing of a bond as provided in this section, the commission may authorize the filing of a plan with a conditional approval endorsed thereon.

Fundamentals of the Land Use System

Statutory Authority – Planning Commission (C.G.S. Chapter 126)

- C.G.S. Section 8-25 (Subdivision of Land):
 - The regulations...shall also encourage energy-efficient patterns of development and land use, the use of solar and other renewable forms of energy, and energy conservation.
 - ...passive solar energy techniques mean site design techniques which maximize solar heat gain, minimize heat loss and provide thermal storage within a building during the heating season and minimize heat gain and provide for natural ventilation during the cooling season. The site design techniques shall include, but not be limited to: (1) House orientation; (2) street and lot layout; (3) vegetation; (4) natural and man-made topographical features; and (5) protection of solar access within the development.
 - The regulations...may, to the extent consistent with soil types, terrain, infrastructure capacity and the plan of development for the community, provide for cluster development, and may provide for incentives for cluster development such as density bonuses, or may require cluster development.

Inland Wetlands and Watercourses

Fundamentals of the Land Use System

How are Wetlands Legally Protected in Connecticut?

- In 1972, the State Legislature enacted the Inland Wetlands and Watercourse Act
- Recognizes the importance of wetlands and that we must balance economic growth and land use with the need to protect the environment
- The Act creates land use regulatory process which considers the environmental impacts of proposed development activities

Fundamentals of the Land Use System

Connecticut Inland Wetlands Commission

- Acts as an agent of the State to protect a critical natural resource
- Adopts and amends Inland Wetland and Watercourse regulations and boundary maps
- Advisory to other land use boards on wetland regulations (planning and zoning can not act until report from Wetlands Commission)
- Acts on petitions for changes in regulations and applications for regulated activities
- Enforces the Inland Wetland and Watercourse regulations and permit conditions
- Regulates certain activities in and near Inland Wetlands and Watercourses that are "likely to affect" the wetland or watercourse

Fundamentals of the Land Use System

Statutory and Authority – Wetlands Commission (CGS Chapter 440)

- C.G.S. Section 22a-36 (Legislative Findings):
 - The inland wetlands and watercourses of the state...are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed.
 - The wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and to the existence of many forms of animal, aquatic and plant life.
 - Many inland wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses.

Fundamentals of the Land Use System

Statutory and Authority – Wetlands Commission (CGS Chapter 440)

- C.G.S. Section 22a-36 (Legislative Findings):
 - Therefore, the purpose of sections 22a-36 to 22a-45...to protect the citizens of the state by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses by minimizing their disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by federal, state or local authority; preventing damage from erosion, turbidity or siltation; preventing loss of fish and other beneficial aquatic organisms, wildlife and vegetation and the destruction of the natural habitats thereof; deterring and inhibiting the danger of flood and pollution; protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational and other public and private uses and values; and protecting the state's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement by providing an orderly process to balance the need for the economic growth of the state and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of the state, the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.

Fundamentals of the Land Use System

Statutory and Authority – Wetlands Commission (CGS Chapter 440)

- C.G.S. Section 22a-38 (Definition):
 - **Wetlands:** land, including submerged land...which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial, and floodplain by the National Cooperative Soils Survey...of the Natural Resources Conservation Service of the United States Department of Agriculture.
 - **Watercourses:** rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon this state or any portion thereof.... Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics:
 - (A) Evidence of scour or deposits of recent alluvium or detritus,
 - (B) the presence of standing or flowing water for a duration longer than a particular storm incident, and
 - (C) the presence of hydrophytic vegetation.

Fundamentals of the Land Use System

Statutory and Authority – Wetlands Commission (CGS Chapter 440)

- C.G.S. Section 22a-38 (Definition):
 - **Regulated Activity:** any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses...
 - **Feasible:** able to be constructed or implemented consistent with sound engineering principles.
 - **Prudent:** economically and otherwise reasonable in light of the social benefits to be derived from the proposed regulated activity provided cost may be considered in deciding what is prudent and further provided a mere showing of expense will not necessarily mean an alternative is imprudent.

Fundamentals of the Land Use System

Statutory and Authority – Wetlands Commission (CGS Chapter 440)

- C.G.S. Section 22a-40 (Permitted Operations and Uses):
 - Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less essential to the farming operation...
 - A residential home (i) for which a building permit has been issued or (ii) on a subdivision lot, provided the permit has been issued or the subdivision has been approved...
 - Boat anchorage or mooring
 - Uses incidental to the enjoyment and maintenance of residential property...
 - Construction and operation, by water companies...or by municipal water supply systems...
 - Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted...or July 1, 1974
 - Conservation of soil, vegetation, water, fish, shellfish and wildlife; and
 - Outdoor recreation including play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, water skiing, trapping, hunting, fishing and shellfishing where otherwise legally permitted and regulated.

Fundamentals of the Land Use System

Statutory and Authority – Wetlands Commission (CGS Chapter 440)

- C.G.S. Section 22a-41 (Factors for Consideration):
 - The environmental impact of the proposed regulated activity on wetlands or watercourses;
 - The applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses;
 - The relationship between the short-term and long-term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses;
 - Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (A) prevent or minimize pollution or other environmental damage, (B) maintain or enhance existing environmental quality, or (C) in the following order of priority: Restore, enhance and create productive wetland or watercourse resources;

Fundamentals of the Land Use System

Statutory and Authority – Wetlands Commission (CGS Chapter 440)

- C.G.S. Section 22a-41 (Factors for Consideration):
 - The character and degree of injury to, or interference with, safety, health or the reasonable use of property which is caused or threatened by the proposed regulated activity; and
 - Impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses.

Fundamentals of the Land Use System

Statutory and Authority – Wetlands Commission (CGS Chapter 440)

- C.G.S. Section 22a-42 (Municipal Regulations):
 - To carry out and effectuate the purposes and policies of sections 22a-36 to 22a-45a...it is hereby declared to be the public policy of the state to require municipal regulation of activities affecting the wetlands and watercourses within the territorial limits of the various municipalities or districts.
 - Any municipality may acquire wetlands and watercourses...by gift or purchase...lease, easement or covenant...
 - Each municipality shall establish an inland wetlands agency...to carry out the provisions of sections 22a-36 to 22a-45...
 - At least one member of the inland wetlands agency or staff of the agency shall be a person who has completed the comprehensive training program developed by the commissioner pursuant to section 22a-39.

Fundamentals of the Land Use System

Statutory and Authority – Wetlands Commission (CGS Chapter 440)

- C.G.S. Section 22a-42a (Boundaries, Regulations, and Permits):
 - The inland wetlands agencies authorized in section 22a-42 shall through regulation provide for
 - (1) the manner in which the boundaries of inland wetland and watercourse areas in their respective municipalities shall be established and amended or changed,
 - (2) the form for an application to conduct regulated activities,
 - (3) notice and publication requirements,
 - (4) criteria and procedures for the review of applications and
 - (5) administration and enforcement.

Permits and Land Use Terminology

Fundamentals of the Land Use System

Land Use Applications and Permits

<u>Land Use Permits Authorized By Commissions</u>	<u>Explanation</u>	<u>Comments</u>
Site Plan	The review of a proposed development to ensure the development complies with the regulations. No hearing required.	Less significant development proposals are sometimes approved by staff (example, interior change of use)
Special Permit or Special Exception	Site plan review for a development or use that may have adverse impacts and additional review/standards. Public hearing required.	Use/developments that may not be suitable for all locations with a zone.
Subdivision and Resubdivision	The review of a proposal to divide land into 3 or lots or subsequent revision to approved lots and public infrastructure.	1 st cut from a lot-of-record is exempt from approval.
Variance	A permit to legally violate the zoning regulations where the regulations create an unusual hardship.	Hardship cannot be financial or self-created and must be unique to the parcel and not the zone.

Fundamentals of the Land Use System

Land Use Applications and Permits

<u>Authorized By Commissions</u>	<u>Explanation</u>	<u>Comments</u>
Zone Change: Map Amendment	A proposed change to the Zoning Map. Is a legislative action of the Commission. A public hearing is required.	May be the creation of a new zoning district or a change in an existing district boundary.
Zone Change: Text Amendment	A proposed change to the text of the Zoning Regulations. Is a legislative action of the Commission. A public hearing is required.	May be a change to or elimination of an existing provision or the addition of a new provision.
Wetlands Permit: No Jurisdiction	The wetlands commission can determine they have no jurisdiction on an application with no significant impact to wetlands.	Determinations of no jurisdiction should be documented.
Wetlands Permit: Significant Impact	A public hearing is required when significant impact to wetland areas are possible.	Disturbance of six acres or more may require Army Corp. permit.

Fundamentals of the Land Use System
Land Use Applications and Permits

<u>Authorized By Staff</u>	<u>Explanation</u>	<u>Comments</u>
Zoning Permit	Issued by the ZEO to authorize construction activity that is in compliance with the zoning regulation.	A zoning permit is an administrative approval. May be its own document or a signoff on a building permit.
Certificate of Zoning Compliance	Issued by the ZEO to certify that activity associated with a zoning permit was constructed in compliance with the zoning regulation.	Can be issued as its own document or as a signoff on a building permit.
Building Permit	Issued by the Building Official to authorize construction activity that is in compliance with the State Building Code.	A building permit may not be issued unless a zoning permit or signoff has been issued.
Certificate of Occupancy (CO)	Issued by the Building Official authorizing the occupancy of a property after construction is complete.	A CO ensures compliance with the code.

Fundamentals of the Land Use System
Site (Development) Plan Requirements

SITE DEVELOPMENT PLAN

- An site development plan shall be submitted showing the following information unless specifically waived by the Zoning Enforcement Officer or the Commission:
- The professional seal of a licensed professional engineer or a licensed landscaped architect,
- Natural Resource Information
 - existing and proposed contours at two foot intervals, based on field data or aerial photogrammetry with proper ground control,
 - spot elevations at high and low points for a distance at least 100 feet beyond the construction limits,
 - location of existing waterbodies, water courses, swamps and marshes with the direction of flow and water surface elevations within the property and for at least 50 feet beyond the boundary lines,
 - accurate delineation of all soil types designated as Inland Wetlands,
 - delineation of flood hazard areas, and
 - any existing trees greater than 12 inches in caliper.

Fundamentals of the Land Use System
Site (Development) Plan Requirements

- Infrastructure Information
 - existing and proposed sewage disposal systems, wells and other uses on the subject property and adjacent properties for a distance of 100 feet from the boundary.
 - size, top of frame, and invert elevations for all existing and proposed culverts manholes, or catch basins,
 - existing streets and appurtenances adjacent to or abutting the property, including walls, fences, pins, and monuments of both sides of such streets, locations and width of pavement, utility poles and their numbers, storm drainage structures, public utilities, driveways, intersections with other streets and street lights.
 - existing and proposed storm drainage, sanitary sewer and water supply facilities and easements including the location of all facilities as proposed in [Town Name]'s Plan of Conservation & Development.

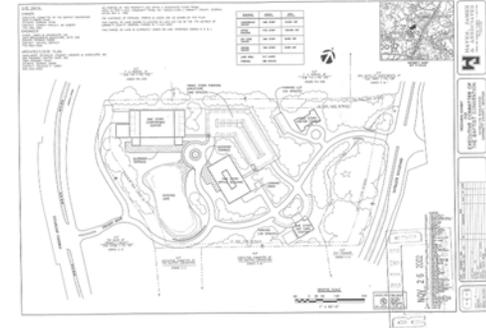
Fundamentals of the Land Use System
Site (Development) Plan Requirements

- Development Information
 - existing and proposed buildings on the subject property and adjacent properties for a distance of 100 feet from the boundary.
 - recognized landmarks, including walls, fences, private roads and ways on the property and adjacent properties for a distance of 50 feet.
 - location and height of all existing and proposed structures including signs and lighting.
 - location of all uses not requiring a structure.
 - Permanent bench mark plus an additional permanent elevation reference for every 5 acres, or part thereof.
 - Fences or embankments where necessary for the protection and safety of vehicular and pedestrian traffic.

Fundamentals of the Land Use System
Site (Development) Plan Requirements

- Traffic and Parking Information
 - location of driveways, loading and parking areas showing the number of spaces.
 - proposed interior traffic circulation system, adequately designed to provide safe accessibility to all required off-street parking as well as providing police and fire protection to all structures, equipment and materials.
 - proposed provisions for pedestrian traffic including concrete sidewalks and/or easement where required by the Commission.
- limits of areas to be permanently paved and provided with lip curbing, and parking and planting islands.

Fundamentals of the Land Use System
Site Development Plan



Fundamentals of the Land Use System
Site Development Plans and Subdivisions



Fundamentals of the Land Use System
Land Use and Zoning Terminology

<u>Term or Phrase</u>	<u>Explanation</u>	<u>Comments</u>
Overlay Zone	A special zoning district that is imposed over an existing zoning district.	Often used for special areas or circumstances. Examples, commercial development, mixed use, and lake districts.
Floating Zone	A zoning district adopted in the zoning regulations but not defined on the zoning map. It is intended to be placed on the map at a future time.	Often used for special circumstances or uses. Overlay zones often start as floating zones.
Transfer of Development Rights (TDR)	A program and legal process to transfer the development rights of one property to another property. Allows the transfer of density.	A method of preserving open space in one area of a community.
Floor Area Ratio (FAR)	A ratio or calculation that regulates the maximum size of a building in proportion to lot size.	Most often used for high density commercial development.

Fundamentals of the Land Use System

Land Use and Zoning Terminology

Term or Phrase	Explanation	Comments
Conservation or Open Space Subdivision	A method of subdivision design that clusters development on a portion of the development site to preserve the remainder of the site as open space.	Sometimes call cluster development.
Affordable Housing (C.G.S. Sec. 8-30g)	A housing development providing 30% of the units as affordable households at 80% or less of regional median income.	If the town does not have 10 percent affordable housing, the development may draft its own regulation.
Smart Growth	A set of planning principles aimed at directing development in to core areas and preserving rural outlying areas.	Promotes TND, TOD, brownfield redevelopment, farmland preservation, etc.
Euclidian Zoning	Traditional zoning where uses are regulated and mostly separated.	The name come from the 1926 Supreme Court case that upheld zoning as a legal use of the police powers.

Fundamentals of the Land Use System

Land Use and Zoning Terminology

Term or Phrase	Explanation	Comments
Traditional Neighborhood Design (TND)	A compact, mixed-use neighborhood or development where residential, commercial, and civic use are in close proximity.	New Urbanism promotes TND. Lifestyle centers (Blue Back Square) utilize TND principles.
Transit Oriented Development (TOD)	Moderate- or high-density housing and mixed use developments that encourage the use of public transit.	TOD often incorporates the principles of TND.
Form Based Codes	An approach to zoning regulations that focuses on form (design) rather than use (function).	Promoted by New Urbanist as a solution to the "problems" of Euclidian zoning.
Low Impact Design	An environmentally friendly approach to site design and stormwater management.	Reduced runoff and discharge.

Fundamentals of the Land Use System

Land Use and Zoning Terminology

Term or Phrase	Explanation	Comments
Lot or Parcel	A single parcel or tract of land under separate ownership.	Lot of record existed before subdivision.
Lot Line	A line dividing one lot from another or from a public street.	The property line bounding the lot.
Setback: Front, side, and rear yard	Minimum distance a building or structure must be "setback" from a property line. Establishes yards.	Distance may be different for accessory structures
Minimum Lot Size	The minimum size, as required by zoning, that a lot must be.	Minimum lot size is a driving factor in the value of residential property.

Fundamentals of the Land Use System

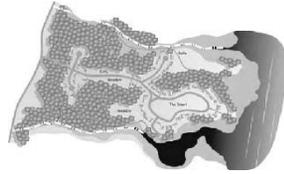
Land Use and Zoning Terminology

Term or Phrase	Explanation	Comments
Minimum Frontage	The minimum length of "frontage" a lot must have on a public street.	Influences lot size, density, and infrastructure costs.
Maximum Building Height	The maximum height, as required by zoning, that a building can be.	Measurements of height often vary by type of roof design.
Building Coverage	The maximum amount of land area that a building and/or structure can cover. Usually a percent of total lot area.	Can influence building size, number of stories, and lot size.
Impervious Coverage	The maximum amount of land area that building, structure, driveways and patios can cover. Usually a percent of total lot area.	Is a significant calculation for commercial developments due to the amount of parking required.

Fundamentals of the Land Use System

Land Use Concepts – Conservation Subdivision

- Development is clustered to preserve more open space or to protect critical habitat.
- Regulations may provide for density bonuses or reduced minimum lot size.
- Design standards often include low impact drainage design:
 - Narrower streets
 - Soft shoulders
 - Swales in place of pipes
 - Wetlands used for drainage capacity

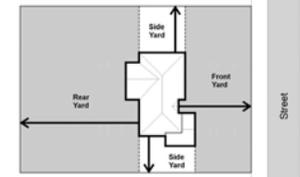
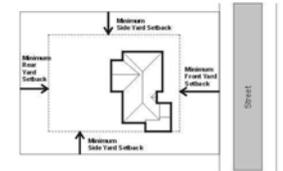


Source: Branford Plan of Conservation and Development
www.donaldpoland.com 61

Fundamentals of the Land Use System

Land Use Concepts – Setbacks and Yards

- Minimum setbacks - front, side, and rear setbacks
- Establishment of yards

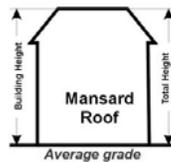
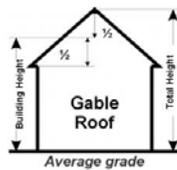


Source: Bloomfield Zoning Regulations
www.donaldpoland.com 62

Fundamentals of the Land Use System

Land Use Concepts – Height and Measurement

- Maximum building height and measurement for Gable Roof
- Maximum building height and measurement for Mansard Roof

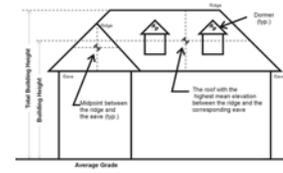
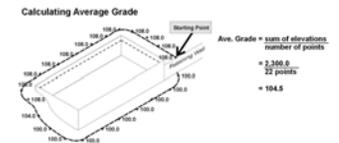


Source: Bloomfield Zoning Regulations
www.donaldpoland.com 63

Fundamentals of the Land Use System

Land Use Concepts – Height and Measurement

- Calculating Average Grade
- Measuring height



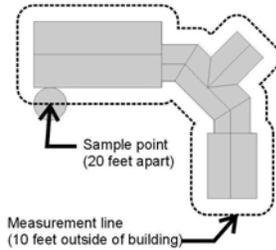
Source: Ridgfield Zoning Regulations
www.donaldpoland.com 64

Fundamentals of the Land Use System

Land Use Concepts – Height and Measurement

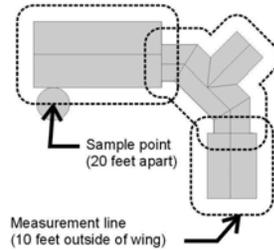
Average Grade (Building)

Take the lowest spot elevation within ten (10) feet of sample points located every twenty(20) feet along the measurement line for the entire building and average all of the elevations.



Average Grade (Building Wings)

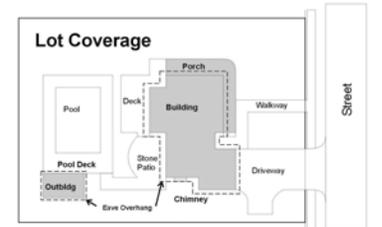
Take the lowest spot elevation within ten (10) feet of sample points located every twenty(20) feet along the measurement line of each wing and average the elevations for each wing separately.



Fundamentals of the Land Use System

Land Use Concepts – Lot Coverage

Calculating Lot Coverage



Fundamentals of the Land Use System

Land Use Concepts – Types of Lots and Yard Locations

Displays the configuration of lots and location of required yards:

- Front Lot (Corner)
- Front Lot
- Front Lot (Pie Shaped)
- Rear Lot



Fundamentals of the Land Use System

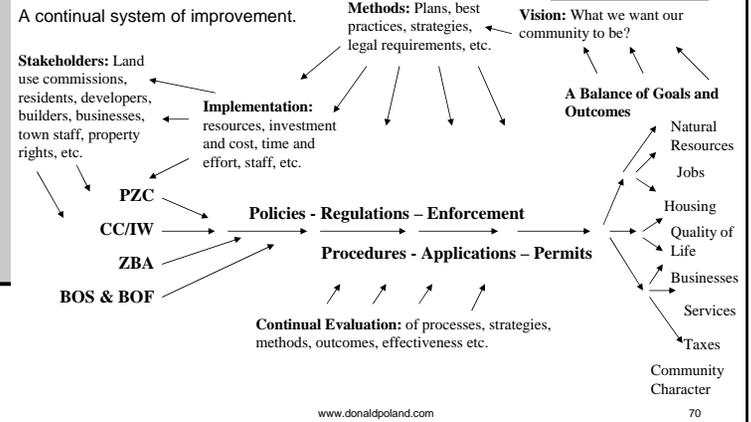
Zoning Basics

- 'By right' and permitted uses
- Conditionally or special permit uses
- Non-permitted uses
- Bulk and density limitations
- Accessory uses vs. Accessory buildings

Land Use as a System

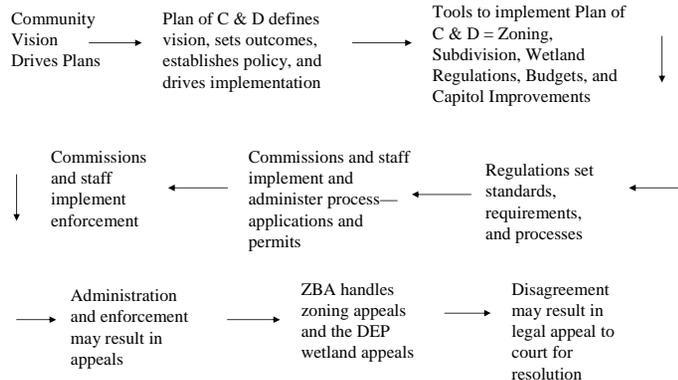
Understanding Land Use Administration as a System

Land Use Administration as a Flow Diagram



Understanding Land Use Administration as a System

Planning and Land Use Administration Process



Understanding Land Use Administration as a System

The Land Use System

Challenges

- Private property and property rights v's protecting public health, safety, and welfare
 - How do we balance these?
- Development and growth v's conservation and preservation
 - How do we balance these?
- Legal requirements for a transparent public process

Benefits

- Protects public health, safety, general welfare
- Protects public interest
- Protect the environment
- Protects property values by providing a stable and predictable real estate market

Putting it together and making
it work

Fundamentals of the Land Use System

So how does this all work?

- Applicant applies for a zoning permit.
- Staff reviews, decides if it is an “as of right” use or requires additional review
- If requires additional reviews, goes to zoning commission
- Applicant needs to submit all information required in zoning ordinances
- Commission reviews, decides whether your application meets the letter of the ordinance
- If it meets the requirements, commission votes to accept. Off you go to build
- In not, commission rejects
- You can then appeal to the courts, if you feel the commission acted improperly
- Which court would you go to first:

Fundamentals of the Land Use System

Summary of Land Use Regulations

- Many ways land use is regulated
- Should be an “implementation” step of a planning process
- Zoning concerned with lot use, bulk, and density
- Subdivision concerned with the division of land
- Wetlands regulations concerned with the protection of wetlands