

## SECTION 85 – SPECIAL PERMITS

### 85.1 PURPOSE AND INTENT

The Planning and Zoning Commission (hereafter **Commission**) shall have exclusive jurisdiction over those matters involving the use of property for such uses are permitted by Special Permit only. It is hereby recognized that such **uses** are an important part of an overall community, but are of the type of **use** that would not normally be concentrated together within a single area. Instead, these **uses** are typically interspersed throughout a community, and therefore, should be regulated on a lot-by-lot basis to determine the particular suitability of the requested location for the proposed **use**.

### 85.2 DEFINITIONS

85.2.1 **SPECIAL PERMIT:** The **use** of property for uses normally incidental to urban life but permitted only upon limited, regulated circumstances specified within zoning district regulations.

### 85.3 GENERAL REQUIREMENTS

85.3.1 **Findings Required.** The **Commission** shall make all the findings required in the applicable sections of this Article and the provision of the applicable zoning district with respect to each special permit **use**.

The **Commission** shall deny a special permit **use** whenever such **use** is contrary to the Plan of Conservation and Development or will interfere with an existing or proposed public improvement project (including streets or highways, public buildings or facilities, redevelopment or renewal projects, or rights of way for sewers, transit or other public facilities which are planned for the City of West Haven.

85.3.2 **Traffic Referral.** In all cases, the **Commission** may refer the application to the Traffic Authority of the City of West Haven for its report with respect to the anticipated traffic congestion resulting from such special permit use in the proposed location. The **Commission** shall, in its determination, give due consideration to such report and, further shall either adopt same or shall state on the record its reasons for rejecting the Traffic Authority's recommendations. Should the Commission deem it necessary, due to a specific possible traffic conflict situation, the Commission may engage the services of a traffic consultant of its choice and the cost of such consulting services shall be borne by the applicant.

85.3.3 **Time Limit.** Where appropriate, the **Commission** may limit any special permit use for a term of years, provided it states on the record its reasons therefore.

85.3.4 **Enlargement or Extension.** A Special Permit Use may only be created, or if pre-existing, moved, reconstructed, expanded, or enlarged upon application under the process provided herein. The **Commission** may permit the enlargement or extension of any existing use which, if new would be permitted only by special permit, provided that such enlargement or extension does not create a new **non-compliance** with applicable bulk regulations.

### 85.4 SPECIFIC FINDINGS

It shall be a further requirement that the decision or determination of the **Commission** shall set forth the following specific required findings in each grant of a special permit, and in each denial thereof, which of the required findings has not been satisfied. In any case, each finding shall be supported by substantial evidence of other data considered by the **Commission** in reaching its final decision, including the personal knowledge of or inspection by members of the Commission.

- 85.4.1 The principal vehicular access for such **use** is not located on a minor street (local), but is located on an arterial street or collector street within one-quarter mile of an arterial street.
- 85.4.2 Such **use** is so located as to draw a minimum of vehicular traffic to and through local streets within any surrounding residential development.
- 85.4.3 The architectural and landscaping treatment of such **use** will blend harmoniously with the rest of the area.
- 85.4.4 Provisions have been made to minimize any disturbances or nuisance to surrounding properties arising out of the creation of such **use**, including the provision of landscaped screens and buffers.
- 85.4.5 Reservoir space at vehicular entrances and exits are provided to prevent traffic congestion and vehicular entrances and exits for such **use** are separately provided.
- 85.4.6 Provision is made with respect to drainage, outside lighting or illumination and signs so as to minimize any adverse effect on the character of the surrounding area.
- 85.4.7 Provision is made with respect to requirements for soundproofing, construction of fences, barriers, or other safety devices.

**85.5 SPECIAL PERMIT USES IN RESIDENTIAL DISTRICTS**

- 85.5.1 **Purpose. Uses** Special permit **uses** in residential districts are permitted only at the discretion of the **Commission**, subject to the standards and procedures of Article 10, including a public hearing and Site Plan Review (Section 75).

It is hereby recognized that there are certain, non-residential uses which are a necessary part of the community that if properly controlled are compatible within residential neighborhoods.

In making its decision on any application for a Special Permit use the **Commission** must weigh the interests of the community in having the Special Permit use, together with the interest of the landowner, against that of the surrounding neighborhood.

If the **Commission** deems that the proposed use is in the best interests of the community as a whole, the **Commission** shall make findings relative to the interest of the community and the impact of the application on the Plan of Conservation and Development.

Nothing herein shall prohibit the combining of any public hearing for municipal improvement as required by Connecticut General Statutes 8-24 with the public hearing required for a Special Permit for such a municipal improvement.

- 85.5.2 **Standards for Special Permit in Residential Zones.** The **Commission** shall establish conditions or requirements to protect adjoining, residential neighborhoods, to minimize any adverse effect on the surrounding area and to have the Special Permit blend into the neighborhood as unobtrusively as possible. In granting any Special Permit the **Commission** shall establish as a minimum condition of approval, conditions concerning the operation, location and use of the property relative to the following:

1. Landscaped buffers (of not less than 15 feet, nor more than 50 feet);
2. Signs and lighting design so as not to permit light to exit beyond the property boundary;
3. Design and character of buildings to blend in with surrounding residences;
4. Location of accessory uses on property so as to minimize impact on the surrounding neighborhood;
5. Location of property on a major street or artery.

**85.6 SPECIAL PERMIT USES IN COMMERCIAL DISTRICTS**

**85.6.1 Standards for Special Permit Uses in Commercial Zones:**

1. In addition to the criteria set forth in the sections above the **Commission** shall establish certain conditions or requirements to protect adjoining property values, to minimize any potential traffic, safety or other hazard which may be created, to prevent encouragement of immoral behavior, and to have the Special Permit Use blend into the adjoining neighborhoods as unobtrusively as possible.
2. In granting any Special Permit the **Commission** may establish conditions limiting the Special Permit operation, location and use, provided same fulfills this section's purposes.
3. In granting any Special Permit the **Commission** shall establish as minimum conditions of approval that the property have landscaped buffers (of not less than 25 feet nor more than 75 feet) when adjoining any residential district;
4. All Special Permit Uses shall be subject to provisions that may apply relative to liquor and day care regulations;
5. In addition, no gaming facility, Drive-In or Drive-Up Restaurant, Massage Parlor, Adult Book Store, or Amusement Center shall be located within 1,000 feet from any school, park or playground.

**85.7 SPECIAL PERMIT USES IN INDUSTRIAL DISTRICTS**

**85.7.1 Standards for Special Permit use in Industrial Districts.** The Commission shall establish certain conditions or requirements to protect adjoining property values, to minimize any potential traffic, safety or other hazard which may be created.

1. In granting any Special Permit the **Commission** may establish conditions affecting the operation, location and **use** provided same fulfills the purposes of this Section and Article.
2. In granting any Special Permit the **Commission** shall establish as a minimum condition of approval that the property has landscaped buffers of not less than 75 feet or more than 100 feet when adjoining any district other than other industrial zones.
3. No Special Permit may be granted without a certification from a Connecticut Licensed Engineer that the facility as designed and built will meet all state, local and federal standards for air, water and noise pollution.

**85.8 Continuing Nature of Standards.**

The regulations, prohibitions, and standards herein set forth are expressly declared to be of **continuing application**. Any permission granted by the Planning and Zoning Commission to use land for business or commercial purposes shall be subject to compliance with the regulations, prohibitions and standards set forth herein and **failure to comply within 72 hours** after written notice of non-compliance from the Planning and Zoning Commission, said **Commission may revoke any permission previously granted** and enjoin such use. No building permits shall be issued until a fixed mylar of the final approved Special Permit Site Plan is recorded in the Office of the City Clerk and the required bonds have been received by the City Engineer.