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Insertions: 2

LEGAL NOTICE
Town of Litchfield
Planning and Zoning Commission

Notice is hereby given that the Planning and Zoning Commission of Litchfield, Connecticut will hold public hearings on March 15, 2021 at 7:00 P.M. via live internet streaming to consider the following:

Proposed text amendments to the Zoning Regulations:

Sweet Grounds LLC - Zone text amendment to allow for bakery, accessory drive thru use in C202 district.

At this hearing interested persons may appear and be heard and written communication will be received. Copies of the applications, amendment/maps are on file in the Land Use Office of the Town of Litchfield at the Town Hall Annex, 80 Doyle Road, Bantam, Connecticut.

Carol Bramley
Chairman
R-A March 3 & 12, 2021



Total Order Price: \$162.40

Salesperson: Regina | **Printed on:** 3/2/2021
Telephone: 203-574-3636 ext 1124 | **Fax:** 203-754-0644

Town of Litchfield

Zoning Regulations Text Amendment Application

NAME AND ADDRESS OF APPLICANT:

Sweet Grounds, LLC
 126 South Main Street
 Torrington, Connecticut 06790
 c/o Christopher J. Smith, Esquire
 Alter & Pearson, LLC
 P.O. Box 1530
 Glastonbury, CT 06033
 Phone: (203) 623.0545
 E-mail: csmith@alterpearson.com


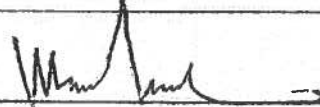
Date Received	Meeting Date	Action Indicated	File Date

EXISTING REGULATION:

Section:	"Specific Standards and Requirements"; "G-202 Route 202 Commerce "; Appendix A, "Min Parking Requirements"
Subsection:	Not applicable
Existing Language (<i>attach additional sheets if necessary</i>):	Not applicable

PROPOSED REGULATION:

Section:	Proposed NEW Section or Subsection FF; "Bakery, Accessory Drive-Thru Use"; also, see Exhibit A.
Subsection:	Please see Exhibit A.
Proposed Language (<i>attach additional sheets if necessary</i>):	Please see Exhibit A.

		Janaury 21 / 2021
Signature of Applicant	Signature of Owner	Date

Sweet Grounds, LLC, Duly Authorized 6645 Federal Square Realty, LLC, Duly Authorized
 Fee for Changes to Zoning Regulations: \$500.00 (Note: Additional fees may be charged for outside consulting services)

All permit applications shall be subject to the current State of Connecticut DEEP Environmental Quality Fund Fee in addition to the municipal fee.

CK 5335
 Sweet Grounds

Sweet Grounds, LLC

January 21, 2021

Via hand-delivery and email delivery only

Carol Bramley, Chair
Planning & Zoning Commission
c/o Dennis Tobin, PhD
Land Use Administrator
Town of Litchfield
80 Doyle Road
P.O. Box 12
Bantam, CT 06750

Re: Application for zone text amendments to allow for a "Bakery, Accessory Drive-Thru Use", in limited circumstances and subject to Special Exception review and other requirements.

Dear Chair Bramley and Members of the Commission,

We thank you for your time in review and consideration of our attached application for zone text amendments. We are the tenant and operator of the Dunkin Donuts located at 7 Village Green Drive in Litchfield, Connecticut. Our business has been a part of the community at its current location for 27 years. As such, we respectfully submit our application in response to the overwhelming desire of our customers, a very clear understanding and demonstrated need for the safest and most efficient methods of providing our products to the community at large, given the health and safety standards by which we all now live and conduct business.

Our Application proposes: (1) a new "Bakery, Accessory Drive-Thru Use" as a new Section FF in the "Specific Standards and Requirements" Section of the Zoning Regulations ("Regulations"); (2) a new "Bakery with Accessory Drive-Thru Use", subject to Special Exception review and approval, in the C-202 Zone District provisions of the Regulations; and (3) an "Accessory" Drive-Thru Use for Bakeries" under the "Commerce Uses" in Appendix A of the Regulations that govern "Minimum Parking Requirements".

We respectfully submit that the proposed text amendments not only address a clearly established need as a direct result of our changed health and economic conditions, but that the amendments are also: (1)

consistent with the Towns comprehensive plan (Zoning Regulations and Zone Map); (2) consistent with the Litchfield 2017 Plan of Conservation and Development; and (3) will not result in an adverse impact but will in fact result in a significant positive impact on public health, safety and welfare of our customers and the entire community at large.

We enclose the Application with proposed text amendments listed in Exhibit A to the Application, and the requisite filing fee.

We look forward to presenting this important and much needed proposal to the Commission.

With our best regards.

Respectfully,

A handwritten signature in cursive script that reads "Bill".

William A. Zampaglione, On behalf of:

Sweet Grounds, LLC

Home office:

126 South Main Street

Suite 200

Torrington, CT. 06790

(860)689-6007

bzampaglione@sweetgroundslc.com

EXHIBIT A

SWEET GROUNDS, LLC: ZONE TEXT AMENDMENT FOR ACCESSORY DRIVE-THRU USE FOR A BAKERY PRINCIPAL USE

I. New section in "Specific Standards and Requirements"

NEW:

Section FF. BAKERY, ACCESSORY DRIVE-THRU USE

An accessory drive-thru use, may be permitted for an established or existing principal bakery use, which may include a valid, nonconforming bakery use, or valid, nonconforming restaurant or retail store use that primarily sells ready-to-eat food products that qualifies as a bakery use as defined in these Regulations, where the principal use satisfies the following minimum site requirements: (a) is located within a commercial shopping center on a lot or parcel that comprises a minimum of eight acres within the C-202 Zone District; (b) comprises a minimum of 900 square feet and not more than 1,200 square feet; (c) provides for outdoor patio seating with a minimum of 10 seats; and (d) primarily sells baked goods along with other food or beverage products, or ready-to-eat food products, on-site. The accessory drive-thru use may include food and/or beverages, excluding alcohol, that are offered to customers from drive-thru service and/or walk-up window service. Such accessory drive-thru use is subject to Special Exception review and approval as provided by Section 6 of "Permits, Approvals and Exceptions" in these Regulations, and the following requirements and design standards:

- 1. The application shall include a statement of use that addresses the aforementioned minimum site requirements, hours of operation, staffing measures and a narrative of drive-thru features, including designated travel and stacking lanes, menu/order board(s), service window(s), and any associated mechanical devices.*
- 2. All drive-thru features, such as service windows, menu/order boards and stacking lanes, shall be a minimum of 100 feet, when measured from the principal building structure, from any residential building.*
- 3. A minimum of twelve stacking spaces shall be provided in the queuing lane to, and including, the furthest most drive-thru window. If the drive-thru has two menu/order boards, then the twelve stacking spaces may be divided between the queuing lanes for the menu/order boards.*
- 4. If there are two service windows, a minimum of thirty-five feet shall be provided between the service windows.*
- 5. Drive-thru stacking lanes shall be designed and located to minimize their crossing pedestrian accessways to the principal building. Any pedestrian accessway to the principal building that is crossed by a stacking lane shall be demarcated with a crosswalk. Drive-thru stacking lanes shall be delineated or separated from other vehicular use areas, including dumpster areas, with striping, curbing, landscaping or with other physical demarcation or separation measures.*
- 6. Each stacking space shall be a minimum of twenty feet in length and ten feet in width.*
- 7. Entrances to stacking lanes shall: (i) be clearly marked; and (ii) be a minimum of fifty feet from the entrance to the site.*

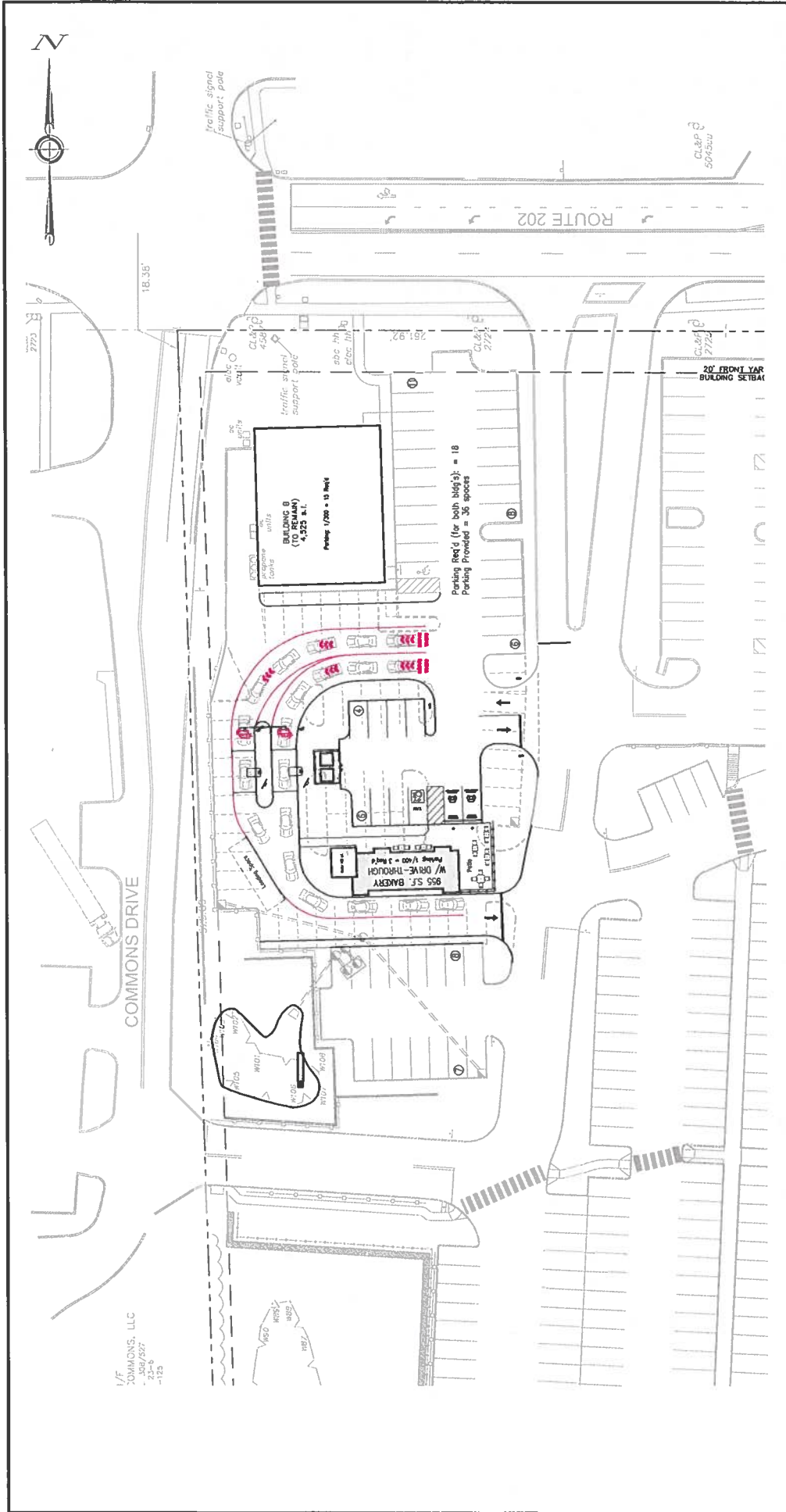
8. *Stacking lanes shall be designed to prevent circulation congestion, both on-site and on adjacent streets. On-site circulation shall: (i) separate drive-thru traffic from site circulation traffic; (ii) not impede or impair access into or out of on-site parking spaces; (iii) not impede or impair vehicular and/or pedestrian movement to or from the principal building or associated parking areas; and (iv) minimize conflicts between pedestrian and vehicular traffic with physical or visual separation between the two whenever possible.*
9. *Lighting and noise associated with the drive-thru features shall be designed to minimize impacts to adjacent residential properties or businesses. Screening, enclosures or other measures may be required, where appropriate, to minimize such impacts.*
10. *Any site plans and/or architectural plans required for a Special Exception, as provided by Section 6 of "Permits, Approvals and Exceptions" of these Regulations, shall be submitted that demonstrate compliance with the requirements provided for herein, and the requirements for Special Exception approval. In addition, the plans shall demonstrate that the design features are in keeping with the character of the business neighborhood and character of the community.*
11. *Notwithstanding any other provision of these Regulations, a valid, nonconforming bakery use may be relocated to another portion of the lot or parcel upon which it is located when an associated accessory drive-thru use is proposed, subject to the following: (i) the square footage associated with the valid, nonconforming bakery use is reduced by a minimum of 30%; and (ii) all other requirements for an accessory drive-thru use as provided in this Section, and Section 6 governing Special Exception applications, are met.*

II. New: Permitted Uses in C-202 Zone District under "The Litchfield Districts – Commerce Districts; C-202 Route 202 Commerce" under "Special Exceptions"

Bakery with Accessory Drive-Thru Use.

III. New: "Accessory Drive-Thru Use for Bakeries" in Appendix A, "Minimum Parking Requirements", under "Commerce Uses"

Bakeries with Drive-Thru: 1 space per 400 square feet, plus 12 stacking spaces.




CONCEPTUAL SITE LAYOUT PLAN			
Project No.	19100.26	Issue Date	01/12/21
Client No.	CP-SP9		
Project Name	BP	Client Name	

PROPOSED ACCESSORY DRIVE-THROUGH USE - CONCEPTUAL PLAZA LITCHFIELD VILLAGE GREEN DRIVE LITCHFIELD, CONNECTICUT

Clay Reed, P.E. #2341

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GR Engineering, LLC
Licensed Professional Engineers
Design/Build Services

133 East Main Street - Unit #3
Thomaston, Connecticut 06787
(860) 328-0000
info@gr-engineering.net



TOWN OF LITCHFIELD

P.O. BOX 488
LITCHFIELD, CONNECTICUT 06759

May 20, 1994

Sal Rocha
1174 Main Street
Watertown, CT 06795

RE: Special Exception/Site Plan Application

Dear Mr. Rocha:

At the May 16, 1994 Litchfield Planning and Zoning meeting your application for special exception/site plan review for property located at Federal Square was approved with conditions as follows:

1. Your engineer must provide a cost estimate for the improvements as shown on the approved Site Plan "Federal Square Site Plan for Dunkin' Donuts" and "Federal Square Parking Layout Prepared for Litchfield Properties". This estimate must be approved by the Town Engineer. A cash bond for the improvements must be posted.
2. The sign "Dunkin' Donuts" on the building will be 18 square feet and placed in the position above the doorway where the former tenant's sign was located.
3. The "Dunkin' Donuts" sign placed on the existing Federal Square Directory will be 2'x4'.

Enclosed is the Certificate of Approval which must be filed on the Land Records with the Town Clerk.

Sincerely,

Martin J. Connor
Land Use Administrator

cc: Dennis McMorro, P.E.
Attorney Peter Herbst

CERTIFICATE OF APPLICATION APPROVAL

I hereby certify that at a meeting of the Planning and Zoning Commission of the Town of Litchfield held on May 16, 1994 the following special exception/site plan was granted with conditions under provisions of Article V, Section 11, Subsection 2h of the Litchfield Zoning Regulations by said Commission.

The application of Sal Rocha for "Dunkin' Donuts", property located at Federal Square.

The owners of record of Felix and Anthony Merante, Volume 184, Page 240.

Dated in Litchfield, Connecticut, this 20th day of May, 1994.

Martin J. Connor
Land Use Administrator

THIS CERTIFICATE OF APPROVAL MUST BE FILED
ON THE LAND RECORDS BY APPLICANT

ZONING REGULATIONS

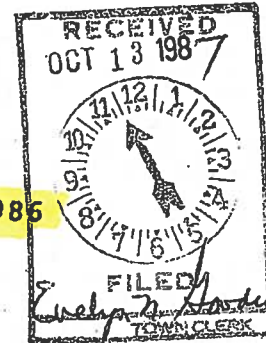
THE LITCHFIELD PLANNING and ZONING COMMISSION

LITCHFIELD, CONNECTICUT

ORIGINAL EFFECTIVE DATE

JULY 22, 1970

WITH REVISIONS THROUGH SEPTEMBER 16, 1986



Price \$5.00

Article V - Section 10 (continued)

3. A Site Plan prepared in accordance with provision of Article VI of these regulations shall be submitted and approved by the Commission before any building, structure, parking lot, sign, land, or use is constructed, built, or substantially altered in the B-Business Zone for either a use permitted by right or a use permitted by Special Exception. The Zoning Officer shall not issue a Zoning Permit for construction in a B Zone unless a Site Plan for said construction has been duly approved.

SECTION 11 PB Business Zone

1. In a PB Business Zone buildings and land may be used and buildings may be erected or altered for the following uses and no others:
 - a. Retail stores and trades including hotels and banks, except stores primarily selling ready to eat food products.
 - b. Personal service shops or stores.
 - c. Business and professional offices.
 - d. Theatres.
2. Special Exceptions in a PB Zone. The following uses are declared to possess such special characteristics that each must be considered as a special exception. They can be permitted in a PB Zone after a public hearing by the Commission, subject to the satisfaction of the requirements and standards set forth herein.
 - a. Residential use in a business building subject to the same conditions for a special exception for residential use of business building, as required in the B Business Zone. In addition, the following requirements shall apply.
 1. The total floor area of the residential use shall be secondary to the total floor area of the business use.
 2. There shall be two parking spaces for each apartment.
 - b. Restaurants and retail stores primarily selling ready-to-eat food products.
3. Requirements of the PB District
 - a. The Commission may require that side and rear yards in a continuous buffer of local coniferous trees and shrubs



Nancy Lacko <nlacko@townoflitchfield.org>

Sweet Grounds, LLC: pending zone text amendment

2 messages

Christopher Smith <csmith@alterpearson.com>

Tue, Feb 23, 2021 at 4:37 PM

To: zoningadmin@townoflitchfield.org

Cc: Nancy Lacko <NLacko@townoflitchfield.org>, Bill Zampaglione <bzampaglione@pacgrouppllc.com>

Dennis,

This confirms our telephone conversation concerning the above-referenced zone text amendment application.

Please be advised that the undersigned Firm is not representing the applicant at this juncture and will not be participating in this matter. Also, please do not copy the undersigned on matters pertaining to the application.

If you have any questions, please feel free to call me.

Thank you and stay safe.

Best,

Chris

Christopher J. Smith

Attorney at Law

Alter & Pearson, LLC

701 Hebron Avenue

P.O. Box 1530

Glastonbury, CT 06033

csmith@alterpearson.com

860.652.4020 telephone

860.652.4022 facsimile



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Please consider the environment before printing a copy of this email.

Zoning Admin <Zoningadmin@townoflitchfield.org>

Wed, Feb 24, 2021 at 8:13 AM

To: Christopher Smith <csmith@alterpearson.com>

Cc: Nancy Lacko <NLacko@townoflitchfield.org>, Bill Zampaglione <bzampaglione@pacgroupllc.com>

Thanks for the missive Chris.

Nancy please upload for the March 15th ZOOM meeting.

Dennis

[Quoted text hidden]

--

Dennis Paul Tobin, PhD

Land Use Administrator

Town of Litchfield, Connecticut

www.townoflitchfield.org

February 26, 2021

Via U.S. Mail and
Via Email to:
zoningadmin@townoflitchfield.org
NLacko@townoflitchfield.org

Carol Bramley, Chair
Planning and Zoning Commission
c/o Dennis Tobin, Ph.D
Zoning Administrator
Town of Litchfield
80 Doyle Road
P. O. Box 12
Bantam, CT 06750

Re: Proposed Section FF for Drive-Thru Use Filed by Sweet Grounds, LLC

Dear Chair Bramley and Members of the Town Planning and Zoning Commission:

The firm represents Litchfield Commons, LLC. Please consider this letter a formal request that I be permitted to make a presentation regarding the above-referenced matter at the public hearing scheduled for March 15, 2021.

As discussed below, the proposed regulation is too narrowly drafted and appears to benefit only a single landowner and its tenant. This is contrary to longstanding Connecticut caselaw which provides that “in regulating the use of land under the police power, the maximum possible enrichment of a particular landowner is not a controlling purpose.” Figarsky v. Historic Commission, 171 Conn. 190, 211 (1976) citing cases decided by the United States Supreme Court and the Connecticut Supreme Court. A drive-thru regulation that allows safe and reasonable drive-thru use for more than a single landowner will benefit not only Litchfield businesses but also members of the Litchfield community in terms of accessibility and safety, which has become especially important during these challenging Covid-19 pandemic times.

To that end, we would like to present a proposed revision to the Sweet Grounds’ proposal. I attach a copy of our proposed revision. Under this revised proposal, drive-thrus will be allowed in retail establishments, restaurants, and bakeries in the C-202 zone provided that they qualify after Special Exception review. The protections that are in the original proposed regulation have not been modified in this proposed revision while the benefits of the proposed regulation are no longer unfairly limited to a single landowner/tenant. Allowing drive-thru uses

Carol Bramley, Chair
Planning and Zoning Commission
c/o Dennis Tobin, Ph.D
Page 2
February 26, 2021

that are approved after Special Exception review will benefit both business owners who have suffered greatly during this pandemic and residents of the Litchfield community who will be more likely to use businesses in Litchfield as opposed to ordering online from establishments in other areas.

I will seek to enter certain evidence into the administrative record including, but not limited to, expert testimony. Both proponents and opponents to an application are entitled to enter comments and evidence into the administrative record before the Planning and Zoning Commission prior to the adjudication of the subject application. "This means a fair opportunity to cross-examine witnesses, to inspect documents presented and to offer evidence in explanation or rebuttal." Norooz v. Inland Wetland Agency of the Town of Woodbury, 26 Conn. App. 564, 569-570 (1992), citing Waddell v. Board of Zoning Appeals, 136 Conn. 1, 9 (1949). See also, Pizzola v. Planning & Zoning Commission, 167 Conn. 202, 207-208 (1974). Thus, relevant case law clearly supports this request.

We look forward to discussing how our suggested revisions to the proposed regulation provide a balanced approach to advancing the goals of Litchfield community businesses while providing the residents of Litchfield with safe and efficient access to those businesses.

Thank you for your anticipated cooperation concerning this request.

Very truly yours,



Maureen Danehy Cox

MDC/lem
Enclosure

cc: Litchfield Commons, LLC

I. New section in “Specific Standards and Requirements”

NEW:

Section FF. ACCESSORY DRIVE-THRU USE

An accessory drive-thru use may be permitted for a new or existing use that is a Permitted Use or allowed as a Special Exception under these Regulations in the Retail, Restaurant or Bakery use categories, provided that the principal use is located on a lot or parcel that comprises a minimum of six acres within the C-202 Zone District. Such accessory drive-thru use is subject to Special Exception review and approval as provided by Section 6 of “Permits, Approvals and Exceptions” in these Regulations and the following requirements and design standards.

1. The application shall include a statement of use that addresses the aforementioned minimum site requirements, hours of operation, staffing measures and a narrative of drive-thru features, including designated travel and stacking lanes, service window(s), and any associated mechanical devices.
2. All drive-thru features, such as service windows and stacking lanes, shall be a minimum of 100 feet, when measured from the principal building structure, from any residential building.
3. A minimum of twelve stacking spaces shall be provided in the queuing lane to, and including, the furthest most drive-thru window. If the drive-thru has two lanes, then the twelve stacking spaces may be divided between the queuing lanes.
4. If there are two service windows, a minimum of thirty-five feet shall be provided between the service windows.
5. Drive-thru stacking lanes shall be designed and located to minimize their crossing pedestrian accessways to the principal building. Any pedestrian accessway to the principal building that is crossed by a stacking lane shall be demarcated with a crosswalk. Drive-thru stacking lanes shall be delineated or separated from other vehicular use areas, including dumpster areas, with striping, curbing, landscaping or with other physical demarcation or separation measures.
6. Each stacking space shall be a minimum of twenty feet in length and ten feet in width.
7. Entrances to stacking lanes shall: (i) be clearly marked; and (ii) be a minimum of fifty feet from the entrance to the site.
8. Stacking lanes shall be designed to prevent circulation congestion, both on-site and on adjacent streets. On-site circulation shall: (i) separate drive-thru traffic from site circulation traffic; (ii) not impede or impair access into or out of on-site

parking spaces; (iii) not impede or impair vehicular and/or pedestrian movement to or from the principal building or associated parking areas; and (iv) minimize conflicts between pedestrian and vehicular traffic with physical or visual separation between the two whenever possible.

9. Lighting and noise associated with the drive-thru features shall be designed to minimize impacts to adjacent residential properties or businesses. Screening, enclosures or other measures may be required, where appropriate, to minimize such impacts.
10. Any site plans and/or architectural plans required for a Special Exception, as provided by Section 6 of "Permits, Approvals and Exceptions" of these Regulations, shall be submitted that demonstrate compliance with the requirements provided for herein, and the requirements for Special Exception approval. In addition, the plans shall demonstrate that the design features are in keeping with the character of the business neighborhood and character of the community.
11. Notwithstanding any other provision of these Regulations, a valid, nonconforming Retail, Restaurant or Bakery use may be relocated to another portion of the lot or parcel upon which it is located when an associated accessory drive-thru use is proposed, subject to the following: (i) the square footage associated with the valid, nonconforming bakery use is reduced by a minimum of 30%; and (ii) all other requirements for an accessory drive-thru use as provided in this Section, and in Section 6 governing Special Exception applications, are met.

II. New: Permitted Uses in C-202 Zone District under "The Litchfield Districts – Commerce Districts, C-202 Route 202 Commerce" under "Special Exceptions"

Accessory Drive-Thru Use for the following use categories: Retail, Restaurant and Bakery.

III. New: "Accessory Drive-Thru Use" in Appendix A, "Minimum Parking Requirements", under "Commerce Uses" for Retail, Restaurant and Bakery Use.

Bakeries with Drive-Thru: 1 space per 400 square feet, plus 12 stacking spaces.