



Memorandum

To: Planning Commission
From: Niall Connolly, Principal Planner
Date: September 15th, 2023
Re: Commercial Access - Ordinance Revisions

Introduction

The Planning Commission instructed staff to draft some edits to Title 10 of the Town Code relating to commercial property access. The access standards for commercial properties are set out in chapters 11 and 25 of Title 10. The aims of these proposed edits are as follows:

- To clarify inconsistencies in the language used in the ordinances. For example, the terms “dedicated street” and “public street” are used interchangeably and this has the potential to cause confusion.
- To be more specific about the required construction standards for streets which provide access to commercial parcels.
- To allow for access from private streets, so long as they comply with the required construction standards.
- To cease the creation of new commercial lots with substandard access, in particular, flag lots or lots gaining access from private lanes or historic accesses.

The Planning Commission provided feedback on drafts of these proposed revisions at the August 2nd work meeting. This feedback was incorporated into the draft which was brought before the Commission at the August 16th meeting. No further changes were requested by the Commission on August 16th. This version is now presented to the Commission as a public hearing. The table below sets out the first draft of revisions, along with the revisions requested by the Planning Commission.

Proposed revisions - 1st Draft	Proposed revisions - Final Draft (following feedback from Planning Commission on 8.2.23 and 8.16.23)	Code Reference/ other comments
Currently, the ordinance states that Central Commercial Zone parcels must have frontage on a dedicated street. The proposed edit changes the text from	No change	10-11A-3 C

<p>“dedicated street” to “dedicated public street”. This is more consistent with the language used in 10-25 -Official Street Map and Standards, and should reduce ambiguity.</p> <p>The proposed edit also would allow access to a CC zone parcel from a private street, so long as it is constructed to meet all of the standards of the Town’s Construction Design Details and Standards Manual.</p>		
<p>The same changes as above are proposed to also apply to the Village Commercial Zone.</p>	<p>No change</p>	<p>10-11B-3 C</p>
<p>An additional provision is proposed to prevent the creation of any new flag lots in the CC or VC zones after December 31st 2023.</p>	<p>No change</p>	<p>10-25-9 K</p>
<p>An additional provision is proposed to prevent the creation of any new lots in the CC or VC zones after December 31st 2023, which gain access from a private lane or historic access.</p>	<p>No change</p>	<p>10-25-10 M</p>
	<p>Applying the same language relating to the circumference of a cul-de-sac to the CC zone as currently applies in the VC. For the sake of consistency.</p>	<p>10-11A-3</p>
	<p>Removing the words “or lane” from 10-11B-3 C to reflect the proposed change to prevent any new commercial lots to be</p>	<p>10-11B-3</p>

	accessed from a private lane or historic access.	
	Adding a requirement that no lot or parcel in either commercial zone should be accessed through a residentially zoned parcel.	10-11A-3 and 10-11B-3

Maintenance on Historic Accesses

At the August 2nd meeting, the planning commission considered inserting language to require maintenance agreements for historic accesses. This was discussed, and was determined to be an unnecessary amendment, given that the Town is not permitting any new historic accesses to be created. A number of years ago, the Town went through a detailed review of all the historic accesses and the associated maintenance arrangements. Given that no new historic accesses will be created, it is considered unnecessary to repeat this process at this time.

General Plan Goals and Objectives

The Planning Commission should draw on the General Plan goals and objectives to guide decisions on amending ordinances. The following goals of the General Plan may be of relevance in this instance:

Land Use and Town Appearance:

Subgoal D: Promote the Town’s unique character and enhance the aesthetics of the community by improving the look and appearance of the public street right-of-way and other public properties

Subgoal F: Protect residential neighborhoods from the impacts of commercial development.

Planning Commission Action

The Planning Commission should review the proposed amendments to these ordinances and determine if these revisions promote the goals and objectives of the General Plan and constitute sound land use policy for the Town. The Commission should make a recommendation to the Town Council to either adopt or reject the proposed revisions. As part of this recommendation, the Commission may include any changes to the proposed revisions necessary to further promote the General Plan vision.

10-11A-3: LOT AREA, LOT WIDTH, LOT FRONTAGE, SLOPE:

- A. *Lot area:* The minimum area of any lot or parcel of land within the CC zone is one-fourth acre.
- B. *Lot width:* Each lot or parcel of land in the CC zone must have a minimum width of at least 50 feet.
- C. *Lot frontage:* Each lot or parcel of land in the CC zone shall have frontage on a dedicated public street or private street constructed to meet all of the standards of the Town's Construction Design Details and Standards Manual. The frontage shall be for a minimum distance of 50 feet, on a line parallel to the centerline of said street or along the circumference of a cul-de-sac. No lot or parcel of land in the CC zone shall be accessed through a VR or FR lot or parcel.
- D. *Slope:* No building, structure, excavation or fill is permitted on any natural grade of 30 percent or greater, except as specifically allowed by subsection 10-15B-9.A. of this title.

10-11B-3: LOT AREA, LOT WIDTH, LOT FRONTAGE, SLOPE:

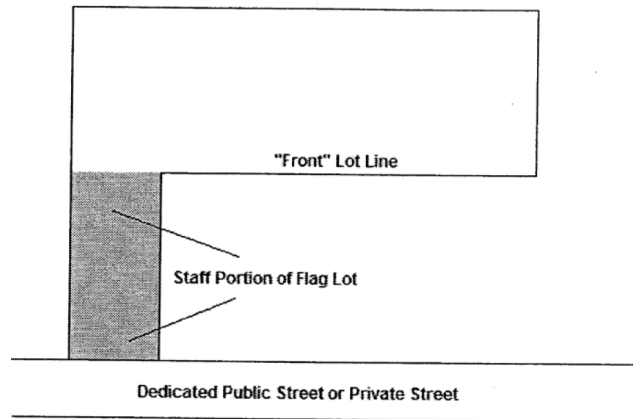
- A. *Lot area:* The minimum area of any lot or parcel in the VC zone is one-half acre.
- B. *Lot width:* Each lot or parcel of land within the VC zone must have an average width of 100 feet, with a minimum of 50 feet.
- C. *Lot frontage:* Each lot or parcel of land in the VC zone shall have frontage on a dedicated public street or private street constructed to meet all of the standards of the Town's Construction Design Details and Standards Manual. The frontage shall be publicly approved street for a minimum distance of 50 feet, on a line parallel to the centerline of the street or lane or along the circumference of a cul-de-sac. No lot or parcel of land in the VC zone shall be accessed through a VR or FR lot or parcel.
- D. *Slope:* No building, structure, excavation or fill shall be permitted on any natural grade of 30 percent or greater, except as specifically allowed by subsection 10-15B-9.A. of this title.

10-25-9: FLAG LOTS; SPECIAL PROVISIONS:

Flag lots may be developed in the Town, subject to the requirements of this section:

- A. Flag lots may only be developed if there is no feasible way the lot could be developed as a standard lot or that the property could be subdivided with standard lots, either at the present time or in the foreseeable future.
- B. An easement shall be recorded along the staff portion of the flag lot providing access for installation and maintenance of utility lines and services, emergency vehicle access and access of Town or other public personnel or vehicles as may be required to carry out the responsibilities of the Town and other governmental entities. Public services, such as garbage collection, will be at the dedicated street only.
- C. The staff portion of a flag lot shall front on a dedicated public street or private street. The minimum width of the staff portion of said lot shall be 20 feet. If the staff portion of the flag lot is 150 feet or longer, an emergency vehicle access, built to the specifications of the fire marshal, shall be provided on the flag lot.
- D. No building or construction, except for driveways and fences, shall be allowed on the staff portion of said lot. A minimum width of 20 feet along the entire length of the staff portion of the lot must be kept clear of obstructions, including storage of materials, general debris, and vegetation.

- E. The lot shall meet all size and setback requirements of the zone in which the lot is located.
- F. No part of the staff portion of the flag lot may serve more than one flag lot.
- G. The staff portion of the flag lot shall not be closer to an adjacent dwelling than ten feet.
- H. The staff portion of the flag lot shall be improved with a compacted gravel or other all-weather surface. The driving surface shall be well maintained, it shall be readily passable by a standard passenger car and standard emergency vehicle, and it shall be constructed to the minimum standards specified by the Town Engineer.
- I. The front side of the flag lot shall be deemed to be the side nearest the street upon which the staff portion fronts. The front setback shall be measured from the lot line nearest the street on which the staff portion of the lot fronts as shown in the figure below. No part of the staff portion of the lot shall be used to meet any setback requirement.



- J. The Town shall have no maintenance responsibility for the roadway on the staff portion of the flag lot.
- K. As of December 31st 2023, no new flag lots shall be created in the Central Commercial or Village Commercial zones.

10-25-10: PRIVATE LANES; SPECIAL PROVISIONS:

Private lanes may be developed in the Town, subject to the requirements of this section:

- A. Private lanes shall have a minimum easement width of 20 feet.
- B. Private lanes shall have a minimum all weather surface width of 20 feet, unless extenuating circumstances necessitate a lesser width. In such case a lesser width may be approved with the consent of the Fire Marshal, Town Engineer, and Planning Commission.
- C. An easement shall be recorded across the private lane providing access for installation and maintenance of utility lines and services, emergency vehicle access and access of Town or other public personnel or vehicles as may be required to carry out the responsibilities of the Town and other governmental entities. Public services, such as garbage collection, will be at the dedicated street only.
- D. Required yard or setback distances for the servient properties shall be measured from the edge of the private lane easement nearest the proposed structure, not from the lot line of the servient properties.
- E. There shall be a written and recorded road maintenance agreement that assigns maintenance responsibility for the private lane to the properties the private lane traverses and serves. The Town shall have the right to compel enforcement of the road maintenance agreement between the property

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- owners. Should the Town be unable to compel enforcement of the agreement, the Town may, at its sole discretion, maintain the private lane and assess the property owners the costs associated with such maintenance.
- F. Private lanes shall satisfy the frontage requirements for no more than one lot.
 - G. Private lanes must be designed and developed to preserve as much native vegetation and other natural features as possible.
 - H. Private lanes must connect to a dedicated public street or a private street.
 - I. No new private lane shall be created or improvements to existing historical accesses made, any portion of which is less than 20 feet from an existing residence.
 - J. The Planning Commission shall review and approve all requests for private lanes if they conform to the above standards. Such requests must be made in conjunction with a subdivision, design/development review, or grading permit application.
 - K. In situations where there has been historical access to properties that function as private lanes, but the access has not officially been designated as a private lane, the historical access shall have all the rights and privileges enjoyed by private lanes. Existing parcels which have been accessed by historical accesses prior to the adoption date hereof shall not be denied a building permit based solely on noncompliance with access or frontage requirements. Existing "historical accesses" are: Valley View Drive, Kinesava Drive, Dixie Lane, Eagle Lane, Steamboat Lane, Quail Ridge Road, Apple Lane, Dillyholler Drive, Sage Lane, Sundance Lane, West Temple Drive, Paradise Road, Elm Street, Kokopelli Drive, Big Springs Road, Wilkins Lane. No extensions of any historical access will be permitted unless the historical access is improved to meet the minimum standards of this chapter.
 - L. As of the date of adoption hereof, no new subdivision which creates more than two new lots may be created which gains access off of a private lane or historical access, unless such private lane or historical access is improved to meet minimum street standards, including street width, and is designated as a private street or dedicated as a public street. The developer of said subdivision shall be solely responsible for improving the access to minimum street standards required by this chapter, including acquiring easement area (if necessary) from private property owners to meet minimum width requirements. Nothing in this subsection shall compel the Town to use its power of eminent domain to acquire land necessary to improve the street.
 - M. As of December 31st 2023, no new lot may be created in the Central Commercial or Village Commercial zones which gains access from a private lane or historic access.