



SOUTH KINGSTOWN PLANNING DEPARTMENT
PROJECT REVIEW MEMO

Tide Storm, LLC

Zoning Map & Text Amendment

May 30, 2024

Tidestorm, LLC submitted an application to amend the Town's Zoning Ordinance and Zoning Map for a portion of Matunuck Village. Contained within their application is a proposal to convert a portion of the Village's existing CN (Commercial Neighborhood) and R20 (Residential) Zoning Districts to a newly designated CN-M (Commercial Neighborhood - Matunuck) Zoning District. The text amendment component proposes to modify the Zoning Ordinance to allow brewery, brewpub, farm brewery, and/or distillery uses within the Village of Matunuck.

The text amendment defines the above-mentioned uses and also removes some other more obsolete or assumed to be inappropriate land uses within Matunuck Village. While the applicant has included brewery, farm brewery, and distillery in their application, testimony provided over the last several months has only focused on the applicant's ability of brewing beer as an accessory use to an existing restaurant that presently serves alcohol. It is our view that in order to simplify the review of their application and to reduce complicating the request, attention should focus on the brewery and brewpub component only as there has not been any substantial testimony presented by the applicant in pursuit of a farm brewery or distillery. Staff opines that all of these types of uses, if considered, could amplify potential concerns and complicate other considerations associated with these other proposed uses.

In reviewing the request to amend the Town's ordinance against our existing regulations, Staff recognized that our existing regulations do not include any definitions for brewery, brew pub, farm brewery, or distillery. There are several breweries located and permitted in Town, and their use has been found to be consistent with our existing Use Code 71 – Food Products Manufacturing. In discussions with the Building & Zoning Official, it was mentioned that our existing regulations also do not provide any guidance and/or standards for such uses which makes it difficult to field and properly address inquiries from the general public with interest in this type of use.

As such, in an effort to work with the applicant's proposed amendment Staff is suggesting the following modifications to the proposed language. Staff believes these amendments would achieve the goals and objectives of the applicant, while addressing existing and future brewery/brewpub uses throughout the Town of South Kingstown.

Zoning Text Amendments

As it relates to the Planning Departments review of the application by Tidestorm, LLC, staff understands that the proposed amendments are being pursued for the benefit of the applicant who owns a significant number of the parcels located in the proposed CN-M Zoning District. While Staff is generally supportive of the overall objective associated with the application (brewery as an accessory use to a restaurant), it is staff's opinion that the Town should look at the merits of the changes and further weigh the request against the greater public interest.

Brewpubs

As it applies to restaurant establishments, currently the zoning ordinance allows ‘Use Code 56 – Restaurant without Alcohol’ and ‘Use Code 56.1 – Restaurant with Alcohol’. There are no provisions in our ordinance for ‘Brewpubs’. In accordance with the RI Department of Business Regulation, brewpubs are essentially licensed restaurants that serve alcohol which is manufactured on the premises. They can sell their product within their establishment, as well as other alcoholic beverages produced by others.

It is our opinion that there is little difference between a restaurant serving alcohol and a brewpub, provided the brewing component is accessory to the restaurant and of proportional scale. Since the Town has limited experience with brewpubs currently, Staff is suggesting that the brewing component and associated equipment be limited to be no more than 3 barrels (3 BBL), initially. Brewing equipment of this size allows craft brewers to produce 3 barrels or 93 gallons per batch and with the flexibility for small-scale recipes, 3 BBL systems are popular starters for taprooms, brewpubs, and microbreweries.

As such, Staff is recommending amending Article 12 – Definitions of the Zoning Ordinance to include the following definition:

Brewpub - An establishment where beer and malt beverages are made on the premises in conjunction with a restaurant or bar, and where 40% or more of the product made on site is sold on site. Brewpubs may distribute to off-site accounts or sell beer to take away in accordance with state law.

Currently, the Zoning Ordinance includes ‘Use Code 56.2 – Saloon’, which is defined as a “Drinking establishment without food service”. As we understand licensing requirements, this type of use requires a Class C Liquor License, however the Town of South Kingstown prohibits Class C licenses within the Town, thereby rendering this use code essentially obsolete. In consideration of the above, Staff is recommending that the existing ‘Use Code 56.2 – Saloon’ be replaced with ‘Use Code 56.2 – Brewpub’.

Regarding the new use allowances for brewpubs, Staff is recommending the adoption of the same criteria as currently established for ‘Use Code 56.1 – Restaurant with Alcohol’ which is permitted via Special Use Permit within the Town’s Mixed Use (MU), Commercial Neighborhood (CN), Commercial Downtown (CD), Commercial Highway (CH), Commercial Waterfront (CW), and the Industrial 1 (IND-1) Zoning Districts, and is proposed to be permitted via Special Use Permit in the New CN-M (Commercial Neighborhood-Matunuck) Zoning District as well. As mentioned, these allowances would be representative of the same allowances currently in place for ‘Use Code 56.1 – Restaurant with Alcohol’.

In accordance with recently enacted legislation pertaining to zoning, specifically [§ 45-24-42\(b\)\(3\)](#), municipalities are required to “establish specific and objective criteria for the issuance of each type of use category of special-use permit, which criteria shall be in conformance with the purposes and intent of the comprehensive plan and the zoning ordinance of the city or town; however, in no case shall any specific and objective criteria for a special use permit include a determination of consistency with the comprehensive plan”. In regard to this, Staff offers that the following standards and object criteria be applicable in consideration of special use permits for brewpubs:

- (1) Brewpubs are required to obtain a Brewpub Manufacturer’s License in accordance with RIGL 1956 § 3-6-1.2, as amended. All conditions associated with the approval of any special use permit for brewpub use shall be incorporated into the requisite license issued by the Town of South Kingstown. Such conditions shall be reviewed for compliance as part of the annual licensing for any brewpub establishment;

- (2) Brewpubs shall be subject to the property owner obtaining and holding a Class A, B, or BM license, or other license deemed applicable as required by the Town of South Kingstown or the State of Rhode Island;
- (3) Brewpubs shall be subject to the limits applicable to the sale, distribution, and on-site/off-site consumption, as regulated by RIGL 1956 § 3-6-1.2, as amended;
- (4) Brewing equipment and/or systems associated with brewpubs shall have a production capacity of no greater than 3 barrels (3 BBLs). All brewing operations shall occur on the property and/or premises in which the brewpub is located in accordance with applicable local and state licensing.
- (5) Any brewpub use proposed to be serviced by an onsite wastewater treatment system (OWTS) shall obtain either an OWTS permit (for new systems) or a System Suitability Determination approval (for existing systems) from the Rhode Island Department of Environmental Management for such use;
- (6) Any brewpub use proposed to be serviced by existing municipal sewer shall submit and effluent management plan to the Town of South Kingstown, Department of Public Service for review and approval.
- (7) All brewpubs shall be subject to the parking requirements outlined within Article 7 – Standards for Parking Lots and Loading Facilities and all other standards and requirements associated with Use Code 56.1 – Restaurant with Alcohol shall be adhered to;
- (8) Brewpub operators shall employ best management practices in the collection, storage, repurposing, and/or disposal of waste byproducts generated from brewing operations, as suggested by RIDEM. All waste byproducts shall be stored in suitable leak-proof containers specifically designed for waste storage in a secure and fully screened location that is not visible or accessible to the general public, and shall be physically removed from the property within 24-hours of being generated;
- (9) Brewpub operations shall not emit any noxious odors other than those ordinarily associated and/or generated by a typical restaurant. If compliance with this standard is not met, the Town of South Kingstown may require that mitigation measures be employed as part of the annual licensing review process. Failure to correct said noncompliance may be cause for revocation or denial of requisite licensing.

Failure to clearly demonstrate compliance with the above-referenced standards and objective criteria may result in the denial the special use permit. Failure of brewpub uses permitted under this section in maintaining compliance with these standards shall constitute a zoning violation and be subject to enforcement action and/or recommendations for revocation of requisite licensing. Consequently, the recommendation to modify the Town's existing Zoning Ordinance to allow restaurants to add a brewing component should have limited impact to an existing restaurant's operation and any characteristics of concern for said operation could be mitigated through standards conditions of approval. Noncompliance with these standards could further be reviewed and/or enforced through the Town's annual business license renewal process.

Breweries

The Town of South Kingstown Zoning Ordinance does not presently define breweries, nor does it specify if such use is allowed or prohibited anywhere within the municipality or provide any development standards associated with such uses. Consequently, Town Staff experiences difficulty in providing appropriate guidance to the general public with interest in such operations.

There are several breweries located within the Town of South Kingstown currently, and for each of these businesses, the Town assessed their use as Use Code 71 – Food Products Manufacturing (for lack of a more appropriate designation) which is allowed within the Industrial (IND-1; IND-2; and IND-

3) Zoning Districts. It should be noted that there are not any specific standards outlined in the Zoning Ordinance associated with these types of uses.

Staff is thereby recommending amending Article 12 – Definitions of the Zoning Ordinance to include the following definition:

Brewery - An establishment where beer or other malt beverages are made on the premises. A manufacturer's license to make alcoholic beverages under R.I.G.L. § 3-6-1 shall be required and such establishments must meet all local dimensional and parking regulations per Article VII of the Town's Zoning Code.

Along with this, Staff is recommending the creation of a new use code, Use Code 56.6 – Brewery, to formalize the allowed brewery use within the Town. Staff is recommending making the allowance for Breweries to operate within our existing Industrial (IND-1; IND-2; and IND-3) Zoning Districts as our existing Use Code 71 – Food Products Manufacturing currently does. While Staff contemplated suggesting that breweries be permitted via special use permit, Staff believes that existing regulations and land development standards are sufficient to address these types of uses that are only permitted in Industrial Zoning Districts.

Sec. 301. Schedule of Use Regulations Table.

USE CODE	USE	R200	R80	R40	R30	R20	R10	RM	MU	CN	CD	CH	CW	NOTES
56.2	Saloon Brewpub	N	N	N	N	N	N	N	S	S	S	S	N	
56.6	Brewery	N	N	N	N	N	N	N	N	N	N	N	N	

USE CODE	USE	IND-1	IND-2	IND-3	GI	OS	NOTES
56.2	Saloon Brewpub	S	N	N	N	N	
56.7	Brewery	Y	Y	Y	N	N	

It should also be noted that the Town of South Kingstown has established prohibitions on restaurants with alcohol , saloons, and liquor stores on the following specific parcels located within Kingston Village (all within the existing CN Zoning District):

23-2/6	23-2/17	23-3/108
23-2/7	23-2/24	23-3/111
23-2/16	23-2/28	

It should also be noted the following Lots have specific conditions imposed upon them by the Town Council. These lots are located in the CN district and permitted uses are specified, none of which include Restaurant with alcohol, saloon, and liquor store:

49-3/7	49-1/83 and 162	42-2/21, 22
64-1/15	49-4/150	49-1/83-2
64-1/134	57-1/98	18-2/4
49-1/128	57-1/110	

Zoning Map Amendment

Split Zoning Designations

It appears to Staff that the original CN Zoning District that exists in Matunuck was created to capture all property within 200’ of Matunuck Beach Road in this area, specifically those parcels on the north

side of the roadway. This created a 'split zone' of CN and R20 Zones across a number of properties off the north side of Matunuck Beach Road. In the context of good planning and as a preferred general practice, Planning Staff is recommending that the Town pursue eliminating these 'split-zoned' situations when opportunities present and/or are otherwise appropriate. In addition, it should be a goal of the Town to better align zoning classifications with the actual and potential use of properties within them. As an example, a portion of Mary Carpenters property is zoned Commercial Neighborhood (CN) which is not necessarily aligned with the present and/or anticipated future use of the property.

As such, Staff is recommending a few minor modifications to the Town's existing zoning map in the Village area to better align with present uses in Matunuck while preserving the intent of the Tidestorm, LLC application. These modifications include:

- R20 Conversion: Conversion of the existing CN designation on residentially used properties to R20 by extending the existing and abutting R20 Zoning District south to Matunuck Beach Road, as well as most of the existing CN zoned parcels that do not front on Matunuck Beach Road.
- CN Conversion: Extending a small portion of the existing CN one parcel located off Prospect Avenue (AP 92-2, Lot 52) that is behind and immediately adjacent to existing commercial uses.
- OS Conversion: Extending a small portion of the Open Space (OS) Zoning District that covers the Town of South Kingstown Beach and parking area on the west side of Matunuck Beach Road into the street right-of-way to separate the northern and southern sections of the CN zone.

Figure 1: Zoning District Conversions

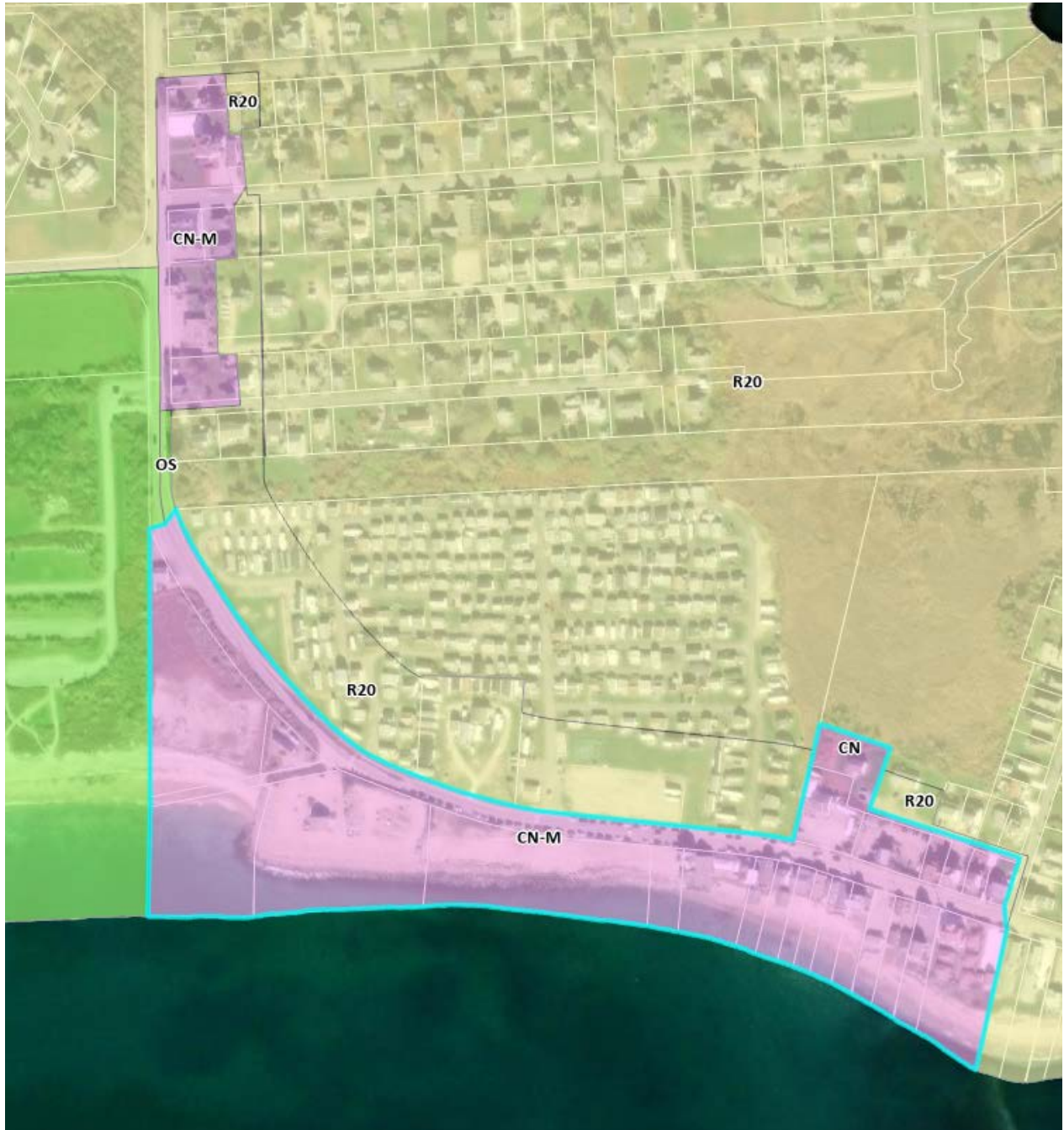


CN-M (Commercial Neighborhood – Matunuck) Zoning District

In their application, Tidestorm, LLC proposed an amendment to the Town's Zoning Map to rezone a portion of the existing Commercial Neighborhood (CN) Zoning District in Matunuck Village to a newly designated Commercial Neighborhood – Matunuck (CN-M) Zoning District. The purpose of this was to designate a specific portion of Matunuck as a unique Zoning District where the uses being proposed would not conflict with other CN Zoning Districts within the Town exhibiting different characteristics. Staff is in support of the creation of a new CN-M Zoning District however we encourage that this zone should capture of all the existing CN (Commercial Neighborhood) Zone in Matunuck and not just a specific sub-area within the Village. Designation of this new CN-M Zoning District would allow for specific standards and requirements to be applicable to the Village which are reflective of its unique characteristics going forward into the future. Staff agrees that this area

should no longer be considered a general CN Zone as it shares little in common with other CN Zoning Districts throughout the Town.

Figure 2: New CN-M Zoning District



As such Staff is recommending adopting the following zoning district definition within Section 101.B (Zoning Districts: Commercial) and the suggested addition of the CN-M Zone to the Section 301 (Use Regulations: Schedule of Use Regulations Table) of the Zoning Ordinance:

B. Commercial.

CN - Commercial Neighborhood. This district provides small-scale retail establishments designed to provide local business service to residential neighborhoods throughout the town. This district includes mixed uses within specially designed retail areas which include office uses and specific public and semi-public uses with single and multi-household

residential development under special conditions, all of which must meet certain design and site planning requirements.

CN-M - Commercial Neighborhood - Matunuck. This district represents a portion of the commercial area within Matunuck that allows for small-scale retail establishments designed to provide local business service to residential neighborhoods within the Village. This district recognizes Matunuck’s unique characteristics and rich history and aims to allow for compatible land uses that complement its diversity while preserving its cultural importance and integrity.

Sec. 301. Schedule of Use Regulations Table.

USE CODE	USE	R200	R80	R40	R30	R20	R10	RM	MU	CN	CN-M	CD	CH	CW
56.2	Saloon Brewpub	N	N	N	N	N	N	N	S	S	S	S	S	N
56.6	Brewery	N	N	N	N	N	N	N	N	N	N	N	N	N

USE CODE	USE	IND-1	IND-2	IND-3	GI	OS	NOTES
56.2	Saloon Brewpub	S	N	N	N	N	
56.7	Brewery	Y	Y	Y	N	N	

As a result of the above referenced recommendations, the following amendments are also suggested to clean up existing references to Saloons and Use Code 56.2 within the Zoning Ordinance:

Sec. 9-19. - Hours of operation of certain businesses.

Every person owning, leasing, occupying or keeping a ~~saloon,-~~ shop, room or place of business where a billiard table, bagatelle table, pool table, scippio table or any table of a similar character, or a bowling alley, or an amusement or public resort, or tavern club, victualling house and cooking shop, shall close and keep closed the ~~saloon,-~~shop, room, tavern, club, victualling house, cooking shop, bowling alley, amusement, public resort or place of business, between the hours of 1:00 a.m. and 6:00 a.m.; but any tavern, club, victualling house and cooking shop may open at 5:00 a.m. for the sale of food and soft drinks. Further, for cause shown or if it appears that it is for the best interest of the public, the town council may grant permission for a particular tavern, club, victualling house, cooking shop or theater or dancehall, upon application, to remain open after the 1:00 a.m. closing hour, upon such conditions and after such notice as the town council may deem advisable but if the permission is to continue for more than six (6) consecutive days, notice shall be given of a public hearing on the application at least once in a newspaper of local concern, and the clerk or person acting on his behalf shall send, by registered letter, notice of the hearing to all abutting or adjacent property owners, the cost of such notices to be paid by the applicant at the time of the filing of the application. The permission, if granted, shall be revocable at the pleasure of the town council. Nothing in this section shall be construed to include hotels, garages, gas or oil stations and pharmacies as to a closing hour.

(Code 1971, § 16-1)

Cross reference— Business hours of peddlers restricted, [§ 9-63](#).

APPENDIX B. - PARCELS SUBJECT TO SPECIAL CONDITIONS OF PREVIOUS ZONING AMENDMENTS

In addition to the general provisions of the zoning ordinance, all parcels listed below shall be subject to the following special conditions:

Map Symbol	Assessor's Plat/Lot	Area (acres)	Zoning/Restrictions and Conditions	Notes/Description
1	49-3/7	20.35	CN, Limited to Use Code 35.1 - Nonprofit Community Center and Use Code 35 - Nonprofit Community Park or Playground	YMCA property on Broad Rock Road
2	23-2/6, 23-2/7, 23-2/16, 23-2/17, 23-2/24, 23-2/28, 23-3/108, 23-3/111	2.21 0.34 1.4 0.36 4.4 0.36 0.54 0.17 (Total 9.78 ac.)	CN with the following Use Codes prohibited: 56.1 - Restaurant, with alcohol 56.2 - Saloon Brewpub 55.3 - Liquor store	All Commercial CN property in Kingston/URI area, including Kingston Emporium