

July 12, 2021

#21-06ZR – Zoning Regulation Amendment – Planning and Zoning Commission

Intent: To modify several sections of the Zoning Regulations

Application Received: May 20, 2021

Application Acknowledged: May 24, 2021

Public Hearing to be Opened: July 12, 2021

Review: The Commission may recall that Hytone Farm attended a previous meeting to review a proposed anaerobic digester project on their property. Staff subsequently provided a draft of suggested text that the Commission considered that would permit such a use.

Staff has worked with the Town Attorney to finalize the draft language pursuant to the direction given by the Commission. Staff felt it would be helpful for the Commission to initiate the amendment in order to support Hytone Farm's proposal and others that may be proposed in the future by other farms. This was done instead of requiring Hytone Farm to prepare and submit the application and pay the fee.

As Staff was preparing the amendment application on behalf of the Commission, it was felt it would be prudent to also include several other regulation amendments that have been on a list that was collected by Staff to address areas of the regulations that were in need of clarification, streamlining, and general improvement. It is Staff's opinion that the proposed changes are not controversial in nature and should enable enhancements to a variety of processes.

Please refer to the enclosed outline of suggested revisions, which are the same that were reviewed when the Commission acknowledged the application in May. However, Staff has provided some alternative text for the anaerobic digester regulations based upon dialogue with the consultant to Hytone Farm, in order to address how the proposed project will align with the new regulations being considered.

The referrals to the Capitol Region Council of Governments and abutting Towns were made, as required by CT General Statute. No comments have been received from the abutting Towns. CRCOG's comments are enclosed.

The Commission must set an effective date for the new regulation, which can be the day after the appeal period has expired. The Commission must state that it complies with the Plan of Conservation and Development. Language in the Plan offers support to the proposed amendments, specifically Chapter 1, Section E – Long Range Planning, recommendation 6, which states – 'Incorporate into municipal regulations and standards the best progressive

means of protecting the physical, social, historic and aesthetic well-being of neighborhoods old and new'.

**PLANNING AND ZONING COMMISSION**

**PROPOSED ZONING REGULATION AMENDEMENTS**

**MAY 20, 2021**

**PROPOSED AMENDMENT 1:**

Section 6.07.01.a – Uses not requiring Site Plan Review by the Commission (numbering per current regulations) – delete the following uses and insert them under Section 6.07.01.b – Uses requiring Site Plan Review by the Commission – renumber both sections accordingly.

1. Finance, insurance and real estate services.
4. Public parks, playgrounds, schools, museums and libraries.
5. Offices.
6. Personal services.
7. Professional services.
8. Studios for the creation, preparation, exhibition, demonstration and/or sale of photography, sculptures, paintings or other artwork, and/or crafts, but without artistic instruction or lectures.
10. Retail sales of farm products

**Reason for change – Include uses that would be subject to the Design Guidelines for Commercial Development, as opposed to Zoning Permit only the Commercial Zone.**

**PROPOSED AMENDMENT 2**

Add the following to Section 6.07.01.b – Uses requiring Site Plan Review by the Commission – insert and renumber section accordingly.

Retail trade, less than 5,000 square feet of gross building floor area per lot.

**Reason for change – Clarify regulations and process required for retail uses that are less than 5,000 sf in area.**

**PROPOSED AMENDMENT 3**

Delete the following from Section 6.07.02.jj – renumber section accordingly.

Retail trade

**Reason for change – Remove duplication that appears elsewhere in the same section.**

PROPOSED AMENDMENT 4

Modify Section 4.13.04 – Nuisances, Unreasonable Physical Impacts on Nearby Property as indicated below. Text that is indicated as struck is to be removed. Text that is indicated within parenthesis is to be added.

Section 4.13.04 ~~Nuisances~~; Unreasonable Physical Impacts on Nearby Property

No use of any lot or parcel shall be conducted in such a way as to (cause) ~~create a nuisance to adjacent or nearby property as a result of unreasonable or excessive noise, glare, heat, smoke, fumes, vibrations, drainage, radiation, electromagnetic emissions, attraction of vermin, or other physical impacts.~~ In general, heat, smoke, fumes, (or) and offensive odors, other than odors associated with customary farming and agricultural uses, (to be) ~~should not be~~ perceptible beyond the property line of the lot on which the use is located unless the person(s) conducting such use demonstrates, to the satisfaction of the Commission, that such impacts are reasonable under all of the attendant circumstances, including the nature of nearby uses and the time and duration of the impacts. All uses shall comply with the terms of all applicable federal, state, and Town statutes, regulations, and ordinances regarding noise, odor, and other environmental and health concerns. Any outdoor lighting for illumination of signs, spotlighting, or floodlighting shall be so shielded that the light source cannot be seen beyond the property line of the lot or parcel on which it is located. Light shall be directed downward, when reasonably possible, in such a manner as to minimize the scatter of light onto adjacent or nearby properties or into the night sky.

**Reason for change – To clarify the regulation and detail the nature of impacts that are more within the scope of what town staff can address and manage as an unreasonable impact.**

PROPOSED AMENDMENT 5

Section 6.03.01.b.5 and 6.03.01.b.6 – Uses permitted in the General Residence Zone upon the issuance of a site plan approval by the Commission – delete and insert in Section 6.03.01.a – Uses permitted in the General Residence Zone upon the issuance of a zoning permit - and renumber accordingly.

5. Nurseries that do not sell products at retail on site and which are accessory to a primary residential use.
6. Greenhouse that do not sell products at retail on site and which are accessory to a primary residential use.

**Reason for change – Allow for greenhouses and nurseries relative to a residential accessory use to be allowed by zoning permit, since they will have less impact to the neighborhood and are not a commercial/retail operation.**

PROPOSED AMENDMENT 6

Section 6.03.01.1.3, Section 6.04.02.b, Section 6.05.01.a.2, Section 6.06.01.a.1, Section 6.07.01.1.9 – Agricultural use provision in the GR 40/80, Lake Residence, River Aquifer, Commercial Agricultural, and Commercial Zones. Text that is indicated as struck is to be removed. Text that is indicated within parenthesis is to be added.

Agriculture, including a farm, but not including nurseries and greenhouses, and further provided (i) that any parcel for the raising of animals other than common domestic household pets shall be no less than (80,000 square feet) ~~two (2) acres~~ in size, except with a special permit pursuant to Section 6.03.02.j; (ii) that any structure for the sheltering or feeding of livestock, which is not intended or designed for the purpose of storing animal waste are located no less than 50 feet from any property line; (iii) that any structures or open areas for the storage of manure or other animal waste products are located no less than 100 feet from any property line and are adequately and permanently screened from dwellings on adjacent properties, except that fully composted manure may be applied within 100 feet of a property line for soil restoration and fortification; (iv) the application of Best Management Practices shall be implemented for manure storage or plant fertilizer to mitigate runoff of agricultural contaminants; (v) any structure for the enclosure and feeding of swine must be no less than 100 feet from any property line; (vi) that any structure for the enclosure of poultry that is less than 100 square feet in area and less than 10 feet in height may be located no less than 25 feet to a property line and no less than 50 feet to a neighboring residence. The setbacks specified in this subsection shall not apply to fences associated with an agricultural use.

**Reason for change – To provide overall consistency in the regulations with the square footage requirement minimum for agriculture uses.**

PROPOSED AMENDMENT 7

Create a new Section 4.06.09 and insert the following text:

Reasonable Accommodations for ADA

All setback, coverage, and location requirements of these regulations do not apply for the alteration, construction, and/or modifications necessary to provide access for persons with handicaps. Once the reasonable accommodation is no longer required all improvements not in compliance with the regulations shall be removed within ninety (90) days.

**Reason for change – Provide locational and permitting flexibility when ADA related improvements are required.**

PROPOSED AMENDMENT 8

(Staff has made some suggested revisions to the proposed text subsequent to dialogue with Hytone Farm and their consultant to provide language that better aligns with the proposed project. This text is identified in ***bold italics.***)

**Add to Section 2.01 – Definitions:**

**“Anaerobic Digestion”**: The process in which microorganisms in the absence of oxygen convert the energy stored in volatile acids in livestock and poultry manure or other organic materials into biogas.

**Add to Section 4.06.06 – Agricultural Accessory Uses:**

Existing text in this section shall be subsection ‘a’

Proposed language below to be new subsection ‘b’

**Anaerobic Digesters.**

Where permitted as an accessory use, manure digesters are permitted subject to the following standards:

- The minimum lot area shall be 10 acres.
- The proposed use shall comply with all the requirements of the applicable district, except that all buildings, structures and facilities used as part of the manure digesting operations shall be setback ~~two hundred (200) feet~~ ***one hundred (100) feet*** from any property line. Additionally, no building, structures, or facility shall be located nearer than three hundred (300) feet to an existing residential building on adjacent lots.

Accessory anaerobic digester systems. Accessory methane digester systems are permitted as an accessory use to farming operations in the GR 40, GR 80, Commercial, and Commercial Agricultural Zones:

- ***(This section is to be deleted and replaced with bullet two above to create consistency with the setback requirements.)*** ~~Accessory anaerobic digesters shall not be located within 50 feet of any side property line, 75 feet of any rear property line, 150 feet from any residential structure other than that of the property owner, and 100 feet from any street right-of-way.~~
- ***A maximum of ten (10) additional vehicle trips are generated per day which are associated with the anaerobic digester use, beyond the existing traffic generation customary for the farm.***
- There shall be no discharge of any type onto any adjoining properties or streets.

- The applicant shall address and document performance standards for siting to minimize impacts on neighboring properties which shall include considerations of odor, prevailing wind patterns, and proximity to nonagricultural properties, operational noise, and specific hours of operation.
- Anaerobic digester systems shall be designed and constructed in compliance with the guidelines required by the State of CT DEEP, and any revisions, supplements and successors thereto.
- Anaerobic digester systems shall be designed and constructed in compliance with applicable local, state and federal codes and regulations. Evidence of all federal and state regulatory agencies' approvals shall be included with the application.
- A certified professional, qualified to do such, shall furnish and explain all details of construction, operation, maintenance and necessary controls related to the anaerobic digester system.
- No anaerobic digester system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement.

**Insert the proposed language below, and create the following new sections in the GR 40, GR 80, Commercial Agriculture and Commercial Zones.**

**Section 6.03.02.r – GR 40/80 Zone Special Permit uses**

**Section 6.06.02.n – Commercial Agriculture Zone Special Permit uses**

**Section 6.07.02.II – Commercial Zone Special Permit uses**

Regional anaerobic digesters, subject to the following:

- The minimum lot area shall be 25 acres.
- ***When more than ten (10) additional vehicle trips a day are generated by the farm and associated with the anaerobic digester use***, then a traffic impact study analysis shall be provided, showing the following:
  - Existing traffic volume data for all roadways within 1,000 feet which provide access to the site.
  - Anticipated traffic volumes for the area identified in (a) above, resulting from the proposed use as well as background traffic growth.
  - Analysis of current and future levels of service for all intersections within the study area.

- Physical analysis of all roadways identified in (a) above, including cartway width, shoulder width, pavement condition, horizontal and vertical curves, anticipated stormwater drainage characteristics, and sight distances.
- The applicant shall submit a transportation study, detailing the effect of the anaerobic digester system on local roadways, including effect of vehicle weight, congestion, and noise.
- The applicant shall provide sufficiently long stacking lanes into the facility, so that vehicles waiting to be loaded/unloaded will not backup onto public streets.
- The applicant shall provide a detailed description of the proposed use in each of the following topics:
  - The nature of the on-site activities and operations, the types of materials stored and used, the frequency and duration period of storage of materials and the methods for use and disposal of materials. In addition, the applicant shall furnish evidence that the use, handling, and disposal of materials will be accomplished in a manner that complies with state and federal regulations.
  - The general scale of operation in terms of its market area, specific space and area requirements for each activity, the total number of employees of each shift, and an overall needed site size.
- Design and installation.
  - The applicant shall address and document performance standards for siting to minimize impacts on neighboring properties which shall include considerations of odor, prevailing wind patterns, proximity to nonagricultural properties, operational noise, and specific hours of operation.
  - Anaerobic digester systems shall be designed and constructed in compliance with the guidelines required by the State of CT DEEP, and any revisions, supplements and successors thereto.
  - Anaerobic digester systems shall be designed and constructed in compliance with applicable local, state and federal codes and regulations. Evidence of all federal and state regulatory agencies' approvals shall be included with the application.
  - A certified professional, qualified to do such, shall furnish and explain all details of construction, operation, maintenance and necessary controls related to the anaerobic digester system.
- Height and setback requirements. Except as otherwise provided, no underground storage, in-ground storage, trench silo, earthen bank, stacking area or aboveground storage facility related to the anaerobic digester system shall be located within ~~200 feet~~ **100 feet** from any property line. No building, structures, or facility shall be located nearer than 300 feet to an existing residential building unless the owner of such residence waives this restriction in writing.
- Decommissioning. The applicant shall submit a plan for the removal of the manure digestion facility when it becomes functionally obsolete or is no longer in use. The



regional anaerobic digester owner shall notify the Town of Coventry immediately upon cessation or abandonment of the operation and shall be responsible for the removal of the manure within six weeks from the date operation ceases.

**Reason for change – To create regulations that will accommodate a project being proposed by Hytone Farm, and also provide an opportunity for other farms to facilitate the same or smaller projects.**



June 18, 2021

TO: COVENTRY PLANNING AND ZONING COMMISSION

**REPORT ON ZONING REFERRAL Z-2021-48: Proposed zoning amendment pertaining to commercial development design guidelines, regulations around small retail spaces, nuisance impact, allow greenhouses and nurseries in residential zones by zoning permit, square footage requirements for agricultural**

**COMMISSIONERS:** Receipt is acknowledged of the above-mentioned referral. Notice of this proposal was transmitted to the Policy and Planning Division of the Capitol Region Council of Governments under the provisions of Section 8-3b of the Connecticut General Statutes, as amended.

**COMMENT:** The staff of the Regional Planning Commission of the Capitol Region Council of Governments has reviewed this zoning referral and finds no apparent conflict with regional plans and policies or the concerns of neighboring towns.

The public hearing date has been scheduled for 7/12/2021.

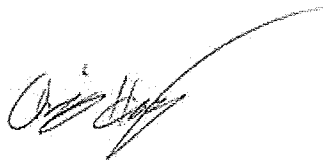
In accordance with our procedures this letter will constitute final CRCOG action on this referral. Questions concerning this referral should be directed to Christopher Henchey.

**DISTRIBUTION:** Planner: Andover, Bolton, Columbia, Vernon, Tolland, Mansfield, Willington, Windham, Southeastern COG

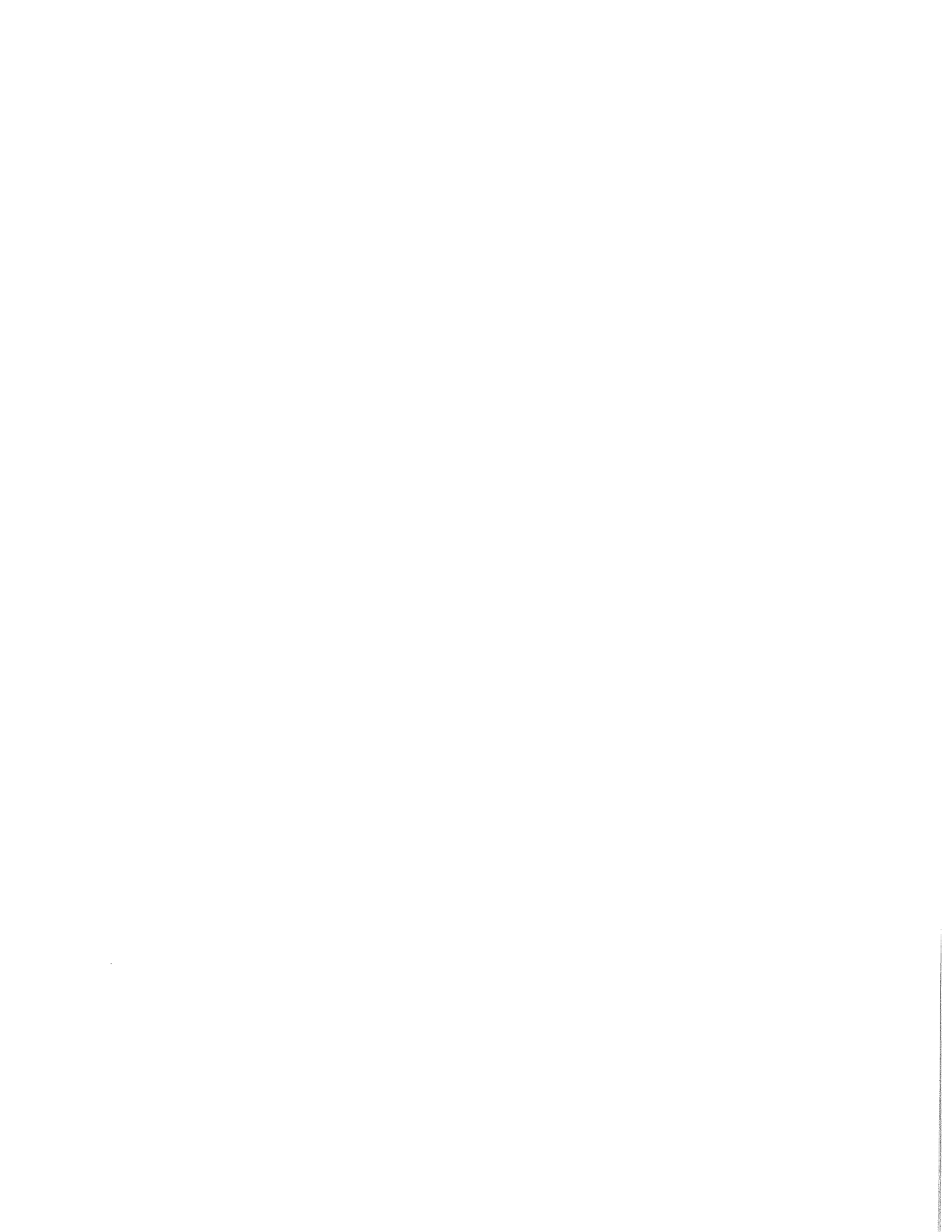
Respectfully submitted,

Jennifer Bartiss-Earley, Chairman  
Regional Planning Commission

Brendan Malone, Vice Chairman  
Regional Planning Commission



Christopher Henchey  
Transportation Planner



Heidi Leech

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**From:** Richard P. Roberts <ROBERTS@halloransage.com>  
**Sent:** Monday, July 5, 2021 12:21 PM  
**To:** Eric Trott  
**Subject:** [EXTERNAL] RE: anaerobic digester regs

Eric – I have reviewed these more closely and don't have any suggestions or comments other than those that we discussed on Tuesday. Have a great vacation.

Rich

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**From:** Eric Trott <etrott@coventryct.org>  
**Sent:** Tuesday, June 29, 2021 2:32 PM  
**To:** Richard P. Roberts <ROBERTS@halloransage.com>  
**Subject:** anaerobic digester regs

Hi Rich – Attached is a revised version of the anaerobic digester regs that we have been working on (last couple of pages) – the attachment also has other reg changes that the Commission will be considering on July 12 as well. I have been talking with Hytone Farm and their consultant, as well as town staff, about some revisions that would better align with the proposed operation of Hytone and am including options for the Commission to consider.

Would you have a few minutes to chat either later today, tomorrow, or Thursday on the AD regs as well as the other new Zoning Statutes that were recently changed?

Thank you!

*Eric M. Trott*

Coventry Director of Planning and Development  
(860) 742-4062

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