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The "officially released" date that appears near the beginning of each opinion is the date the opinion will be published in the Connecticut Law Journal or the date it was released as a slip opinion. The operative date for the beginning of all time periods for filing postopinion motions and petitions for certification is the "officially released" date appearing in the opinion.

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ELGO, J., dissenting. Flexible residential development, known also as cluster development,[1] is a land use practice intended "to enable and encourage flexibility of design and development of land in such a manner as to preserve the natural and scenic qualities of open lands . . . ." (Citation omitted; internal quotation marks omitted.) *Penfield Panorama Area Community, Inc.* v. *Penfield Planning Board*, 253 App. Div. 2d 342, 346, 688 N.Y.S.2d 848 (1999). It is a practice expressly authorized by our General Statutes; see General Statutes (Rev. to 2019) § 8-2 (a); General Statutes § 8-25 (c); which define a cluster development as "a building pattern concentrating units on a particular portion of a parcel so that at least one-third of the parcel remains as open space to be used exclusively for recreational, conservation and agricultural purposes . . . ." General Statutes § 8-18.

The principal issue in this appeal concerns the application, in the specific context of a cluster development, of a generally applicable dimensional requirement set forth in both the Suffield Zoning Regulations (zoning regulations) and the Suffield Subdivision Regulations (subdivision regulations). Because I believe that the Planning and Zoning Commission of Suffield (commission) properly could conclude that the dimensional requirement in question was superseded by those regulations, I respectfully dissent.

The relevant facts are not in dispute. The defendant Hamlet Homes, LLC,[2] owns a forty-one acre parcel of land in Suffield (parcel) that is located in the R-25 residential zoning district. As the Superior Court noted in its May 3, 2021 memorandum of decision, because the zoning regulations permit 25,000 square foot lots in the R-25 zone; see Suffield Zoning Regs., § IV (A) (1); the parcel qualified for "standard development of between thirty (30) and forty (40) lots."

The defendant did not pursue that standard development option. Instead, it sought a special permit for a flexible residential development in accordance with § VI of the zoning regulations, as well as subdivision approval therefor.[3] Notably, the subdivision regulations do not contain *any* specific regulations or requirements regarding flexible residential development. Rather, the subdivision regulations incorporate by reference § VI of the zoning regulations.[4]

In its application, the defendant proposed a flexible residential development that consisted of sixteen residential lots and the deed of thirty-two of the forty-one acres to the town of Suffield as open space. As a result, 78 percent of the parcel would be dedicated to open space. Although various access configurations were

proposed by the defendant and discussed with the commission and members of the public, the defendant ultimately settled on an access plan that would result in the creation of a dead-end street with a cul-de-sac known as Madigan Circle.

The zoning regulations provide in relevant part that "[a] dead-end street or dead-end-street system shall be limited to twelve-hundred (1,200) feet as measured from the edge of the connecting street to the center of the proposed cul-de-sac . . . ." Suffield Zoning Regs., § II. The subdivision regulations contain an identical provision that mirrors that requirement verbatim.[5]

The zoning regulations define a "dead-end street or system" in relevant part as "[a] public or private street or connected series of streets with its only means of entrance or exit through one common point. . . ." Id. Under the defendant's proposal, Madigan Circle would connect with Limric Lane, an existing dead-end street, 600 feet from where Limric Lane intersects South Main Street, a major thoroughfare in Suffield. The proposed length of Madigan Circle would run 760 feet from its connection with Limric Lane to the center of its cul-de-sac. Although the commission did not make any express findings when it acted on the defendant's applications, the court, in its May 3, 2021 memorandum of decision, concluded that the defendant's proposal would create a 1360 foot dead-end street system, in excess of the 1200 foot limitation contained in the regulations.[6] Neither party disputes that determination on appeal.

The commission held a public hearing on the defendant's applications for a special permit for a flexible residential development and subdivision approval over the course of three nights. At that hearing, Patrick Keane, vice chairman of the commission, explained in response to comments from members of the public that "one of the benefits of [flexible residential development] and why [the commission] encourage[s] the developers to use that route, is we get more . . . open space, which is part of [Suffield's] allure . . . culture and heritage. So, we get more of that, the houses [in the development] get closer together and that's a win, potentially for [Suffield] and the adjacent neighbors if you see it that way. Remember, [in] the underlying [R-25] zone, this developer could put thirty or forty houses here, which [is] not what anybody really wants. So, there's tradeoffs that are happening here, and that's what the [flexible residential development] is for." During the public hearing, members of the public also raised the issue of whether the proposed length of Madigan Circle exceeded the 1200 foot limitation for dead-end streets and dead-end street systems.

At its February 24, 2020 meeting, the commission conducted its deliberations on the defendant's applications. In those deliberations, commission members discussed a variety of issues, including the deed of the

open space portion of the parcel to the Suffield Land Conservancy, the zoning regulations pertaining to driveways, and the potential presence of the Northern Harrier Hawk on the parcel. The issues of access to the proposed development, the length of the dead-end street to be known as Madigan Circle, or its connection to Limric Lane were not raised by any commission member, nor did the commission discuss the 1200 foot limitation contained in both the zoning regulations and the subdivision regulations. The commission then voted unanimously to approve the defendant's application for a special permit for a flexible residential development and its related application for subdivision approval.[7]

The plaintiffs, Michael C. Drewnowski and Kelly A. Drewnowski, owners of real property on Limric Lane, appealed from that decision to the Superior Court, claiming that the commission improperly approved the use of a dead-end street or dead-end street system as an access road in excess of the 1200 foot limitation set forth in the regulations.[8] In response, the defendant maintained that the flexible residential development regulations, and § VI (B) of the zoning regulations in particular, superseded all dimensional requirements of the underlying zone, which authorized the commission to approve the dead-end street known as Madigan Circle proposed by the defendant. In its May 3, 2021 memorandum of decision, the court concluded "that Madigan Circle was approved by the commission in violation of the [subdivision] regulations," as it constituted a dead-end street system "in excess of the 1200 foot limitation as measured from the edge of the connecting street, which is South Main Street." The court did not address the defendant's claim regarding the applicability of the flexible residential development provisions of the zoning regulations.

The defendant filed a timely motion for reargument and reconsideration, claiming that the court's memorandum of decision "makes no mention of, and therefore does not decide, the . . . first and primary argument as to the source of the commission's authority to approve the street layout at issue in this appeal: the Flexible Residential Development . . . provision of the [zoning regulations] . . . ." (Emphasis omitted.) By order dated June 8, 2021, the court summarily denied that motion.

The defendant then filed a petition with this court for certification to appeal pursuant to General Statutes § 8-8 (o). This court granted the defendant's petition on September 8, 2021.

On November 15, 2021, the defendant filed a motion for articulation pursuant to Practice Book § 66-5, in which it asked the Superior Court to address the defendant's argument regarding the applicability of the flexible residential development provisions of the zoning regulations. On February 10, 2022, the court issued a

memorandum of decision on that motion, in which it concluded that the flexible residential development section of the zoning regulations "encroaches upon a specific provision within the inherent authority of the . . . subdivision regulations, involving the maximum length of dead-end streets." For that reason, the court concluded that the commission's "approval of the [defendant's special permit and subdivision] applications is . . . contrary to law." The defendant thereafter filed with this court an amended preliminary statement of the issues to include a challenge to that determination.

I

Resolution of the present appeal begins with the "threshold question regarding the proper scope of our review" of the action taken by the commission, as "[i]t is well settled that [w]hen a zoning [commission] states the reasons for its action, the question for the court to pass on is simply whether the reasons assigned are reasonably supported by the record and whether they are pertinent to the considerations which the commission is required to apply under the zoning regulations. . . . The court should not go behind the official statement of the [commission]." (Internal quotation marks omitted.) *Verrillo* v. *Zoning Board of Appeals*, 155 Conn. App. 657, 672–73, 111 A.3d 473 (2015). At the same time, "[i]n the *absence* of a statement of purpose by the zoning commission for its actions, it [is] the obligation of the [Superior Court], and of this court upon review of the [Superior Court's] decision, to search the entire record to find a basis for the [zoning] commission's decision." (Emphasis added; internal quotation marks omitted.) *Harris* v. *Zoning Commission*, 259 Conn. 402, 423, 788 A.2d 1239 (2002). That obligation stems from the "strong presumption of regularity" that attaches to municipal land use agency decision making.[9] *Murach* v. *Planning & Zoning Commission*, 196 Conn. 192, 205, 491 A.2d 1058 (1985); see also *Wood* v. *Zoning Board of Appeals*, 258 Conn. 691, 697–98, 784 A.2d 354 (2001) (plaintiff in administrative land use appeal bears burden of demonstrating that land use agency acted improperly); *Hills* v. *Zoning Commission*, 139 Conn. 603, 608, 96 A.2d 212 (1953) (zoning commission action is entitled to "every reasonable presumption of validity"); *Levine* v. *Zoning Board of Appeals*, 124 Conn. 53, 57, 198 A. 173 (1938) ("[t]here is a presumption that [zoning agencies] have acted . . . upon valid reasons" (internal quotation marks omitted)); *Parker* v. *Zoning Commission*, 209 Conn. App. 631, 684–85, 269 A.3d 157 (in light of strong presumption of regularity applied to municipal land use proceedings, reviewing court presumes that land use agency made "all necessary findings that are supported by the record" when decision lacks specificity), cert. denied, 343 Conn. 908, 273 A.3d 694 (2022).

As our Supreme Court has explained, "[t]he principle

that a court should confine its review to the reasons given by a [land use] agency" applies only "where the agency has rendered a formal, official, collective statement of reasons for its action." *Protect Hamden/North Haven from Excessive Traffic & Pollution, Inc.* v. *Planning & Zoning Commission*, 220 Conn. 527, 544, 600 A.2d 757 (1991); see also *Harris* v. *Zoning Commission*, supra, 259 Conn. 420–21 (noting that "cases in which we have held that the agency rendered a formal, official, collective statement involve circumstances wherein the agency *couples its communication of its ultimate decision with express reasons behind that decision*" (emphasis added)); *Verrillo* v. *Zoning Board of Appeals*, supra, 155 Conn. App. 673–74 (discussing collective statement requirement). In the present case, the commission did not render an official, collective statement of the reasons for its action. As a result, this court is obligated to search the record to ascertain whether a proper basis exists for the commission's decision to grant the defendant's applications. See *Double I Ltd. Partnership* v. *Plan & Zoning Commission*, 218 Conn. 65, 73, 588 A.2d 624 (1991) ("[i]t is well established . . . that if the commission fails to state clearly the reasons for its decision, the [Superior Court], and this court on appeal, must search the record to find a basis for the commission's decision"); *Grillo* v. *Zoning Board of Appeals*, 206 Conn. 362, 369, 537 A.2d 1030 (1988) (Superior Court properly searched record in attempt to find basis for action taken by zoning board); *Azzarito* v. *Planning & Zoning Commission*, 79 Conn. App. 614, 618, 830 A.2d 827 (reviewing court must search record to find basis for decision when commission "did not make specific factual findings to support its approval of the application"), cert. denied, 266 Conn. 924, 835 A.2d 471 (2003).

II

Having determined the proper scope of appellate review, I turn now to the applicable legal principles that govern our review.[10] The present case concerns the proper construction of the regulations at issue and their application to undisputed facts. To the extent that we must interpret language in those regulations, our review is plenary.[11] See *Lime Rock Park, LLC* v. *Planning & Zoning Commission*, 335 Conn. 606, 648, 264 A.3d 471 (2020); see also *Putnam Park Apartments, Inc.* v. *Planning & Zoning Commission*, 193 Conn. App. 42, 47, 218 A.3d 1127 (2019) ("when [an] agency's determination of a question of law has not previously been subject to judicial scrutiny . . . the agency is not entitled to special deference" (internal quotation marks omitted)). "[Z]oning regulations are local legislative enactments . . . and, therefore, their interpretation is governed by the same principles that apply to the construction of statutes. . . . Moreover, regulations must be interpreted in accordance with the principle that a reasonable and rational result was intended . . . . The

process of statutory interpretation involves the determination of the meaning of the . . . language . . . as applied to the facts of the case, including the question of whether the language does so apply." (Internal quotation marks omitted.) *Lime Rock Park, LLC* v. *Planning & Zoning Commission*, supra, 648–49; see also *Smith* v. *Zoning Board of Appeals*, 227 Conn. 71, 89, 629 A.2d 1089 (1993) ("[i]n construing regulations, the general rules of statutory construction apply"), cert. denied, 510 U.S. 1164, 114 S. Ct. 1190, 127 L. Ed. 2d 540 (1994).

To the extent that the task before us requires consideration of whether a particular section of the regulations apply, a degree of deference to the municipal land use agency is warranted. As our Supreme Court repeatedly has observed, "it is the function of a [land use agency] . . . to decide within prescribed limits and consistent with the exercise of [its] legal discretion, whether a particular section of the zoning regulations applies to a given situation and the manner in which it does apply. The [Superior Court] had to decide whether the [land use agency] correctly interpreted the section [of the regulations] and applied it with reasonable discretion to the facts. . . . In applying the law to the facts of a particular case, the [land use agency] is endowed with . . . liberal discretion, and its action is subject to review . . . only to determine whether it was unreasonable, arbitrary or illegal." (Internal quotation marks omitted.) *Wood* v. *Zoning Board of Appeals*, supra, 258 Conn. 697; see also *Farmington-Girard, LLC* v. *Planning & Zoning Commission*, 339 Conn. 268, 283, 260 A.3d 428 (2021) (land use agency "charged with reviewing special permit application has reasonable discretion to decide whether a particular section of the zoning regulations applies in a given situation and how it applies" (internal quotation marks omitted)).

Finally, it bears repeating that when a land use agency has not rendered "a formal, official, collective statement of reasons for its action"; *Protect Hamden/North Haven from Excessive Traffic & Pollution, Inc.* v. *Planning & Zoning Commission*, supra, 220 Conn. 544; reviewing courts are "obligated, pursuant to well established precedent, to search the entire record to ascertain whether the evidence reveals *any proper basis* for the commission's decision . . . ." (Emphasis added.) *Parker* v. *Zoning Commission*, supra, 209 Conn. App. 650 n.21; see also *Clifford* v. *Planning & Zoning Commission*, 280 Conn. 434, 452, 908 A.2d 1049 (2006) ("[i]f *any* reason culled from the record demonstrates a real or reasonable relationship to the general welfare of the community, the decision of the commission must be upheld" (emphasis in original; internal quotation marks omitted)); *Harris* v. *Zoning Commission*, supra, 259 Conn. 423 ("[i]n the absence of a statement of purpose by the zoning commission for its actions, it was the obligation of the [Superior Court], and of this court

upon review of the [Superior Court's] decision, to search the entire record to find a basis for the [zoning] commission's decision" (internal quotation marks omitted)). That obligation is rooted in the "strong presumption of regularity" that attaches to municipal land use agency decision making; *Murach* v. *Planning & Zoning Commission*, supra, 196 Conn. 205; and the related presumptions that land use agencies have acted upon valid reasons; see *Levine* v. *Zoning Board of Appeals*, supra, 124 Conn. 57; and have "acted with fair and proper motives, skill and sound judgment." *Strain* v. *Mims*, 123 Conn. 275, 285, 193 A. 754 (1937). Accordingly, the appellate courts of this state are obligated to review the decision of a municipal zoning commission with an eye toward affirmance and may reverse only when a plaintiff has demonstrated that the commission acted improperly. See *Clifford* v. *Planning & Zoning Commission*, supra, 451.

III

With those legal principles in mind, I begin by noting that the record before us contains copies of both the zoning regulations and the subdivision regulations that were in effect when the commission acted on the defendant's applications. See General Statutes § 8-2h (a). I respectfully submit that, when read together, those regulations are dispositive of the present appeal.

Section VI of the zoning regulations is titled "Flexible Residential Development."[12] The "statement of purpose" contained in § VI (A) explains that "Flexible Residential Developments . . . [provide] opportunity for cluster or smaller lots than those normally required by these regulations in order to permanently conserve natural, scenic, or historic resources; to permanently preserve or provide open spaces for active or passive use that will benefit present and future generations of Suffield residents; to enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, or other open spaces; to reduce infrastructure costs and impervious surfaces; and, to promote development that is compatible with surrounding areas and is in harmony with the natural site features, while at the same time maintaining the density limitations of the particular district. . . ." Section VI (A) also requires, as a prerequisite to such development, the issuance of a special permit by the commission.

Street layout and design is an essential aspect of a flexible residential development application. Section VI (A) of the zoning regulations, as well as the definitions of "flexible residential development" and "cluster development" contained in the zoning regulations; see footnote 1 of this dissenting opinion; all expressly pertain to "infrastructure." See, e.g., *In re Thomas H. Gentry Revocable Trust*, 138 Haw. 158, 163, 378 P.3d 874 (2016) ("[i]nfrastructure includes, but is not limited to, roads"); *Guiliano* v. *Brookhaven*, 34 App. Div. 3d 734, 735, 826

N.Y.S.2d 100 (2006) (noting that "streets" are "enumerated categor[y] of infrastructure" under New York law). Moreover, § VI (C) requires "all applicants," as part of the flexible residential development application process, to submit a conceptual plan that includes, inter alia, "all proposed roads" in the development.[13] The zoning regulations also specifically authorize the commission to attach conditions to its approval of a flexible residential development to "minimiz[e] the impact of [the] proposed development on traffic volumes and congestion in the area including the adequacy and *safety* of existing State and Town roads expected to serve or to be affected by the proposed development . . . ."[14] (Emphasis added.) Suffield Zoning Regs., § VI (I) (8). In addition, the "design guidelines" set forth in § VI specify that "[t]he development shall . . . be laid out to . . . layout streets in a curvilinear fashion" and to "preserve scenic views and vistas, as seen from public roads." Suffield Zoning Regs., § VI (G) (5) and (6).

The defining characteristic of a cluster development is its flexibility with respect to land use regulation. To achieve its salutary aim of preserving open space for conservation, recreation and agricultural purposes; see General Statutes § 8-18; requirements otherwise applicable to a given parcel are relaxed.[15] This flexibility is memorialized not only in the designation of cluster development in Suffield as "flexible residential development" but, more specifically, in § VI (B) of the zoning regulations, which provides in relevant part: "When the Commission approves a special permit for a [flexible residential development], the *dimensional requirements of the underlying zones* are hereby *superseded in their entirety* . . . ."[16] (Emphasis added.) That regulation plainly and unambiguously indicates that *all* dimensional requirements applicable to the zoning district in question except the maximum unit limitation are superseded when the commission grants a special permit for a flexible residential development.[17] Suffield Zoning Regs., § VI (B).

Accordingly, when a property owner or developer applies for a special permit for a flexible residential development in Suffield, the relevant inquiry is twofold and asks (1) in which zoning district is the property located and (2) what dimensional requirements apply to that zoning district.

The parcel here is located in the R-25 residential zoning district. Dead-end streets or dead-end street systems in that zone are limited to 1200 feet in length. See Suffield Zoning Regs., § II. Recourse to dictionaries is unnecessary to establish both that length is a dimension and that the phrase "shall be limited to twelve-hundred (1,200) feet"; id.; is a limitation.[18] Because the 1200 foot limit on dead-end streets and dead-end street systems is a dimensional requirement that applies in all zoning districts, including the R-25 zone, it necessarily falls

within the purview of § VI (B) of the zoning regulations. As a result, that requirement was superseded when the commission granted the defendant's application for a special permit for a flexible residential development.[19]

"It is well established that, in construing individual regulations, we do not read them in isolation, but rather in light of the entire [legislative] act." *Wozniak* v. *Colchester*, 193 Conn. App. 842, 857, 220 A.3d 132, cert. denied, 334 Conn. 906, 220 A.3d 37 (2019); see also *Borrelli* v. *Zoning Board of Appeals*, 106 Conn. App. 266, 271, 941 A.2d 966 (2008) ("[w]e consider the [regulation] as a whole with a view toward reconciling its parts in order to obtain a sensible and rational overall interpretation" (internal quotation marks omitted)); *Field Point Park Assn., Inc.* v. *Planning & Zoning Commission*, 103 Conn. App. 437, 440, 930 A.2d 45 (2007) ("[r]egulations must be viewed to form a cohesive body of law"). The design guidelines for flexible residential developments in Suffield require, as "objectives," an applicant to "preserve and maintain all or part of any existing forests, fields, pastures and other land in agricultural use," to "layout streets in a curvilinear fashion," and to "preserve scenic views and vistas, as seen from public roads." Suffield Zoning Regs., § VI (G) (2), (5) and (6). The obvious result of a curvilinear street that contours to preserve open space and scenic views is a street of greater length. In construing regulations, "common sense must be used." *Smith* v. *Zoning Board of Appeals*, supra, 227 Conn. 92. The fact that the flexible residential development approval procedure requires applicants to submit a plan of "all proposed roads" in the development; Suffield Zoning Regs., § VI (C); and aims to have such roads designed in a curvilinear fashion; see id., § VI (G) (6); further supports the conclusion that the 1200 foot limitation for dead-end streets contained in § II of the zoning regulations does not apply to flexible residential developments approved by special permit by the commission.[20]

In its February 10, 2022 memorandum of decision on the defendant's motion for articulation, the Superior Court concluded that the flexible residential development section of the zoning regulations "encroaches upon a specific provision within the inherent authority of the . . . subdivision regulations, involving the maximum length of dead-end streets." For that reason, the court concluded that the commission's "approval of the [defendant's special permit and subdivision] applications is . . . contrary to law." That decision reflects a fundamental misunderstanding of the regulatory scheme enacted by the commission for flexible residential developments in Suffield.

Both the zoning regulations and the subdivision regulations were promulgated by the commission in its legislative capacity. See *Lord Family of Windsor, LLC* v. *Planning & Zoning Commission*, 288 Conn. 730, 735,

954 A.2d 831 (2008) (planning commission acts in legislative capacity when adopting subdivision regulations); *Hayes Family Ltd. Partnership* v. *Planning & Zoning Commission*, 98 Conn. App. 213, 231, 907 A.2d 1235 (2006) ("[w]hen a zoning entity adopts regulations, it acts in a legislative capacity"), cert. denied, 281 Conn. 903, 916 A.2d 44 (2007). The subdivision regulations here provide in relevant part that "[a]ll subdivision plans must conform to the [z]oning [r]egulations . . . ." Suffield Subdivision Regs., § 305; accord General Statutes § 8-26 (a) ("nothing in this section shall be deemed to authorize the commission to approve any . . . subdivision or resubdivision which conflicts with applicable zoning regulations"); R. Fuller, 9 Connecticut Practice Series: Land Use Law and Practice (4th Ed. 2015) § 22:6, p. 708 ("[t]he planning commission does not have the legal authority to enact subdivision regulations which amount to or conflict with the zoning regulations"); 2 J. Kushner, Subdivision Law and Growth Management (2nd Ed. 2023) § 7:4 ("the subdivision plan should be consistent" with zoning regulations).

More importantly, § 703 of the subdivision regulations[21] incorporates by reference § VI of the zoning regulations. See footnote 4 of this dissenting opinion. Because the subdivision regulations expressly incorporate § VI of the zoning regulations and do not otherwise address that statutorily authorized form of land use development, this is not a case in which the zoning regulations and subdivision regulations conflict. Rather, it is one in which the commission, acting in its legislative capacity, has made the reasoned determination that, with respect to the regulation of flexible residential developments, § VI of the zoning regulations controls. For that reason, the subdivision regulations here are best viewed as a complement to the zoning regulations, rather than in conflict.

Although our interpretation of municipal land use regulations generally is plenary; see *Lime Rock Park, LLC* v. *Planning & Zoning Commission*, supra, 335 Conn. 648; *Putnam Park Apartments, Inc.* v. *Planning & Zoning Commission*, supra, 193 Conn. App. 47; it is "the function of a zoning [agency] . . . to decide within prescribed limits and consistent with the exercise of [its] legal discretion, whether a particular section of the zoning regulations applies to a given situation and the manner in which it does apply. . . . In applying the law to the facts of a particular case, the board is endowed with . . . liberal discretion, and its action is subject to review . . . only to determine whether it was unreasonable, arbitrary or illegal." (Internal quotation marks omitted.) *Wood* v. *Zoning Board of Appeals*, supra, 258 Conn. 697; see also *Farmington-Girard, LLC* v. *Planning & Zoning Commission*, supra, 339 Conn. 283 (land use agency "charged with reviewing special permit application has reasonable discretion to decide whether a particular section of the zoning regulations

applies in a given situation and how it applies" (internal quotation marks omitted)); *Doyen* v. *Zoning Board of Appeals*, 67 Conn. App. 597, 609, 789 A.2d 478 (concluding that Superior Court "improperly substituted its own judgment for that of the board in rejecting the board's implicit conclusion that [the regulation in question] does not apply under the circumstances of this case"), cert. denied, 260 Conn. 901, 793 A.2d 1088 (2002).

Mindful that "regulations must be interpreted in accordance with the principle that a reasonable and rational result was intended"; *Wood* v. *Zoning Board of Appeals*, supra, 258 Conn. 699; and that a legislative body "is always presumed to know all the existing [regulations] and the effect that its action or non-action will have upon any one of them"; (internal quotation marks omitted) *AvalonBay Communities*, *Inc.* v. *Zoning Commission*, 280 Conn. 405, 417, 908 A.2d 1033 (2006); I believe that the commission reasonably could conclude that, to the extent that a particular dimensional requirement is contained in both the zoning regulations and the subdivision regulations and is applicable to the residential zone in question, § VI (B) of the zoning regulations controls. See *Egan* v. *Planning Board*, 136 Conn. App. 643, 656 and n.14, 47 A.3d 402 (2012) ("[t]he subdivision regulations and zoning regulations must be read together" when "[t]he subdivision regulations incorporate the zoning regulations by reference"). In such instances, that dimensional requirement is superseded by the commission's approval of a special permit, which approval must occur *prior* to subdivision approval. See Suffield Zoning Regs., § VI (A). At the same time, any dimensional requirements set forth in the subdivision regulations that are *not* contained in the zoning regulations, such as the minimum "turn-around diameter of [a] cul-de-sac"; Suffield Subdivision Regs., § 905 (b); continue to apply and are prerequisites to subdivision approval. In my view, that is a sensible and rational interpretation of the flexible residential development scheme set forth in the regulations that govern such development in Suffield.

Because the zoning regulations and the subdivision regulations contain identical 1200 foot limitations on the length of dead-end streets or dead-end street systems, I believe that the commission reasonably could conclude that § VI (B) of the zoning regulations applies to the facts of this case and that, as a result, the 1200 foot limitation was superseded by its approval of the defendant's special permit application.[22]

Moreover, to the extent that an ambiguity is present and another equally plausible construction of the regulations exists, I respectfully submit that this court should "give deference to the construction of that language adopted by the agency charged with enforcement of the regulation." *Wood* v. *Zoning Board of Appeals*, supra, 258 Conn. 699; see also footnote 11 of this dis-

senting opinion; cf. *Planning & Zoning Commission* v. *Gilbert*, 208 Conn. 696, 706, 546 A.2d 823 (1988) ("[w]hen more than one construction [of a land use regulation] is possible, we adopt the one that renders the enactment effective and workable and reject any that might lead to unreasonable or bizarre results"). To conclude otherwise, particularly when the subdivision regulations are silent as to flexible residential development save for their incorporation of § VI of the zoning regulations by reference; see footnote 4 of this dissenting opinion; would frustrate the essential purpose of cluster development and its salutary objectives.

As a final matter, I note that the commission was *required* under the zoning regulations to give due consideration to "the health, safety, and welfare of the public in general and the immediate neighborhood in particular" as a prerequisite to special permit approval. Suffield Zoning Regs., § XIV (B) (1) (b). The commission also was required to find that "[t]he impact of the proposed use on traffic safety and circulation on nearby streets will not be negative and the ability of such streets to adequately accommodate the traffic to be generated by the proposed use will be adequate." Suffield Zoning Regs., § XIV (B) (1) (b) (3). In granting the defendant's application for a special permit, the commission necessarily considered those safety concerns and made the requisite findings. See *Parker* v. *Zoning Commission*, supra, 209 Conn. App. 684–85 (in light of strong presumption of regularity applied to municipal land use proceedings, reviewing court presumes that land use agency made "all necessary findings that are supported by the record" when decision lacks specificity); *North Haven Holdings Ltd. Partnership* v. *Planning & Zoning Commission*, 146 Conn. App. 316, 332, 77 A.3d 866 (2013) (zoning commission "necessarily considered 'the public health, safety and general welfare' " as required by zoning regulations for special permit approval).

The record indicates that safety concerns regarding the street system proposed by the defendant as part of its flexible residential development was a significant issue at the public hearing. As the majority notes, the defendant originally proposed a horseshoe shaped street that connected to Limric Lane at two points but abandoned that plan in response to safety concerns raised at the hearing. On the documentary and testimonial evidence in the record, the commission reasonably could conclude that the revised dead-end street design, which connected to Limric Lane at only one point and exceeded the general limitation on dead-end streets and systems by only 160 feet; see footnote 6 of this dissenting opinion; did not compromise the "the health, safety, and welfare of the public in general and the immediate neighborhood in particular"; Suffield Zoning Regs., § XIV (B) (1) (b); and, thus, did not warrant denial of the defendant's application. See *Irwin* v. *Planning & Zoning Commission*, 244 Conn. 619, 627, 711 A.2d 675

(1998) ("general considerations such as public health, safety and welfare . . . may be the basis for the denial of a special permit"); *Bethlehem Christian Fellowship, Inc.* v. *Planning & Zoning Commission*, 73 Conn. App. 442, 462–63, 807 A.2d 1089 ("[T]he commission [is not required], in every case, [to] grant a special [permit] application. The [zoning] regulations . . . [authorize] the commission [to] consider the effect a special [permit] will have on a neighborhood when exercising its discretion in considering an application for a special [permit]."), cert. denied, 262 Conn. 928, 814 A.2d 379 (2002).

In the present case, the commission did not render a formal, official, collective statement of reasons for its decision to grant the defendant's applications. As a result, this court is "obligated, pursuant to well established precedent, to search the entire record to ascertain whether the evidence reveals any proper basis" for that decision. *Parker* v. *Zoning Commission*, supra, 209 Conn. App. 650 n.21; see also *Harris* v. *Zoning Commission*, supra, 259 Conn. 423. Because the record before us contains a basis on which the commission properly could predicate its decision to grant the defendant's applications, I would conclude that the Superior Court improperly reversed the decision of the commission.[23] For that reason, I respectfully dissent.

[1] The Suffield Zoning Regulations (zoning regulations) define "cluster development" as "[a] development design technique that is encouraged under Sec. VI. Flexible Residential Development regulations, that permits a reduction in lot area, frontage, and setback, and a reduction in associated infrastructure needs, provided there is no increase in the overall density permitted for a conventional development, in return for the preservation of open space to be used for passive and/or active recreation or agricultural purposes, and the preservation of historically or environmentally sensitive features." Suffield Zoning Regs., § II. The zoning regulations similarly define "flexible residential development" as "[a] residential development consisting of at least ten (10) acres with five (5) or more lots that allows smaller lots than those normally required by the underlying zoning district regulations in order to permanently conserve natural, scenic, or historic resources; provide open spaces for active or passive use; and, reduce infrastructure costs and impervious surfaces. (See also 'Cluster Development'.)." Id.

[2] The Planning and Zoning Commission of Suffield was also named as a defendant in the underlying administrative appeal but has not participated in the appeal to this court. Accordingly, all references to the defendant in this dissenting opinion are to Hamlet Homes, LLC.

[3] As one commentator has noted, "[c]luster development may be allowed under the regulations in most residential zones as an alternative form of development, or it may require property to be specially zoned . . . or [may be] allowed only with a special permit . . . ." R. Fuller, 9 Connecticut Practice Series: Land Use Law and Practice (4th Ed. 2015) § 4:44, p. 178; cf. *109 North, LLC* v. *Planning Commission*, 111 Conn. App. 219, 221, 959 A.2d 615 (2008) (appeal involving municipality with specially zoned "cluster conservation subdivision districts"). In Suffield, a special permit is required for cluster development. See Suffield Zoning Regs., § VI (A).

[4] Section 703 of the subdivision regulations is titled "Flexible Residential Development (FRD)." It provides: "For subdivisions proposed in the R-90 and R-45 and R-25 zones on parcels of ten (10) or more acres with five (5) or more lots, or for those choosing to utilize Flexible Residential Development subdivision procedure, reference is made to Section VI of the Zoning Regulations." Suffield Subdivision Regs., § 703.

[5] Section 905 (c) of the subdivision regulations provides in relevant part: "A dead-end street or dead-end-street system(s) shall be limited to twelve-hundred (1,200) feet as measured from the edge of the connecting street to the center of the proposed cul-de-sac . . . ."

[6] As a result, this appeal, distilled to its essence, concerns the extension of Madigan Circle 160 feet beyond the general limitation for dead-end street systems contained in the regulations.

[7] Pursuant to § VI (A) of the zoning regulations, the commission was obligated to act on the defendant's application for a special permit for a flexible residential development prior to granting subdivision approval.

[8] The plaintiffs also claimed that the commission (1) improperly approved a roadway intersection closer than seventy-five feet from their driveway in contravention of § III (H) (1) (h) of the zoning regulations, (2) acted on incomplete applications and (3) failed to afford due consideration to existing property values, the preservation of scenic views, the habitat of the Northern Harrier Hawk, and the elimination of buffer areas. In its May 3, 2021 memorandum of decision, the Superior Court rejected those claims. The plaintiffs have not appealed the propriety of those determinations.

[9] The majority opines that "it is difficult to defer to a construction purportedly adopted by the [commission] . . . [when] we have no statement by the [commission] about how it came to its decision to approve the applications . . . ." Yet that necessarily is always the case when a commission has not provided "a formal, official, collective statement of reasons for its action"; *Protect Hamden/North Haven from Excessive Traffic & Pollution, Inc.* v. *Planning & Zoning Commission*, 220 Conn. 527, 544, 600 A.2d 757 (1991); as required by General Statutes § 8-3c (b). As this court has observed, "[w]e are hesitant to ascribe fault in that regard, as noncompliance with that statutory imperative is commonplace in practice and condoned by decades of appellate authority." *Parker* v. *Zoning Commission*, 209 Conn. App. 631, 684, 269 A.3d 157, cert. denied, 343 Conn. 908, 273 A.3d 694 (2022); see also *Rapoport* v. *Zoning Board of Appeals*, 301 Conn. 22, 34, 19 A.3d 622 (2011); *Harris* v. *Zoning Commission*, supra, 259 Conn. 420–23; *Paige* v. *Town Plan & Zoning Commission*, 235 Conn. 448, 464, 668 A.2d 340 (1995); *Protect Hamden/North Haven from Excessive Traffic & Pollution, Inc.* v. *Planning & Zoning Commission*, supra, 544–45; *Ward* v. *Zoning Board of Appeals*, 153 Conn. 141, 144, 215 A.2d 104 (1965); *Turek* v. *Zoning Board of Appeals*, 196 Conn. App. 122, 136–37, 229 A.3d 737, cert. denied, 335 Conn. 915, 229 A.3d 729 (2020); *Verrillo* v. *Zoning Board of Appeals*, supra, 155 Conn. App. 672–76; *Malone* v. *Zoning Board of Appeals*, 134 Conn. App. 716, 724, 39 A.3d 1233 (2012); *200 Associates, LLC* v. *Planning & Zoning Commission*, 83 Conn. App. 167, 177–78, 851 A.2d 1175, cert. denied, 271 Conn. 906, 859 A.2d 567 (2004). As one commentator notes, "Connecticut's various land regulation statutes all provide . . . that commissions 'shall' state the reasons for their decisions on the record. However, Connecticut courts have consistently refused to void decisions made without a statement of reasons, even though all these statutes use 'shall' rather than 'may.' " (Footnote omitted.) T. Tondro, Connecticut Land Use Regulation (2d Ed. 1992) pp. 473–74; cf. *Gagnon* v. *Inland Wetlands & Watercourses Commission*, 213 Conn. 604, 611, 569 A.2d 1094 (1990) (public policy reasons make it "practical and fair" for reviewing court to search record of "a local land use body . . . composed of laymen whose procedural expertise may not always comply with the multitudinous statutory mandates under which they operate").

In this regard, it bears emphasis that, in a land use proceeding like the present one, the commission is not a party to the proceeding; it is the trier of fact and ultimate decision maker. See *River Bend Associates, Inc.* v. *Zoning Commission*, 271 Conn. 1, 24, 856 A.2d 973 (2004); *Gardiner* v. *Conservation Commission*, 222 Conn. 98, 115 n.2, 608 A.2d 672 (1992). In all such cases, "the burden of overthrowing the [commission's] decision . . . rest[s] squarely upon the appellant." (Internal quotation marks omitted.) *St. Joseph's High School, Inc.* v. *Planning & Zoning Commission*, 176 Conn. App. 570, 602, 170 A.3d 73 (2017); see also *Clifford* v. *Planning & Zoning Commission*, 280 Conn. 434, 451, 908 A.2d 1049 (2006) (party challenging action of zoning commission bears burden of proving commission acted improperly); *Chouinard* v. *Zoning Commission*, 139 Conn. 728, 731, 97 A.2d 562 (1953) ("[t]he burden of proof is always on the plaintiff" who challenges zoning commission determination).

[10] "Scope of review and standard of review are often—albeit erroneously—used interchangeably. The two terms carry distinct meanings and should not be substituted for one another. Scope of review refers to the confines within which an appellate court must conduct its examination. . . . In other words, it refers to the matters (or what) the appellate court is permitted to examine. In contrast, standard of review refers to the manner in which (or how) the examination is conducted." (Internal quotation marks omitted.)

Verrillo v. *Zoning Board of Appeals*, supra, 155 Conn. App. 672 n.10.

Our Supreme Court's collective statement jurisprudence implicates the scope of review conducted by the appellate courts of this state, as well as the Superior Court. See, e.g., *Purnell* v. *Inland Wetlands & Watercourses Commission*, 209 Conn. App. 688, 692 n.4, 269 A.3d 124 ("[i]n hearing appeals from decisions of an inland wetlands agency, the Superior Court acts as an appellate body"), cert. denied, 343 Conn. 908, 273 A.3d 694 (2022); *North Haven Holdings Ltd. Partnership* v. *Planning & Zoning Commission*, 146 Conn. App. 316, 319 n.2, 77 A.3d 866 (2013) ("[i]n hearing appeals from decisions of a planning and zoning commission, the Superior Court acts as an appellate body"). Asking, as a threshold matter, whether the land use agency in question has rendered "a formal, official, collective statement of reasons for its action"; *Protect Hamden/North Haven from Excessive Traffic & Pollution, Inc.* v. *Planning & Zoning Commission*, supra, 220 Conn. 544; serves to define the parameters under which review of the decision of a land use agency is conducted. When such a statement is provided by the agency, the reviewing court may not "go behind the official statement of the [land use agency]," as "the question for the court to pass on is simply whether the reasons assigned are reasonably supported by the record and whether they are pertinent to the considerations which the [agency] is required to apply under the [municipal land use] regulations." (Internal quotation marks omitted.) *Chevron Oil Co.* v. *Zoning Board of Appeals*, 170 Conn. 146, 152–53, 365 A.2d 387 (1976); see also *Gibbons* v. *Historic District Commission*, 285 Conn. 755, 771, 941 A.2d 917 (2008) (Supreme Court noted "the traditional rule that when a reason is given, we should not search beyond it" and stated "[w]e reaffirm that this is the appropriate *scope of review* for municipal land use appeals" (emphasis added)).

[11] Although the proper interpretation of a zoning regulation is subject to plenary review, our precedent also instructs that, because "[a] local board or commission is in the most advantageous position to interpret its own regulations and apply them to the situations before it . . . the position of the municipal land use agency is entitled to some deference . . . ." (Internal quotation marks omitted.) *Watson* v. *Zoning Board of Appeals*, 189 Conn. App. 367, 383, 207 A.3d 1067 (2019). To my mind, that deference manifests itself when the regulation in question is susceptible to more than one plausible interpretation, in which case a reviewing court generally should defer to the construction that supports, rather than undermines, the decision reached by the land use agency. See *Wood* v. *Zoning Board of Appeals*, supra, 258 Conn. 699 ("[a] court that is faced with two equally plausible interpretations of regulatory language . . . properly may give deference to the construction of that language adopted by the agency charged with enforcement of the regulation"); *Chouinard* v. *Zoning Commission*, 139 Conn. 728, 731, 97 A.2d 562 (1953) ("because circumstances and conditions affecting zone regulations . . . are matters of local concern and peculiarly within the knowledge of the local authorities . . . [n]either the [Superior Court] nor this court can substitute its own discretion for that of the commission" (citation omitted)).

[12] Pursuant to General Statutes (Rev. to 2019) § 8-2, the commission is vested with authority to "provide for cluster development" in a given municipality. In accordance with that statutory grant of authority, the commission enacted the flexible residential development scheme set forth in the zoning regulations. See Suffield Zoning Regs., § VI. The statement of purpose contained therein provides in relevant part that the zoning regulations were adopted and amended by the commission "for the following purposes . . . (13) [t]o promote cluster development . . . ." Suffield Zoning Regs., § I (B).

[13] That requirement is consistent with the mandate of General Statutes (Rev. to 2019) § 8-2 (a), which authorizes municipal zoning commissions to enact cluster development regulations in light of, inter alia, "infrastructure capacity . . . ."

[14] It is well established that a zoning commission may attach conditions to its approval of a special permit to address safety concerns. See General Statutes (Rev. to 2019) § 8-2 (a) (authorizing commission to impose "conditions necessary to protect the public health [and] safety" when granting special permit); *International Investors* v. *Town Plan & Zoning Commission*, 344 Conn. 46, 60–61, 277 A.3d 750 (2022) (same). Alternatively, "general considerations such as public health, safety and welfare . . . may be the basis for the denial of a special permit." *Irwin* v. *Planning & Zoning Commission*, 244 Conn. 619, 627, 711 A.2d 675 (1998). The zoning regulations likewise allow the commission to deny a special permit when the following

standard is not met: "The impact of the proposed use on traffic safety and circulation on nearby streets will not be negative and the ability of such streets to adequately accommodate the traffic to be generated by the proposed use will be adequate." Suffield Zoning Regs., § XIV (B) (1) (b) (3); accord *Bethlehem Christian Fellowship, Inc.* v. *Planning & Zoning Commission*, 73 Conn. App. 442, 462–63, 807 A.2d 1089 ("[T]he commission [is not required], in every case, [to] grant a special [permit] application. The [zoning] regulations . . . [authorize] the commission [to] consider the effect a special [permit] will have on a neighborhood when exercising its discretion in considering an application for a special [permit]."), cert. denied, 262 Conn. 928, 814 A.2d 379 (2002). Because the commission retains the authority under both Connecticut decisional law and the municipal zoning regulations to deny a special permit application due to traffic and safety concerns, I believe that the commission is well equipped to respond to such concerns, such as the hypothetical, ever expanding chain of cul-de-sacs alluded to by the majority. For that reason, I concur with the defendant's observation that "speculation about what a commission might theoretically do [in the future], and an assumption that it would ignore safety, should not play a role in regulatory interpretation."

[15] Cluster development "permits a developer to design a subdivision which departs from the grid pattern essentially mandated if orthodox zoning regulations must be observed. More leeway is available for the creation of a variety of neighborhoods, and for the consideration of aesthetic objectives. The flexibility of arrangement of dwellings makes possible the preservation of open spaces." 4 P. Salkin, American Law of Zoning (5th Ed. 2011) § 31:20, p. 31-105; see also *New Seabury Corp.* v. *Board of Appeals*, 28 Mass. App. 946, 948, 550 N.E.2d 405 ("the concept of flexibility . . . underlies cluster zoning"), review denied, 407 Mass. 1102, 554 N.E.2d 851 (1990); *Bayswater Realty & Capital Corp.* v. *Planning Board*, 149 App. Div. 2d 49, 53, 544 N.Y.S.2d 613 (1989) ("cluster zoning [is] perceived as a means of encouraging flexibility in regulating the development and growth of residential communities"), as modified by 76 N.Y.2d 460, 560 N.E.2d 1300, 560 N.Y.S.2d 623 (1990).

[16] Although not applicable in the present case, § VI (B) of the zoning regulations contains one exception regarding "the maximum number of units permitted in any" flexible residential development. The inclusion of that exception to the supersession of the dimensional requirements of the underlying zones demonstrates that the commission, acting in its legislative capacity, knew how to exempt certain requirements from § VI (B) and chose not to do so with respect to other dimensional requirements contained in the zoning regulations. See *Scholastic Book Clubs, Inc.* v. *Commissioner of Revenue Services*, 304 Conn. 204, 219, 38 A.3d 1183 ("it is a well settled principle of statutory construction that [a legislative body] knows how to convey its intent expressly . . . or to use broader or limiting terms when it chooses to do so" (citation omitted)), cert. denied, 568 U.S. 940, 133 S. Ct. 425, 184 L. Ed. 2d 255 (2012); *AvalonBay Communities, Inc.* v. *Zoning Commission*, 280 Conn. 405, 417–18, 908 A.2d 1033 (2006) (legislative body knows how to enact limitations if it intends to do so).

[17] In their appellate brief, the plaintiffs acknowledge that, "[b]ased on the plain language of [§ VI] of the zoning regulations . . . the *dimensional requirements* in the *underlying zone* [are] superseded when an applicant is awarded a special permit for a flexible residential development." (Emphasis in original.)

[18] I note that the definitions section of the zoning regulations imposes additional dimensional requirements beyond those contained in the definition of "dead-end street or system." For example, "aquaculture" is permitted only "on a parcel of land containing a minimum of five (5) acres. . . ." Suffield Zoning Regs., § II. Although a farm is a use "permitted as of right" in all residential zones; Suffield Zoning Regs., § IV (D) (2); the definition of a "farm" provided in § II imposes a dimensional requirement, as it requires "[a] tract of land containing five (5) or more acres . . . ." The zoning regulations define a "farm stand" as "[a] structure used for the sale of agricultural and homemade products which are produced on the premises" and then mandate that such structure must be "setback a minimum of twenty (20) feet from the front lot line and fifty (50) feet from any street intersection, and [is] not to exceed ten (10) feet in height unless part of an existing structure." Suffield Zoning Regs., § II.

[19] The majority concludes that § VI (B) of the zoning regulations pertains *only* to the dimensional requirements contained in the "General Dimensional Requirements" subdivision of the zoning regulations. See Suffield Zoning Regs., § IV (D) (4). Section VI (B) contains no such limitation; it supersedes

"the dimensional requirements of the underlying zones . . . in their entirety . . . ." Had the commission, when it enacted the flexible residential development regulations, intended to confine application of § VI (B) to *only* those dimensional requirements contained in § IV (D) (4), it would have said so. See *Scholastic Book Clubs, Inc.* v. *Commissioner of Revenue Services*, 304 Conn. 204, 219, 38 A.3d 1183 ("it is a well settled principle of statutory construction that [a legislative body] knows how to convey its intent expressly . . . or to use broader or limiting terms when it chooses to do so" (citation omitted)), cert. denied, 568 U.S. 940, 133 S. Ct. 425, 184 L. Ed. 2d 255 (2012); *AvalonBay Communities, Inc.* v. *Zoning Commission*, 280 Conn. 405, 417, 908 A.2d 1033 (2006) (legislative body knows how to enact limitations if it intends to do so).

In exercising its legislative authority here, the commission chose not to do so. Instead, it elected to supersede "the dimensional requirements of the underlying zones . . . in their entirety . . . ." Suffield Zoning Regs, § VI (B). I respectfully submit that this court should defer to the commission's legislative prerogative in this regard, particularly on a matter of local concern. See *P. X. Restaurant, Inc.* v. *Windsor*, 189 Conn. 153, 160, 454 A.2d 1258 (1983) (regulation of "health, safety and welfare factors" are "zoning matters of local concern and thus are within the expertise of local authorities"); *Larsen* v. *Zoning Commission*, 153 Conn. 483, 489, 217 A.2d 715 (1966) (adhering to "the principle that zoning questions are matters of local concern which are usually best determined by the zoning authority" and concluding that there was "no reason in this record for substituting our judgment for that of the commission"); *Luery* v. *Zoning Board*, 150 Conn. 136, 146, 187 A.2d 247 (1962) ("[Z]oning is primarily a matter of local concern. The local authorities are conversant with the needs of the community as a whole. They are in the best position to plan the orderly growth and expansion of the community for the general welfare. The courts should not and will not override the local boards unless there is a clear and definite breach of duty."); *Chouinard* v. *Zoning Commission*, 139 Conn. 728, 731, 97 A.2d 562 (1953) ("because circumstances and conditions affecting zone regulations . . . are matters of local concern and peculiarly within the knowledge of the local authorities . . . [n]either the [Superior Court] nor this court can substitute its own discretion for that of the commission" (citation omitted)); cf. *Griffith* v. *Berlin*, 130 Conn. 84, 86, 32 A.2d 56 (1943) ("the obligations of towns for any roads or other avenues of travel . . . are of only local concern" (internal quotation marks omitted)).

In addition, I note that the zoning regulations contain other dimensional requirements applicable to specific residential zones beyond those contained in § IV (D) (4). See, e.g., Suffield Zoning Regs., § IV (M) (setting forth specific dimensional requirements for, inter alia, accessory buildings and in-ground pools in residential zones). The majority does not construe § VI (B) of the zoning regulations in light of those additional dimensional requirements of the underlying residential zones, in contravention of the precept that "[r]egulations are to be construed as a whole." *Smith* v. *Zoning Board of Appeals*, supra, 227 Conn. 91. It likewise does not construe § VI (B) in light of the various dimensional requirements set forth in § II of the zoning regulations, including the 1200 foot dead-end street limitation. See footnote 18 of this dissenting opinion.

[20] Whether it is appropriate to supersede the 1200 foot dead-end street limitation in the context of flexible residential development applications is quintessentially a matter "within the discretion of the commission, which is presumed to know regional conditions and the general characteristics of the area and is better qualified to pass upon such matters than the courts, which will not usurp the judgment of the local zoning agency." *Dupont* v. *Planning & Zoning Commission*, 156 Conn. 213, 222, 240 A.2d 899 (1968). In this regard, I note that this is not a case in which a land use agency is tasked with interpreting a regulation promulgated by a different municipal agency entrusted with legislative authority. See, e.g., *Lawrence* v. *Zoning Board of Appeals*, 158 Conn. 509, 514, 264 A.2d 552 (1969) (noting that zoning board "was not acting in a legislative capacity as would a zoning commission"); *Mountain Brook Assn., Inc.* v. *Zoning Board of Appeals*, 133 Conn. App. 359, 362 n.2, 37 A.3d 748 (2012) ("In deciding an appeal to it concerning interpretation of the zoning regulations as applied to a particular piece of property, the zoning board of appeals acts in a quasi-judicial capacity. The zoning board of appeals has the authority to interpret the town's zoning ordinance and decide whether it applies to a given situation." (Internal quotation marks omitted.)). Rather, in this case, the same commission that enacted the flexible residential development regulations at issue was tasked

with interpreting and applying those regulations in acting on the defendant's applications.

[21] Section 703 contains the only reference to flexible residential development in the subdivision regulations.

[22] The majority states that "[t]he dissent asserts that the board reasonably concluded that the generally applicable dimensional requirement set forth in both the [zoning regulations] and the [subdivision regulations] was *completely superseded*." (Emphasis added; internal quotation marks omitted.) It mischaracterizes my position. To be clear, my view is that § VI (B) of the zoning regulations supersedes only (1) the dimensional requirements contained in the zoning regulations that are applicable to the residential zone in question and (2) any dimensional requirement contained in the subdivision regulations that is identical to a dimensional requirement set forth in the zoning regulations and applicable to the residential zone in question.

[23] In light of that conclusion, it is unnecessary to address the defendant's alternative claim regarding the allegedly improper application of §§ 902 and 905 of the subdivision regulations by the Superior Court.