

Site Plan Final and Special Permit PLPZ 2023 00031	Arnold Foods Company, Inc. To request a revision to the Commission’s decision letter of August 17, 2022 regarding PLPZ 2022 00074.
LOCATION:	10 Hamilton Avenue
ZONES:	GB, COZ
LOT SIZE:	20.346-acres
TAX ID:	03-1714/s

APPLICATION:

The applicant is requesting a revision to the Commission’s decision letter of August 17, 2022, regarding the Final Coastal Site Plan and Special Permit application PLPZ 2022 00074. Through PLPZ 2022 00074, the application went before the Commission and received approval with modifications to add an emergency generator to the existing baked goods manufacturing facility, a 20.346-acre property, at 10 Hamilton Avenue, in the GB and COZ zones. One of the requirements of the approval, as stated on page 3 of 4 of the decision letter, is below:

WHEREAS the applicant agreed for the generator to meet the EPA’s Tier 4 Final Emissions Standards. The applicant shall provide evidence of the EPA Tier 4 Final Certification prior to Zoning Permit; and

The applicant requests a revision to substitute language referencing a “Tier 4 Certified Generator” with language referencing a “Tier 4 Compliant Generator.” They are requesting this change for two (2) reasons:

- 1) Since the “Tier 4 Certified Generator” and “Tier 4 Compliant Generator” both “meet the EPA’s Tier 4 Final Emissions Standards,” the construction timing and cost will be significantly reduced with a “Tier 4 Compliant Generator.”
- 2) Since this generator was planned to be assembled on site, the applicant realized they need to obtain a zoning permit and prep the site prior to installing and testing for compliance. Therefore, they cannot provide the requested evidence of the EPA Tier 4 Final Certification prior to Zoning Permit.

The applicant notes in a letter stamped by a CT licensed engineer on 11/17/2022 the following comparison information:

“Tier 4 Certified Generator”:

- Meets EPA Tier 4 requirements
- A single manufacturer produces / fabricates all components of the diesel generator and selective catalytic reduction (SCR) treatment system
- The manufacturer tests prototypes and certifies units per EPA Tier 4 requirements prior to arriving onsite

“Tier 4 Compliant Generator”:

- Meets EPA Tier 4 requirements
- Source components and assemblies from various manufacturers and assemble generator onsite
- After assembly and startup onsite, tests the unit to be compliant with EPA Tier 4 requirements

A special permit was required per Section 6-101(a) of the BZR, as the total volume of buildings on the property is greater than 150,000 cubic feet.

DEPARTMENT COMMENTS:

EMAC - *expected soon*

APPLICABLE ZONING REGULATIONS:

Section 6-5 – Definitions

Section 6-13 – Site Plan Approval Required by Planning and Zoning Commission

Section 6-15 – [Site Plan] Standards

Section 6-105 – Use Regulations and Special Requirements for GB Zone

Section 6-101(a) – Special Permit for Business Zones and Residential Zones

Section 6-111 – Coastal Overlay Zone

Section 6-139.I – Flood Hazard Overlay Zone

Section 6-158 – Customer or Patron Parking; Required Spaces

Section 6-205 – Schedule of Required Open Spaces, Limiting Heights and Bulk of Bdgs.

JOHNSON, HASLUN & HOGEMAN, LLP

ATTORNEYS AT LAW
21 SHERWOOD PLACE
GREENWICH, CONNECTICUT 06830

TELEPHONE (203) 983-6750
TELECOPIER (203) 983-6755

William I. Haslun II
chaslun@jhh-law.com

Ms. Katie DeLuca
Town Planner/Director of Zoning
Town of Greenwich
101 Field Point Road
Greenwich, CT 06830

December 12, 2022

Re: Arnold Foods Company, Inc. Requested Revision to PLPZ 2022 00074

Dear Katie:

Pursuant to our previous discussion, on behalf of Arnold Food Company, Inc. I am hereby requesting a revision to the Commission's decision letter of August 17, 2022 in the above-referenced matter.

You will recall that at the last meeting when this application was discussed and approved by the Commission, the applicant, at the request of the Commission, "agreed for [sic] the generator to meet the EPA's Tier 4 Final Emissions Standards" as is stated in the decision letter. In subsequent re-reading of the Commission's decision, we noticed that the Commission, in the areas highlighted in the attached copy of the decision letter, further referred to the issuance of a "Final Certification" as a prerequisite to the obtainment of a zoning permit or any activity on the site. This condition is extremely problematic to the fabrication of the generator and its installation for a couple of reasons.

First, there is a distinction between a Tier 4 Certified Generator and a Tier 4 Compliant Generator, although both "meet the EPA's Tier 4 Final Emissions Standards", as further explained in the attached summary from the project's electrical engineer, Schneider Electric. It is the applicant's intent to install a Tier 4 Compliant Generator for the reasons explained in the Schneider summary (essentially, the ability to have a generator produced in a shorter period and at significantly less cost.)

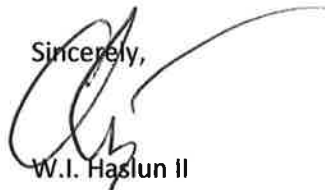
Second, because the generator will be assembled on site, we will need to have received a zoning permit and to have prepared the site prior to installation and testing for compliance.

I am therefore requesting that the decision letter of August 17, 2022 be revised so as to read on page 3 that “[t]he applicant shall provide evidence of the EPA Tier 4 Compliance prior to the issuance of a Certificate of Occupancy” and likewise so as to delete condition #4 on page 4, and in a new separate section on page 4 add that “The submission of two copies of the generator’s EPA Tier 4 Compliance is a prerequisite to a Certificate of Occupancy issuing.”

Given that the end result will be the same -a generator that meets the EPA’s Tier 4 Final Emissions Standards, as requested by the Commission- this may seem at first blush to be an exercise in semantics. However, prior to the applicant’s undertaking to have the site prepared and the generator ordered, installed and tested, it is obviously critical to the project that the language of the decision letter reflect the practicalities in the field.

We look forward to appearing before the Commission as soon as possible so as to obtain approval for the requested revisions to advance this project.

If you have any questions or comments or if you require additional information, please do not hesitate to contact me.

Sincerely,

W.I. Haslun II

cc: Pat LaRow
Jackie Pruitt

Enclosure:
Highlighted 8.17.22 Decision
Schneider 11.7.22 Summary
Affidavit of Notice
Revision Fee

1090 Elm St., Suite 101
Rocky Hill, CT

DATE: November 7, 2022

SUBJECT: Bimbo Greenwich – Diesel Generator Tier 4 Certified vs Tier 4 Compliant
Greenwich, Connecticut

FROM: Kyle Noss, P.E., Senior Staff Power System Engineer
Engineering EIRC

Executive Summary:

This letter will compare Tier 4 Certified Diesel Generator classification versus Tier 4 Compliant Diesel Generators.

Tier 4 Certified Diesel Generator:

Generator manufacturers, that produce or fabricate all components of the diesel generator and selective catalytic reduction (SCR) treatment systems, test prototypes and certify these units per EPA Tier 4 requirements.

Tier 4 Compliant Diesel Generator:

Generator manufacturers, that do not produce or fabricate all components of the diesel generator and selective catalytic reduction (SCR) treatment systems, cannot test entire prototypes due to cost implications. However, manufacturers can deliver a system to site and, after assembly and startup, test the unit to be compliant with EPA Tier 4 requirements.

Conclusion:

Generators that are Tier 4 certified or compliant both meet the performance criteria of the EPA. The difference is when and where the EPA emission testing occurs. Certification of prototype generators is an expensive undertaking and may preclude some manufacturers from having certified generators at the factory prior to shipment. Compliant manufacturers source components and assemblies from other manufacturers and assemble them onsite. The entire unit is not completely assembled and able to be tested until arrival on site. Compliant generator manufacturers meet EPA Tier 4 criteria. The testing to confirm compliance is performed at site since factory certification is not possible.



11/07/2022

KATIE DELUCA, AICP
DIRECTOR PLANNING AND ZONING/ZONING
ENFORCEMENT COORDINATOR/TOWN PLANNER



PATRICK LAROW, AICP
Deputy Director Planning and Zoning/Assistant Town
Planner
MARISA ANASTASIO, Senior Planner
BIANCA DYGERT, Planner II
JACALYN PRUITT, Planner II
SHANICE BECKER, Planner I
DAN CLARK, GIS Planning Analyst
PETER MANGS, Systems and Compliance Specialist
CRYSTAL BERRY, Housing Specialist
DOREEN CARROLL-ANDREWS, Applications Coordinator

PLANNING AND ZONING - LAND USE DEPARTMENT

VIA CERTIFIED AND ELECTRONIC MAIL

August 17, 2022

W. I. Haslun II, Esq.
Johnson, Haslun & Hogeman, LLP
21 Sherwood Place
Greenwich, CT 06830

RE: The application of William I. Haslun II, Esq., authorized agent for Arnold Foods Company, Inc., record owner, for a Final Coastal Site Plan and Special Permit, PLPZ 2022 00074, to add an emergency generator to the existing baked goods manufacturing facility and requiring a special permit pursuant to Sec. 6-5, 6-13 to 6-17, 6-101, 6-105, 6-111 and 6-205 on a 20.346-acre property, located at 10 Hamilton Avenue, in the GB and COZ Zones as shown on the site and landscape plans prepared by Bergmann last revised 6/27/2022.

Dear Mr. Haslun:

At a public hearing held on 8/2/2022 the Planning and Zoning Commission considered the above referenced applications and took the following action:

Upon a motion to approve final coastal site plan and special permit with modifications made by Macri and seconded by Welles, the following resolution was unanimously adopted (Voting on this item: Alban, Macri, Welles (*for Levy*), Yeskey and Lowe); and

WHEREAS the Commission held public hearings on 5/10/2022 and 8/2/2022 and took all testimony as required by law; and

WHEREAS the applicant requested a final coastal site plan and special permit approval, PLPZ 2022 00074, to add a 3,000 kw emergency generator to be powered with diesel fuel within a 630 sq.ft. enclosure on the southeastern side of the existing baked goods manufacturing facility, Arnold Food Company, to provide power to critical operations in the event of a power failure on a 20.346-acre property, located at 10 Hamilton Avenue, in the GB and COZ Zones; and

WHEREAS this property came before the Commission as a pre-application at the 1/20/2022 meeting, PLPZ 2021 00571, to add an emergency generator to the existing backed good manufacturing facility; and

WHEREAS the site is within the Coastal Overlay Zone (COZ), approximately 940-feet northwest of the

nearest Byram Harbor shoreline. Byram Harbor is adjacent to and north of Long Island Sound, therefore the application is subject to all the provisions of Section 6-111 of the BZR; and

WHEREAS the proposed generator fuel supply storage is to be contained in a UL 142 listed double wall tank, which is provided with low level and critical high-level leak detection float switches as well as overfill prevention with 7-gallon spill containment. A laminated tank depth chart and filling instructions are provided at the fill location. Additionally, a Spill Prevention & Control Plan will be prepared to further protect against spills potentially entering the storm water system; and

WHEREAS the project site is within the X Flood Zone; and

WHEREAS no change of parking is proposed with this application. The existing number of parking spaces exceeds the number required by the BZR for industrial use. Section 6-158(b)(1) of the BZR notes 2 parking spaces for every 3 employees. The total number of required spaces is 228 parking spaces, and the site currently offers 366 parking spaces. These parking numbers are documented in a letter from the Town of Greenwich Connecticut Planning and Zoning Commission dated February 2, 1995; and

WHEREAS the FAR of the parcel is proposed to increase from 0.5366 (475,610 sq.ft.) to 0.5379 (476,234 sq.ft.), where 0.50 (443,136 sq.ft.) is the maximum FAR per Section 6-205 of the BZR for the GB Zone; and

WHEREAS the Zoning Enforcement Officer commented on 4/20/2022 and notes that the applicant received a FAR variance at the 3/23/2022 ZBA hearing, PLZE 2022 00013, to construct a 540 sq.ft. enclosure. After being granted the FAR variance the applicant realized they needed an enclosure of 630 sq.ft. in size and returned to the ZBA on 7/27/2022, PLZE 2022 00046 and was granted that variance with an effective date of 8/8/2022 to further increase the site's nonconforming FAR for the GB Zone; and

WHEREAS the parcel has a history of going before the Zoning Board of Appeals to receive variances for Maximum Building Area (26.2%), Maximum Lot Coverage (64.6%), and FAR were previously approved variances from 11/27/1995, Appeal No. 7956; and

WHEREAS the applicant went before the Architecture Review Committee (ARC) at their 2/16/2022 meeting, PLPZ 2022 00023, and was endorsed by the committee for the construction of a new 540 sq.ft. generator enclosure with access platform. The color of the enclosure proposed is "Custom Color" RT-8401 by Cummins Custom Colors, to match the existing building color; and

WHEREAS the applicant submitted a drainage exemption form, stamped by a CT Licensed engineer dated 3/3/2022 to indicate their impervious area is remaining the same on the site through this project. The proposed generator pad is sited over existing impervious pavement. The Town's Engineers do not perform a review of applications that increase the impervious surface of sites by less than 1,000 sq.ft.; and

WHEREAS the Inland Wetlands & Watercourse Agency (IWWA) signed a green sheet on 3/7/2022 indicating no action is needed with IWWA; and

WHEREAS the Sewer Division issued comments on 4/21/2022 and requests the applicant/owner submit a signed letter acknowledging receipt and agreement to adhere to the comments. The applicant submitted such a signed letter dated 4/25/2022; and

WHEREAS the Conservation team issued comments dated 5/5/2022 and asks that a planting plan with an evergreen hedge, ideally done with native plants, be incorporated into the project to help screen the proposed generator; and

WHEREAS per Conservation's comments the applicant provided a landscape plan that provides thirteen (13) arborvitae proposed along the Hamilton Avenue fence line. The Commission strongly encourages the consideration of other plants species here that are native to the region; and

WHEREAS the applicant shall meet the screening and planting requirements of Sec. 6-180 of the BZR for the GB Zone; and

WHEREAS the Commission asked the applicant to investigate alternative fuel options and the applicant responded in a letter dated 7/20/2022 outlining the design and environmental impacts they considered throughout the project, including "...analysis shows the bakery's demand is at times over 3000 KW. Unfortunately, the largest fast response NG generators from CAT, Cummins, and other manufacturers is 2500 KW, which is insufficient for the purposes of ensuring minimal disruption during power outage"; and

WHEREAS the Commission requested the applicant elaborate on the proposed maintenance running schedule for the required generator, and the applicant responded in a letter dated 7/20/2022 noting that there will be "...a sound attenuated enclosure for the generator. The enclosure reduces the noise emanating from the generator when in use to that of background noise. The testing procedure is once per month for 30 minutes or 6 hours per year." The letter also states that testing is below the Federal restriction of 100 hours per year; and

WHEREAS the generator's testing procedure shall be limited to once a month for 30-minutes, and may only be done on weekdays between 9 AM and 5 PM; and

WHEREAS the Commission asked the applicant to describe how many additional trucks are expected to visit this site to deliver fuel. The applicant responded in a letter dated 7/20/2022, and notes that after the initial fuel delivery, "[a]ssuming no outages, this fuel will last for 3 years without the need for additional tanker fills. If we have a major outage, then the tank will be filled after 24 hours of use"; and

WHEREAS the applicant agreed for the generator to meet the EPA's Tier 4 Final Emissions Standards. The applicant shall provide evidence of the EPA Tier 4 Final Certification prior to Zoning Permit; and

WHEREAS the applicant shall abide by all previously approved conditions rendered for the subject site; and

WHEREAS the applicant shall address all staff and interdepartmental issues and comments; and

WHEREAS the Commission finds that the final site plan and special permit applications are subject to Sections 6-5, 6-13 to 6-17, 6-101, 6-105, 6-111 and 6-205 of the Town of Greenwich Building Zone Regulations (BZR); and

THEREFORE BE IT RESOLVED the application of William I. Haslun II, Esq., authorized agent for Arnold Foods Company, Inc., record owner, for a Final Coastal Site Plan and Special Permit, PLPZ 2022 00074, to add an emergency generator to the existing baked goods manufacturing facility and requiring a special permit pursuant to Secs. 6-5, 6-13 to 6-17, 6-101, 6-105, 6-111 and 6-205 on a 20.346-acre property, located at 10 Hamilton Avenue, in the GB and COZ Zones as shown on the site and landscape plans prepared by Bergmann last revised 6/27/2022 is hereby approved with modifications.

Prior to any activity on site or Zoning Permit issuance, the applicant shall submit documentation to address the Commission's decision. (PDFs can be e-mailed to Jacalyn.Pruitt@greenwichct.org and hardcopies submitted to the Planning & Zoning Office.)

This submittal shall include:

1. Four (4) sets of development plans;
2. Four (4) sets of architecture plans that match ARC endorsed elevations and specific color;
3. Four (4) sets of landscape plans that meet Sec. 6-180 of the BZR indicating the arbovitae planting or for the encouraged native plantings;
4. Two (2) copies of the generator's EPA Tier 4 Final Certification;
5. Any outstanding departmental comments;
6. Any changes to the proposed plans shall be reviewed with Planning and Zoning.

In accordance with Section 6-14.1 (e) of the Building Zone Regulations of the Town of Greenwich and Section 8-3 (i) of the Connecticut General Statutes, failure to complete all approved work under this approval within five years of the August 2, 2022 date of approval will result in expiration of the approval. The Commission may grant one or more extensions of time to complete work not to exceed ten years from the date of approval.

The contents of this letter have been reviewed by members of the Commission and reflect the decision the Commission made at its meeting on August 2, 2022.

Sincerely,

A handwritten signature in blue ink that reads "Jacalyn Pruitt". The signature is written in a cursive style with a small crown-like flourish above the letter 'i' in "Pruitt".

Jacalyn Pruitt, Planner II

TOWN OF GREENWICH

AFFIDAVIT OF NOTIFICATION OF REQUEST TO REVISE FINAL SITE PLAN &
SPECIAL PERMIT APPROVAL

STATE OF CONNECTICUT)

) ss: Greenwich

December 12, 2022

COUNTY OF FAIRFIELD)

I, William I. Haslun, being first duly sworn, do hereby certify that on December 12, 2022 I caused to be mailed, postage prepaid, to those persons whose names are set forth on Exhibit A attached hereto a copy of the notice attached hereto as Exhibit B. Said persons were the record owners as shown on the Town Tax Assessor's Office records of property abutting (as said term is defined in §6-14(a)(3) of the Greenwich Building Zone Regulations) the property belonging to Arnold Foods, Inc., located at 10 Hamilton Ave, Greenwich, Connecticut, for which an application to revise a previously approved final site plan and special permit has been filed with the Town of Greenwich Planning and Zoning Commission.



W. I. Haslun, II

Subscribed and sworn to before me
this 12th day of December 2022.



Notary Public/Commissioner of the Superior Court



Certificate of Mailing — Firm (Domestic)

Name and Address of Sender

William I. Haslun II, Esq.
Johnson, Haslun & Hageman, LLP
21 Sherwood Place
Greenwich, Connecticut 06830

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2	Joseph Muratore 347 East 139th Street Bronx NY 10454				
3	Aminulla Suleymanov 393 Laural Avenue, Unit 310 Bridgeport CT 06605				
4	Thomas F. & Margaret E. Vollnski 54 Ivy Street Greenwich CT 06830				
5	Anita M. Valenti 68 Ivy Street Greenwich CT 06830				
6	Andrew Roy & Carol Fuchella 56 Ivy Street Greenwich CT 06830				



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	Michelle Jaramillo 4 Ivy Street Greenwich CT 06830				
	Christine Marullo 58 Ivy Street Greenwich CT 06830				
	Konstantin Rutledge 64 Ivy Street Greenwich CT 06830				
	John J. Thompson Kimberly A. McNay 66 Ivy Street Greenwich CT 06830				
	Town of Greenwich Attn: Finance Dept. 101 Field Point Road Greenwich CT 06830				



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EXHIBIT B

JOHNSON, HASLUN & HOGEMAN, LLP

ATTORNEYS AT LAW
21 SHERWOOD PLACE
GREENWICH, CONNECTICUT 06830

TELEPHONE (203) 983-6750
TELECOPIER (203) 983-6755

William I. Haslun II
chaslun@jhh-law.com

December 12, 2022

To Whom It May Concern:

Notice is hereby given that Arnold Foods, Inc, owner of 10 Hamilton Avenue, has filed a Requested Revision with the Planning and Zoning Commission of the Town of Greenwich to revise the approved site plan and special permit language so as, in pertinent part, to substitute language referencing a “Tier 4 Certified Generator” with language referencing a “Tier 4 Compliant Generator”.

Further information with regard to this application may be obtained by contacting the undersigned at (203) 983-6750 or the Planning and Zoning Commission, Town of Greenwich, 101 Field Point Road, Greenwich, at (203) 622-7894.

W. I. Haslun, II, Esq.