

**TOWN OF EAST WINDSOR
PLANNING AND ZONING COMMISSION**

REGULAR Meeting #1765 – September 10, 2019

MEETING MINUTES

*******Minutes are not official until approved at a subsequent meeting*******

The REGULAR Meeting of the Planning and Zoning Commission was called to order in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT. at 6:36 p.m. by Chairman Ouellette.

PRESENT: **Regular Members:** Joe Ouellette (Chairman), Michael Kowalski, Tim Moore, and Jim Thurz.

Alternate Members: Anne Gobin, Frank Gowdy, and Marti Zhigailo.

ABSENT: **Regular Members:** Dick Sullivan

Alternate Members: All Alternate Members were present this evening.

Also present was Town Planner Ruben Flores-Marzan.

GUESTS: Marek Kement, representing North Road Materials, LLC. Jay Ussery, of J. R. Russo & Associates, LLC, representing Windbrook Homes, LLC., Alan Baker, Dick Pippin, and Kathy Pippin.

ESTABLISHMENT OF QUORUM:

A quorum was established as four Regular Members and three Alternate Members were present at the Call to Order. Chairman Ouellette noted all Regular Members would sit in, and vote, on all Items of Business this evening. Following in accordance with the service rotation schedule Chairman Ouellette requested Alternate Member Gowdy to join the Board regarding discussion and action on all Items of Business this evening as well.

LEGAL NOTICE:

The following Legal Notice, which appeared in the Journal Inquirer editions August 5 and 29, 2019, was read by Chairman Ouellette:

- **PZ-2019-08** - Application from North Road Materials, LLC, the Kement Family Limited Partnership & Isabella V. Kement, for Renewal of Special Permit for soil management facility with construction of material storage bins at existing construction yard for property located at 297 North Road, also identified as Assessor Map 117, Block 36, Lots 43B and 43C; zoned A-1 and A-2.

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ADDED AGENDA ITEMS:

Chairman Ouellette acknowledged receipt of letter from Attorney Dorian R. Famiglietti for an extension of the time for filing mylars for the General Development Plan Special Use Permit for the HIZ Designation for a commercial recreation/casino at 105 Prospect Hill Road, and for the commencement of activities for MMCT Venture, LLC. Chairman

Ouellette suggested the Commission would consider this request under **OTHER BUSINESS, Item B.**

PUBLIC PARTICIPATION:

Chairman Ouellette queried the audience for comments regarding items/issues not posted on the Agenda. No one requested to speak.

APPROVAL OF MINUTES/August 13, 2019:

MOTION: To ACCEPT the Minutes of Regular Meeting #1674 dated August 13, 2019, with the following amendment:
Page 2, Line 52, Approval of Minutes of Regular Meeting #1763 dated July 23, 2019, VOTE: In Favor: Moore/Kowalski/Sullivan/Zhigailo,
OPPOSED: No one, **ABSTAINED: Kowalski**

Kowalski moved/Moore seconded/**DISCUSSION:** See amendment above.

VOTE: In Favor: Moore/Kowalski
Opposed: No one
Abstained: Ouellette/Thurz/Gowdy

Motion failed; approval postponed to Commission's September 24, 2019 Regular Meeting.

RECEIPT OF APPLICATIONS:

No new applications received.

PERFORMANCE BONDS – ACTIONS; PERMIT EXTENSIONS; ROAD ACCEPTANCE

No requests presented under this Item of Business this evening.

CONTINUED PUBLIC HEARINGS: None.

NEW PUBLIC HEARINGS/A. Special Permit renewal, 297 North Road, Kement, Map 117, Block 36, Lot 043B, (deadline for decision 10/17/2019):

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Marek Kement, the applicant and principal of Anchor Engineering, joined the Commission.

Mr. Kement submitted the Certificate of Mailings to abutters, and the Affidavit for posting the Public Notice sign, for the record.

Mr. Kement reported the permit didn't reflect the expiration of the one year term; he is present to request an extension of the Special Use Permit for soil storage and management at 297 North Road. The site contains 70 acres, which was the former Kement landfill. Mr. Kement suggested the plans before the Commission are a regurgitation of the original plans. At the time of the original approval Mr. Kement applied for a Zoning Permit and posted an Erosion Control Bond in December, 2018. He has submitted a letter noting compliance with the permit conditions #1 through #7, condition #8 requires acquisition of the Zoning Permit, and condition #9 regarding review by the Town Engineer. Mr. Kement noted Town Engineer Norton has reviewed the current plans and has submitted his memos dated 7/26/2019, and 8/7/2019.

Chairman Ouellette opened discussion on the duration of the permit; he noted the applicant is asking for a one year extension but cited the Commission has discretion to extend the permit for a longer time period. Commissioner Gobin suggested since this is a material management operation; it gives the Commission the ability to review the status of the activities. Commissioner Gobin gave an example of a similar application which was found to exceed the conditions set for the height of the pile of material. Mr. Kement suggested submitting As-Built plans at the new permit expiration; Commissioner Gobin suggested having the Town Engineer certify the operation is in compliance. Discussion continued regarding the regulation language relative to the permit duration, and inclusion of the additional condition. Mr. Kement indicated he would be agreeable to a three (3) or five (5) year extension, and the submission of As-Built plans.

Chairman Ouellette opened discussion to the audience:

Alan Baker, 340 Rye Street: Mr. Baker questioned what type of material would be brought to the site? Mr. Kement suggested the fill would be reuseable material, nothing contaminated. Mr. Baker questioned if material which required permission from the State could be brought to this site? Mr. Kement replied affirmatively. Mr. Baker noted that during application reviews for WSG, LLC on Wapping Road one type of material was presented to the Inland Wetlands Commission and during discussion it was actually another type of material. He cited significant material is being removed during the MDC tunnel project in Hartford, the contractors for that project need to find a place to dump that material; could that material be dumped here? Mr. Kement indicated the site under discussion is an old landfill but there has been no contamination into the groundwater. He anticipates the material coming to the site would be projects bringing in sand and gravel. Mr. Baker noted the material from the MDC tunnel project had high levels of

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arsenic and Mr. Kement's site is near the Scantic River; he wanted to be sure the applicant is considering impact on the river. Chairman Ouellette cited the questions being raised by Mr. Baker had been answered during the original application review; Mr. Baker questioned how we would know what could be dumped at this site?

Mr. Kement explained that this operation would include storage bins for the material. If any contaminated material was brought in it would be stored off site; materials stored on this site would be regulated by the State. Mr. Baker questioned who would check the material? Mr. Kement indicated the material would be reviewed by a certified licensed professional. Mr. Baker questioned who would be keeping those records? Mr. Kement indicated the records would be maintained by North Road Materials. Mr. Baker indicated when the Inland Wetlands Commissioner approved the Wapping Road site they specifically excluded fill from the MDC tunnel; Chairman Ouellette cited the applicant withdrew that part of the application. He suggested this permit says that no hazardous material can be brought to this site. Mr. Kement referenced note #15 on sheet 2 of 5. Chairman Ouellette suggested the permit doesn't allow processing of materials within the storage area.

Dick Pippin, 37 Woolam Road: Mr. Pippin felt the Commission was right in considering the multi-year permit; he suggested if staff visited the site and found a violation the permit would be null and void. Mr. Pippin felt to bring the applicant back year after year is burdensome. He cited the Commission has done this for Charbonneau/Apothecaries Hall Enterprises, and the world hasn't stopped turning.

Chairman Ouellette suggested he would consider a three (3) year extension but not five (5); he queried the Commission for their preference. The consensus of the Commission agreed to the three (3) year extension, with the inclusion of the additional condition #17 - *The Applicant shall submit annual compliance certification and As-Builts on the anniversary date of this approval to the Town Planner.*

Motion: **To CLOSE the Public Hearing on the Application submitted by North Road Materials, LLC requesting a RENEWAL of a Special Use Permit for a soil storage and management facility located at 297 North Road, in the A-1/A-2 Zones (Map 117, Block 36, Lots 43B and 43C).**

Kowalski moved/Gowdy seconded/DISCUSSION: None.

VOTE: **In Favor: Unanimous (Ouellette/Kowalski/Moore/Thurz/Gowdy)
(No one opposed/No abstentions)**

MOTION TO APPROVE the Application submitted by North Road Materials, LLC requesting a RENEWAL of a Special Use Permit for a soil storage and management facility located at 297 North Road, in the A-1/A-2 Zones (Map 117, Block 36, Lots

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43B and 43C). This approval is granted for an additional ~~one year~~ *three (3) years to expire on August 14, 2020 August 14, 2022*, and is subject to conformance with the referenced plans and all previously approved conditions.

Referenced Plans:

Cover Sheet – Soil Management Facility Permit Renewal (2019) of Special Use Permit Dated August 14, 2018 for North Road Materials, LLC located at 297 North Road, Broad Brook, CT 06016, prepared by Anchor Engineering Services, Inc. 41 Sequin Drive, Glastonbury CT 06033 Phone (860) 633-8770, www.anchorengr.com, dated 07/24/2019;
1 of 5 Existing Conditions Plan, dated 7/24/2019;
2 of 5 Overall Site Plan, dated 7/24/2019;
3 of 5 Phasing Plan, dated 7/24/2019
4 of 5 Detail Site Plan, dated 7/24/2019;
5 of 5 Erosion and Sedimentation Control Notes and Details, dated 7/24/2019

CONDITIONS:

Conditions that must be met prior to signing of mylars:

1. All final plans submitted for signature shall require the seal and live signature of the appropriate professional(s) responsible for preparation of the plans (PE and LS).
2. The conditions of this approval shall be binding upon the applicant, land owners, and their successors and assigns. A copy of this approval shall be filed in the land records prior to the signing of the final plans.

Conditions that must be met prior to issuance of permits:

3. Two (2) full final sets of mylars, with any required revisions incorporated on the sheets shall be submitted for signature of the Commission. One shall be filed on the Town Land Records and one filed with the Planning & Development Department.
4. Special Use Permit shall be filed on the land records in with the Town Clerk's Office.

Conditions that must be met prior to certificates of compliance:

5. All public health and safety components of the project must be satisfactorily completed prior to occupancy. In cases where all public health and safety components have not been completed, the Zoning Enforcement Officer may issue a Certificate of Zoning Compliance provided a suitable bond is retained for any remaining site work.
6. This application specifically allows the storage and management of soil. There shall be **NO PROCESSING** of any materials within the subject area.

General Conditions:

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7. In accordance with Chapter 900.3(h) of the East Windsor Zoning Regulations, site plan approval shall become null and void in One (1) Year from date of approval if the activities have not commenced and the site plan shall be considered disapproved, and Special Use Permit shall be voided, unless an extension is granted by the Commission.
8. A Zoning Permit shall be obtained prior to the commencement of any site work.
9. An Erosion and Sedimentation Control bond is required per each phase of filling, and possibly for soil storage and management area.
10. This project shall be constructed and maintained in accordance with the filed plans. Minor modifications to the approved plans that result in lesser impacts may be allowed subject to staff review and approval.
11. Any modifications to the proposed drainage or grading for the site plan shall be subject to the approval of the Town Engineer.
12. Additional erosion control measures are to be installed as directed by Town staff if field conditions necessitate.
13. By acceptance of this approval and conditions, the Applicant, owner and/or their successors and assigns acknowledge the right of Town staff to periodically enter upon the subject property for the purpose of determining compliance with the terms of this approval.

Additional Conditions:

14. Hours of Operation are 7:00AM to 5:00PM Monday through Saturday. These hours will include utilization of onsite equipment such as tub grinders and truck traffic.
15. Truck trips shall not exceed Sixty (60) Trips per Day.
16. It is the Applicant's responsibility to pursue any required State permits, such as from CT DEEP and CT DOT for change of use.
17. **The Applicant shall submit annual compliance certification and As-Builts on the anniversary date of this approval to the Town Planner.**

Moore moved/Kowalski seconded/DISCUSSION: Nothing additional

VOTE: **In Favor:** **Unanimous (Ouellette/Kowalski/Moore/Thurz/Gowdy)**
 (No one opposed/No abstentions)

NEW BUSINESS/A. Subdivision on Reservoir Avenue from Windbrook Homes, LLC, Map 089, Block 55, Lot 012:

Jay Ussery, of J. R. Russo & Associates, LLC, joined the Commission to discuss this application.

Mr. Ussery reported this application is for a two (2) lot subdivision on the north side of Reservoir Avenue just east of Treetop Lane. The lots are located in an R-3 Zone; each lot 1 will contain approximately 38,000 square feet for a lot area of .89 and .90 acre respectively. The lots will be served by wells and on-site septic systems; the Planning

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Office has received approval from the North Central Health District for on-site septic systems.

Mr. Ussery reported the subdivision plans had been submitted to Town Engineer Norton; his memo dated 7/26/2019 included two recommendations which have been addressed as follows:

- **Run-off from driveways running the road:** Mr. Ussery suggested if the drainage from the lot did enter the road it would run northerly and enter Reservoir Avenue near Treetop Lane along the gutter. Mr. Ussery made minor adjustments to the grading to address Town Engineer Norton's concern.
- **Sight distances for each driveway should be shown on the plans:** Mr. Ussery reported they've prepared a sightline plan for each driveway which exceeds the minimum standards for 35 and 40 miles/per/hour. The sightlines as proposed meet the standards for stopping at the posted speed limit.

Mr. Ussery noted Town Engineer Norton submitted a subsequent memo dated 8/7/2019 reflecting he takes no exceptions to the plan as submitted that same date.

Mr. Ussery indicated that the submission of the Subdivision Application gives the Commission the option of either requiring Open Space, or a fee-in-lieu for Open Space on each lot. Mr. Ussery reported the applicant is proposing the standard (\$2,000/lot) fee-in-lieu of Open Space.

Mr. Ussery indicated the applicant is requesting waivers of the following Subdivision regulations:

- **Section 2.7 – street trees:** Mr. Ussery referenced the lots are currently heavily wooded; discussion followed regarding clearing of the lot during construction. Mr. Ussery agreed to add four (4) street trees (two [2] trees per lot) to the plans as requested by the Commission. The request for the waiver of installation of street trees was deleted from the application.
- **Section 2.11, 6.3 - sidewalks:** Mr. Ussery noted there are currently no sidewalks along Reservoir Avenue; the applicant is requesting this waiver. Discussion followed regarding the option of offering a fee-in-lieu of sidewalks, with the amount to be set by Town Engineer Norton.
- **Section 2.11, 6-5 – street lights:** Commissioner Kowalski researched on Google Earth for existing street lights in the proximity of this subdivision. A street light was found at the intersection of Treetop Lane and Reservoir Avenue, and a second at Perri Lane. The Commission agreed to this waiver.

MOTION TO APPROVE THE FOLLOWING REQUESTS FOR WAIVERS:

Sections 2.9 and 7.5 – Waiver to allocate open space. A fee in lieu of open space, to be determined by the Commission, shall be required for both parcels.

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Moore moved/Kowalski seconded/DISCUSSION: None

1. All mylars submitted for signature shall require the seal and live signature of the appropriate professional(s) responsible for preparation of the plans.

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2. The final mylars shall contain the street numbers and the Map, Block and Lot numbers assigned by the East Windsor Assessor's Department.
3. The exemption from open space requirements shall be noted on the final mylars along with a notice stating that any lot subject to the waiver shall be liable for its proportional share of the total open space fee at the time of subsequent sale or transfer to a non-exempt person if the lot is sold or transferred within five years of the approval date.
4. The conditions of this approval shall be binding upon the applicant, land owners, and their successors and assigns. A copy of this approval motion shall be filed in the land records prior to the signing of the final mylars.
5. Deeds for any easements must be approved by the Town and filed on the land records prior to any permits being issued. These must be filed with the mylars.

Conditions which must be met prior to the issuance of any permits:

6. Two (2) sets of final mylars, with any required revisions incorporated on the sheets shall be submitted for signature of the Commission. One set of signed mylars, shall be filed with the Town Clerk by the applicant. One set shall be filed with the Planning and Development Department.

General Conditions:

7. A Zoning Permit shall be obtained prior to the commencement of any site work.
8. This project shall be constructed and maintained in accordance with the referenced plans. Minor modifications to the approved plans that result in lesser impacts may be allowed, subject to staff review and approval.
9. Any modifications to the proposed drainage or grading for the resubdivision is subject to the approval of the town engineer.
10. Additional erosion control measures are to be installed as directed by Town staff if onsite conditions necessitate.
11. By acceptance of this approval and conditions, the applicant, owner and/or their successors and assigns acknowledge the right of Town staff to periodically enter upon the subject property for the purpose of determining compliance with the terms of this approval.

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Moore moved/Thurz seconded/DISCUSSION: None.

VOTE: **In Favor:** **Ouellette/Kowalski/Thurz/Gowdy**
 Opposed: **No one**
 Abstained: **Moore**

OLD BUSINESS/A. Site Visits:

Town Planner Flores-Marzan reported on the following site visits:

- Unkempt, illegal cars
- Illegal bed and breakfast
- Two complaints about glare from lights on neighboring properties; this may become a civil matter between neighbors.
- Operation of a feral cat shelter in a residential area.
- Unpermitted site work in a back yard.
- Church Street – Town Planner Flores-Marzan suggested there's a history of asking the homeowner to work with the Town but the Town hasn't been willing to spend money on legal action. Town Planner Flores-Marzan suggested this has now gone beyond the Planning Office's ability to resolve the issue. The Commission noted this is a safety issue as well as a constantly unsightly property. Chairman Ouellette suggested the Commissioners e-mail the First Selectman encouraging assistance with this enforcement issue.
- Harrington Road – Town Planner Flores-Marzan reported this enforcement issue is the same situation as Church Street.

OTHER BUSINESS/A. Discussion re: establishing fee for "in lieu of open space":

Town Planner Flores-Marzan referenced Section 7.5 – Fee In Lieu Requirements, subsection 1, which indicates that the Commission sets the amount of the fee in lieu of the Open Space allocation annually based on a recommendation from the Assessor. Discussion followed regarding the history for establishing the current \$2,000 per lot rate. Commissioner Gowdy reported he paid \$2,000 per lot 27 years ago when he subdivided property on Kressig Road. Town Planner Flores-Marzan indicated he wasn't advocating to change the formula; he was seeking background information.

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Chairman Ouellette suggested researching what other communities are currently doing. Commissioner Moore felt the fee should be set at the value of the other lots within the subdivision so the Town could purchase useable land elsewhere. Chairman Ouellette suggested the Commission should revisit this section when considering other regulation changes during a workshop session.

OTHER BUSINESS/B. Request for an extension of the time for filing mylars for the General Development Plan Special Use Permit for the HIZ Designation for a commercial recreation/casino at 105 Prospect Hill Road, and for the commencement of activity for MMCT Venture, LLC. :

Town Planner Flores-Marzan reported the attorney for MMCT has requested a six month extension of the permit through March 20, 2020. He noted the extension is for filing the mylars, and to commence activities.

MOTION: To ACCEPT the request from MMCT Ventures, LLC for extension of filing of mylars to March 20, 2020 for General Development Plan Special Permit – HIZ Designation and Site Plan Approval AND extension to commence activities to March 20, 2020 for General Development Plan Special Permit – HIZ Designation and Site Plan Approval for a commercial recreation/casino at 105 Propsect Hill Road.

Moore moved/Gowdy seconded/DISCUSSION: None.

**VOTE: In Favor: Ouellette/Kowalski/Moore/Thurz/Gowdy
(No one opposed/No abstentions)**

CORRESPONDENCE:

A. CT Siting Council Notice of intent to modify to modify to New Cingular Wireless PCS; antenna mount modifications at 41 Depot Street:

No action required by the Commission.

B. DOT comments on Crossroads Community Cathedral to work within the state right-of-way at 53 Prospect Hill Road:

No action required by the Commission.

Chairman Ouellette questioned if the Town had received any communication regarding the status of the work on the site? He noted a portion of the approval was for construction of a hotel; he questioned if that component of the application had expired as work hadn't commenced within a year. Town Planner Flores-Marzan reported the Planning Office had no updates on the Church's project.

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BUSINESS MEETING/(1) General Discussion of Planning Issues:

Town Planner Flores-Marzan reported Judi Mosso has been selected as the new Assistant Town Planner. He noted Mrs. Mosso has a master's degree in Public Administration from Villanova University, and has over twelve years of municipal planning and zoning experience in Massachusetts and now Connecticut. Town Planner Flores-Marzan felt Mrs. Mosso will do a great job in her new position. Mrs. Mosso will also be assisting with the Zoning Enforcement issues.

Town Planner Flores-Marzan reported the Town will now advertise for a replacement of the Administrative Assistant position.

BUSINESS MEETING/(2) Signing of Mylars/Plans, Motions:

No motions or mylars presented for signing this evening.

ADJOURNMENT:

MOTION: To ADJOURN this Meeting at 7:47 p.m.

Gowdy moved/Kowalski seconded/VOTE: In Favor: Unanimous

Respectfully submitted,

Peg Hoffman, Recording Secretary, East Windsor Planning and Zoning Commission