

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

**REGULAR Meeting #1801  
April 27, 2021**

Meeting held via ZOOM Teleconference  
Meeting ID: 332 683 3563  
Town Hall closed to the Public by  
Executive Order of First Selectman Bowsza  
due to Coronavirus pandemic

***MEETING MINUTES***

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

**TIME AND PLACE OF MEETING:**

Chairman Ouellette called Regular Meeting #1891 of the East Windsor Planning and Zoning Commission dated April 23, 2021 to Order at 6:30 p.m. The Meeting is being held via teleconference due to closure of the Town Hall to the public as the result of the coronavirus pandemic.

**PRESENT:**    **Regular Members:** Joe Ouellette (Chairman), Anne Gobin, Frank Gowdy, Michael Kowalski, and Jim Thurz  
                  **Alternate Members:** There are presently three vacancies for Alternate members.

**ABSENT:**     No one; all Regular Members present.

Also present was Clark Chapin, Town Planner/Director of Planning and Community Development, Planning Consultant Michael D'Amato, and Zoning Enforcement Officer/Wetlands Agent Ruthanne Calabrese.

**GUESTS/SPEAKERS:**     First Selectman Bowsza hosted the meeting. Also present were: Debbie and Jim Scozzafava, Samantha Seamans-Frizzell, Randy Clifton.

**Public (as identified in the Meeting participation list):** Annamangiafico, Anne, Antonietta, Brooke Massie, Elizabeth Bragg, Frodo2s iPhone, Gina's iPad, Lance and Mary, Marci, Marek Kement, Paul Daigle, Skip K.

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**ESTABLISHMENT OF QUORUM:**

A quorum was established as five Regular Members were present at the Call to Order.

**ADDED AGENDA ITEMS:** None.

**LEGAL NOTICE:**

The following Legal Notices were read by Chairman Ouellette:

1. **PZ-2021-13 14 Sullivan Farm Road, Special Use Permit Application** for an accessory apartment.

**LEGAL NOTICE**

**EAST WINDSOR PLANNING & ZONING COMMISSION**

The East Windsor Planning & Zoning Commission will hold a regular meeting on Tuesday, April 27, 2021 at 6:30 p.m. via the remote video conferencing platform, Zoom.

Join meeting: <https://zoom.us/j/3326833563>

Meeting ID: 332 683 3563

Dial by your location  
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+1 669 900 9128 US (San Jose)  
+1 253 215 8782 US

The following public hearing will be held:

**PZ-2021-13 14 Sullivan Farm Road, Special Use Permit Application** for an accessory apartment. (Map 100, Block 77, Lot 016-07)  
Zone R-3. Applicant/Owner: Samantha Seamans-Frizzell

A full copy of the application is available on the Town Clerk's webpage and on the Planning and Zoning Commission's webpage of the Town website. All interested persons may attend the online meeting and public hearing to be heard on this topic.

Dated April 13, 2021, East Windsor, CT

Joseph Ouellette, Chairman  
East Windsor Planning & Zoning Commission

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**Journal Inquirer editions: April 16 and April 22, 2021**

2. **PZ-2021-14 148 North Road, Unit 4 Special Use Permit Application for a gift shop.**

**LEGAL NOTICE**

**EAST WINDSOR PLANNING & ZONING COMMISSION**

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The following public hearing will be held:

**PZ-2021-14 148 North Road, Unit 4 Special Use Permit Application for a gift shop.**  
(Map 124, Block 24, Lot 011A) Zone B-3. Applicant: James Scozzafava

A full copy of the application is available on the Town Clerk's webpage and on the Planning and Zoning Commission's webpage of the Town website. All interested persons may attend the online meeting and public hearing to be heard on this topic.

Dated April 13, 2021, East Windsor, CT

Joseph Ouellette, Chairman  
East Windsor Planning & Zoning Commission

**Journal Inquirer editions: April 16 and April 22, 2021**

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**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/April 13,2021:**

Chairman Ouellette noted the Minutes for April 13, 2021 aren't available for approval this evening; he requested a motion to table approval until the Commission's next meeting.

**MOTION: To TABLE approval of the April 13, Regular Planning and Zoning Minutes until the May 11, 2021 Commission Meeting.**

**Gobin moved/Kowalski seconded/DISCUSSION: None.**

**VOTE by show of hands: In Favor: Ouellette/Gobin/Gowdy/Kowalski/Thurz  
(No one opposed/No Abstentions)**

**RECEIPT OF APPLICATIONS:**

Chairman Ouellette noted the following new applications to be received:

**A. PZ-2021-15, Wells Road, Resubdivision Application, 5-lot Resubdivision.** (Map 125 Block 24 Lot 025) Zone A-1. Applicant/Owner: Anthony A. Della Ripa. (Proposed hearing date: May 11, 2021)

**B. PZ-2021-16, Wells Road, Special Use Permit Application,** to allow the creation of a rear lot. (Map 125 Block 24 Lot 025) Zone A-1. Applicant/Owner: Anthony A. Della Ripa. (Proposed hearing date: May 11, 2021)

**C. PZ-2021-17, 8 Church Street, Resubdivision Application, 1-lot Resubdivision.** (Map 097 Block 30 Lot 052) Zone R-2. Applicant/Owner: Mae A. Grigely Trust. (Proposed hearing date: May 11, 2021)

**D. PZ-2021-18, 76 and 84 North Road and 7 Winkler Road, Special Use Permit Application,** for construction of an automatic car wash accessory to an existing automotive filling station. (Map 113 Block 24 Lots 002, 002-1, 003) Zone B-3. Applicant/Owner: Noble Energy Real Estate. (Proposed hearing date: May 11, 2021)

**PERFORMANCE BONDS – ACTIONS; PERMIT EXTENSIONS; ROAD ACCEPTANCE**

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No requests presented under this Item of Business this evening.

**CONTINUED PUBLIC HEARINGS:** None.

**NEW PUBLIC HEARINGS/A. PZ-2021-13, 14 Sullivan Farm Road, Special Use Permit Application** for an accessory apartment. (Map 100, Block 77, Lot 016-07) Zone R-3. Applicant/Owner: Samantha Seamans-Frizzell:

Chairman Ouellette announced this Public Hearing. He asked if the applicant, Samantha Seamans-Frizzell, or her representative was present to discuss this application? No one came forward. Chairman Ouellette noted the Commission wouldn't be able to engage in discussion of this application; he suggested tabling the application until the Commission's next meeting.

**MOTION To TABLE the Public Hearing on Application PZ-2021-13, 14 Sullivan Farm Road, Special Use Permit Application for an accessory apartment. (Map 100, Block 77, Lot 016-07) Zone R-3. Applicant/Owner: Samantha Seamans-Frizzell until the Commission's May 11, 2021 Meeting.**

**Gobin moved/Thurz seconded/DISCUSSION:** None.

**VOTE by show of hands: In Favor: Ouellette/Gobin/Gowdy/Kowalski/Thurz  
(No one opposed/No Abstentions)**

**NEW PUBLIC HEARING/B. PZ-2021-14, 148 North Road, Unit 4 Special Use Permit Application** for a gift shop. (Map 124, Block 24, Lot 011A). Zone B-3. Applicant: James Scozzafava:

Chairman Ouellette read the description of this item of business; he asked if anyone was present to discuss the application? No one came forward.

Chairman Ouellette noted this application is also a Public Hearing, without the applicant present the Commission will be unable to discuss the applicant's proposal. For consistency, he suggested tabling this application until the Commission's next meeting scheduled for May 11<sup>th</sup>.

**MOTION: To TABLE the Public Hearing on Application PZ-2021-14, 148 North Road, Unit 4 Special Use Permit Application for a gift shop. (Map 124, Block 24, Lot 011A). Zone B-3. Applicant: James Scozzafava until the Commission's May 11, 2021 Meeting.**

**Gobin moved/Gowdy seconded – vote on motion not completed.**

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The applicants, James and Debbie Scozzafava, spoke up, indicating they had been unable to join the meeting due to problems with their technology. Chairman Ouellette asked Director Chapin for direction regarding the status of the application, as the Commission had initiated the motion to table discussion. Director Chapin felt the Commission had not completed the vote and the motion could be disregarded. Chairman Ouellette then reopened the Public Hearing on Application PZ 2021-14; discussion followed.

Chairman Ouellette asked the applicants to explain their proposal.

Mrs. Scozzafava advised the Commission she has been making soap for about 30 years; she would like to have a gift shop to sell her soap, and associated bath products. Chairman Ouellette requested Mrs. Scozzafava advise the Commission of the location of her unit at 148 North Road. Mrs. Scozzafava indicated the unit assigned to her is unit 4 in the back building. Next to her is a hair salon, and doctor, and a dentist; in the front is a hobby shop, a tattoo parlor, another hair salon, and the barber shop. Commissioner Thurz noted, for the record, everyone is aware the proposed location of this business is within Bassdale Plaza.

Commissioner Gobin opened discussion on the production of the soap. She questioned if Mrs. Scozzafava would be making the soap at another premises, or in this unit? Mrs. Scozzafava indicated she would be making the soap at Bassdale Plaza. Commissioner Gobin questioned if Mrs. Scozzafava would be using lye and chemicals in the production of the soap, or is it a more natural process? Mrs. Scozzafava replied she does use lye, which is in all soaps. Mr. Scozzafava indicated the lye dissipates with time, when you use the soap there's no lye in it; the lye is a catalyst. Commissioner Gobin suggested she was considering the abutters next to you; would you be storing large quantities of lye; she questioned if lye is an airborne or liquid product? Mrs. Scozzafava indicated she uses lye crystals, which she keeps in a closed container; she uses a mask and gloves when handling the lye. When she's finished the lye is safely stored. Commissioner Gobin questioned that the lye wouldn't vaporize into the abutters space; Mrs. Scozzafava replied negatively, noting the lye isn't airborne. She suggested it's no different than putting Drano down your drain.

Commissioner Gowdy questioned if lye is considered a hazardous product? Mrs. Scozzafava replied that she supposed it was. Commissioner Gobin requested clarification that Mrs. Scozzafava uses small quantities, and manages the lye by keeping the lid on the container; Mrs. Scozzafava replied affirmatively.

Chairman Ouellette queried Commissioner Gowdy for comments. Commissioner Gowdy indicated Mrs. Scozzafava answered his questions. He understood lye to be very caustic, and could burn someone; he suggested the need to be particularly careful if using

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a powdered form in case it gets airborne; it could be more of a problem for kids. Mrs. Scozzafava clarified that there is no public access to her production.

Commissioner Thurz questioned if they needed a sign-off from the Department of Health. He noted a prior application that came before the Commission for a nail salon was required to have an exhaust fan, and that potential tenant ended up not moving into the plaza. Mrs. Scozzafava suggested it's probably no different than the hair salon using bleach; she agreed the lye is caustic but noted if it's handled properly it shouldn't be a problem. She noted she's monitored by the State of Connecticut, and is subject to inspections. Commissioner Gowdy questioned if she was certified by the State to handle this material; Mrs. Scozzafava replied affirmatively.

Commissioner Kowalski indicated he had a question for Staff. The Commission is now discussing manufacturing. In reviewing the B-3 Regulations light manufacturing is allowed through a Special Use Permit; he questioned if an additional permit is required of the applicant, or can it be covered under this one application? The proposed use wasn't noticed for manufacturing; the notice was for retail use.

Planning Consultant D'Amato suggested the purpose of the Special Use Application was for the Commission to discuss the proposed use, which you're doing now, and the public has the ability to comment as well. You're asking questions to understand her process; he didn't feel another Special Use Permit Application would be required.

Chairman Ouellette opened discussion regarding clarity on the proposed use. While the intent is to sell bath products, and the Commission is now discussing production of the product, Chairman Ouellette questioned what would prohibit Mrs. Scozzafava from selling toys later on? He questioned that the application was so specific that it limited the products allowable for sale. Mrs. Scozzafava suggested her product is selling soap; she didn't feel she was allowed to sell toys by her certification with the State. She noted she makes about 12 bars of soap at a time; it's not a large-scale production.

Chairman Ouellette opened discussion to the public. No one requested to speak.

Chairman Ouellette asked how the Commissioners felt about the application request?

Commissioner Gobin directed her question to Town Staff. She felt the Commission understood this operation to be a small-scale craft manufacturing operation rather than a large-scale bath and body product operation; she questioned if any additional conditions or findings should be added to the potential approval motion to address the manufacturing? Director Chapin referenced a prior question regarding Health Department approval, he indicated he understood the applicant to have spoken with the Health Department directly. Their response is they do monitor nail salons, this was

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pitched as a gift shop, which is not within their jurisdiction. Director Chapin suggested it might ease the Commission's mind if a condition was added requiring the applicant to review her use with the Health Department, if she hasn't already done so. Mrs. Scozzafava indicated she had spoken with the Health Department, who determined if she was monitored by the State then the Health Department didn't need to monitor her as well. Mrs. Scozzafava explained the review process with the State for the Commission. Commissioner Gobin questioned if she was monitored by the Department of Consumer Protection; Mrs. Scozzafava replied affirmatively.

Discussion continued regarding the extent to which Commission approvals address the review or permitting of other agencies, although the acquisition of the necessary agency approvals are understood to be required. Commissioner Gobin concurred, noting the Department of Consumer Protection would deal with the product, but not the chemical storage; her concern would be could once it's approved could the operation grow to something else? Planning Consultant D'Amato felt the Commission's concern seem to be that the operation not become a large-scale wholesale operation which is made and shipped off site. He suggested the Commission has heard from the applicant that the production is accessory to the retail use; perhaps the addition of a condition noting the purpose of manufacturing the soap is to support onsite retail sales for make the Commission more comfortable. Commissioner Gobin indicated that would address her concerns.

Chairman Ouellette questioned Mrs. Scozzafava if she would be comfortable with that condition? Mrs. Scozzafava concurred, noting she does have customers she sends a bar of soap to now and then. She indicated she's done this in her kitchen for 30 years; she's just looking to branch out. Her intent is not to move to large-scale production; should that opportunity present itself she would move the operation to a warehouse.

Chairman Ouellette announced an opportunity for the public to comment; no one requested to speak.

Chairman Ouellette asked if the Commission was ready to consider the application; Commissioners Kowalski, Gowdy, Thurz, and Gobin were ready to vote.

**MOTION: To CLOSE the Public Hearing on Application PZ-2021-14, 148 North Road, Unit 4 Special Use Permit Application for a gift shop. (Map 124, Block 24, Lot 011A). Zone B-3. Applicant: James Scozzafava.**

**Gobin moved/Thurz seconded/DISCUSSION: None.**

**VOTE by show of hands: In Favor: Ouellette/Gobin/Gowdy/Kowalski/Thurz  
(No one opposed/No Abstentions)**



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**MOTION: To APPROVE Application\_PZ-2021-14, 148 North Road, Unit 4  
Special Use Permit Application for a gift shop. (Map 124, Block 24,  
Lot 011A). Zone B-3. Applicant: James Scozzafava, with findings and  
conditions as stated in memo dated April 19, 2021 from Clark Chapin.**

**Motion to Approve:**

Application #PZ 2021-14 for Special Use Permit Application for a gift shop to be located at 148 North Road, Unit 4 (Map 124, Block 24, Lot 011A) Zone B-3.

This approval is granted subject to conformance with the submitted application, supporting materials and public hearing presentation (as may be modified by the Commission and this approval) and the following findings, conditions/modifications.

**Findings:**

1. The proposed location is in compliance with the standards set forth by Section 502 and Section 701.
2. 148 North Rd, Unit 4 is within the B3 zone which allows for Retail Establishment (up to 30,000 square feet) uses.
3. The proposed use is in harmony with adjacent uses.

**Conditions:**

1. A copy of the Certificate of Action shall be filed on the Land Records prior to the commencement of retail sales on the property.

**Gobin moved/Gowdy seconded/DISCUSSION: None.**

**VOTE by show of hands: In Favor: Ouellette/Gobin/Gowdy/Kowalski/Thurz  
(No one opposed/No Abstentions)**

**OLD BUSINESS/A. PZ-2021-06, SJK Properties, LLC, Text Amendment  
Application to East Windsor Zoning Regulations Section 802 Multi Family  
Development District (MFDD)**

Chairman Ouellette began reading the description of this application.

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Director Chapin noted the applicant for the accessory apartment at 14 Sullivan Farm Road had now joined the meeting; he questioned if the Commission would prefer to reconsider hearing that application this evening rather than tabling it to the May 11<sup>th</sup> Meeting. Chairman Ouellette suggested the Commission continue with the discussion of SJK Properties, LLC Text Amendment, and reconsider application PZ 2021-14 and the end of this discussion.

Chairman Ouellette read the description of this proposed Text Amendment again. He noted the Public Hearing is closed; tonight only dialogue between the Commission and Staff is permitted. Chairman Ouellette noted Planning Consultant D'Amato has offered a memo noting how this proposal is different from what the Commission heard from the applicant and the community at the last meeting.

Planning Consultant D'Amato suggested in going over some of the testimony, the questions the Commission raised, and some of the concerns that were raised, he felt a lot of it boiled down to issues not specific to this Text Amendment. He felt the regulation proposed prior to this had some gaps in it. Planning Consultant D'Amato noted in a Zone Change you don't necessarily get all the information you want to feel comfortable making the Zone Change. If someone asks for an MFDD Zone Change they could be asking for apartments, or condos, or single-family detached, or elderly housing; you don't really know. And the type of development may, or may not, be appropriate on a parcel. Those are important components to consider.

Planning Consultant D'Amato referenced the second page of his memo, which includes some suggested changes. Planning Consultant D'Amato noted that he and Director Chapin spent significant time considering how to propose recommendations which were statutorily compliant with what they could do but that didn't change the intent of the applicant but did provide more clarity and control.

Planning Consultant D'Amato cited the following recommendations:

- Submission of a Concept Plan with the Zone Change, which will give the commission some perspective as to what the applicant is seeking. We're also asking them to note their intention for that Zone Change; are they going for elderly or condos or apartments. Planning Consultant D'Amato and Director Chapin feel that will bring a little perspective so the Commission knows what they're looking at. The Concept Plan won't be binding but can be helpful.
- Planning Consultant D'Amato and Director Chapin also added that the parcel should be identified on the Sewer Service Area Map.

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- Planning Consultant D'Amato and Director Chapin also cleaned up some of the language referenced towards the bottom of the memo, to make it not be in conflict with some of the sections of the regulation, particularly when you're speaking of egress. We know that it was the applicant's intent to make it clear that there shouldn't be a way to access the subdivision from a neighboring subdivision; that issue came up in discussion frequently. The way the proposal was written originally was confusing, and would open discussion to debate of what was additional vs. primary egress. They don't want to limit access from a local road but if a larger development required another curb cut then they need to be on a collector or an arterial road. Planning Consultant D'Amato indicated they didn't change the content; Statutes say we can't make the regulation less restrictive without going back to Public Hearing and notice to CRCOG, so all these additions are equally, or more restrictive than what was proposed.

Chairman Ouellette opened discussion to Commissioner Kowalski.

**Commissioner Kowalski:**

- **Service by public water and municipal sewer as identified by the Sewer Service Map:** Commissioner Kowalski indicated he reads that as what exists now, so in the case of an applicant who wants to extend the sewer line to serve an area, this doesn't allow for that. Commissioner Kowalski indicated he reads that as there being an existing sewer line; he questioned if that was an accurate interpretation? Planning Consultant D'Amato noted the Town has a Sewer Service Area Map, which was updated within the last 10+/- years, and it identifies the various areas that are served by current sewer lines, and also identifies areas which are to be served by sewer. The idea with that language is that if someone wants to rezone 25 acres in an area that the town has identified through this map as not eligible or should not be eligible for sewer then it allows you to be in the position to consider that. They would need to change the map. So, it's further encouraging density in the areas the Sewer Service Area Map has said is, or will be, appropriate. Commissioner Kowalski requested clarification that the Sewer Service Area Map is not necessarily what's existing, it's the area they feel they can handle and serve? Planning Consultant D'Amato suggested it will include future areas as well, so there are parcels shown which are not currently served but are shown as an area that can be served.
- **Responsibility for sewer line expansion:** Commissioner Kowalski noted that in one of the previous meetings it was said that the intent may have been to put a line in only large enough to serve the new development. So now all this property that's abutting the line that will be run to get to the new development is not sized that others can hook up to it. Commissioner Kowalski felt that either negates the

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Sewer Service Map, or puts a hardship on the Town. If any of the residents who come before that sewer line wanted to hook up, would that now be on the Town to increase that pipe size? Planning Consultant D'Amato noted he had the same question and reached out to the Health District, but hasn't heard back yet. But, if infrastructure is installed into the ground at a capacity supporting 100 bedrooms, and if State Health Code says if your septic system fails and you're in proximity to a sewer line you have to hook up who pays for that? Planning Consultant D'Amato didn't feel the Town could force a private property owner to install a pipe for maybe future development capacity. Planning Consultant D'Amato was questioning if there was language in the Health Code that said "providing the sewer system can accept that capacity". Planning Consultant D'Amato noted the Town can't be constantly upgrading its pump stations every time a septic system fails. Commissioner Kowalski questioned if the Commission could include language "that the pipe would be sized adequately to serve any existing development", so we don't have to worry about future development, but if it passed 4 houses it should be able to handle those 4 houses? Planning Consultant D'Amato felt that discussion could occur when someone was proposing their development which was intended to be served by sewer; you would also have input from the WPCA which would indicate available capacity.

- **Secondary means of egress:** Commissioner Kowalski felt that was basically having to deal with a development and with what a traffic study says. Commissioner Kowalski suggested his past experience with traffic studies are somewhat subjective to interpretation; he's not seen one that says you can't build it because the roads can't handle the traffic. Commissioner Kowalski questioned if the Commission tried to limit density based on the capacity of the road would the traffic study has enough teeth to it to disqualify a large development from an existing road? Commissioner Kowalski indicated the increase in traffic seemed to be the major concern of the abutters or others in that area.

Planning Consultant D'Amato felt that Commissioner Kowalski was correct – it's not likely to see a traffic study that will say adding 50 units of houses or apartments in an area that already serves houses or apartments would be a problem, but there may be intersections that have signals that have timing is not set up for the number of trips per day and may need to be adjusted. Or you may find that a traffic study that says this development will increase the number of trips per day by 150 cars an hour, and feel, as a commission, that the development is too intense for the area for which it's proposed. Planning Consultant D'Amato felt Commissioner Kowalski was correct in his assumption that the traffic study wouldn't say this isn't possible, but it may give you data – this is too dense, this is too many trips – for the area proposed.

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Chairman Ouellette cited he's looked at thousands of traffic studies in his professional career, he indicated he hasn't seen a traffic study that says a certain development can't be built because the roadway capacity isn't adequate. What they do is suggest mitigating measures such as Planning Consultant D'Amato is suggesting, like adding traffic signals or widening the road and other options. Those are the way to mitigate impact from a traffic study. If a developer wants to really push forward they have to understand that these roadway mitigation measures need to be done to accommodate the development. That's how it's handled. The Commission doesn't know the effects because the traffic study hasn't been done. Commissioner Kowalski felt that the original verbiage for the MFDD being required to be on a major road in town was better as the only roads served would be Route 140 and Route 5.

**Commissioner Thurz** indicated he had the same questions as Commissioner Kowalski; he's ok with what he's heard so far.

**Commissioner Gowdy** was ok presently; he noted Commissioner Kowalski brought up good questions.

**Commissioner Gobin** indicated she's struggling with the proposal.

- **POCD consideration:** Referencing page 33 of the POCD, Commissioner Gobin suggested the POCD is very clear where it says "an application for a multi-family development should not be approved unless the site is located within an area identified as a village area or a non-rural area" on the Residential Growth Plan. Commissioner Gobin felt the POCD directs our denser development to the village areas and the area in the eastern part of town. The Plan provides for a good mix of housing – multi-family, single family, different densities. She noted when the Plan was written she was not involved in the Commission, she questioned that anyone thought about single condominiums when the Plan was written? Commissioner Gobin suggested, in her mind, they're single-family homes but they could be allowed to be denser than a traditional R-3, which is where they're potentially located. Commissioner Gobin felt as you change density you change the character of the neighborhood; she didn't know if the Commission discussed single condominium units when writing the POCD. She felt that during the Public Hearing the people felt the Plan had been vetted by the Commission and this was the path the town had agreed on. Commissioner Gobin indicated she would be curious to know what the public comment was at the time the Plan was developed.

Commissioner Gowdy noted the POCD is 10 years old; he felt the atmosphere of the town hasn't changed that much in that time, although there have been

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changes. He suggested the POCD isn't the Bible for development but is rather an advisory document. Commissioner Gobin indicated she recognized that but felt there was something to be said for having some areas denser, and to have that to be known to people. She agreed, there's flexibility. Commissioner Gowdy felt at that time the Commission was trying to encourage growth of single-family homes on large lots, but at the same time they were considering the village areas. Commissioner Gowdy didn't see a conflict with the POCD as intended.

Commissioner Thurz noted this has been an undeveloped project sitting there for 15 years dormant.

Chairman Ouellette indicated he has also struggled with the decision he'll make at some point. He clarified there is no proposal to build this project, although this could lead to something. In trying to consider some possible scenarios he recalled that at one time there was a subdivision with a finite "x" number of units. If the Text Amendment were passed and all subsequent approvals were granted what would this residential community look like? Basically, it will be single family houses, just more dense. What sets this apart for him is if this were a traditional subdivision there is something that could potentially happen that some of the abutters may not be happy with, and that's the connection to Sullivan Farm Road. Chairman Ouellette recalled the Commission has heard from many people that they don't want that area to be a cut-through, it's a quaint neighborhood; if this were a traditional subdivision that would be an access point. To provide a few denser homes; is that a value to the community? Chairman Ouellette noted people in Warehouse Point aren't commenting on this although the proposed Text Amendment could apply to other parcels in other parts of town. Commissioner Gobin noted there's a dense development next to Winton Road whose emergency access is blockaded; she felt the solution to the neighborhood traffic is solvable. Discussion continued regarding the lack of input from anyone not living in the immediate area.

Commissioner Kowalski suggested one of his philosophies since he's been on the Board is if you move next to an empty piece of property it's unrealistic to expect it to be undeveloped for the entire time you're there. But if people consider that 40 houses could go in there and then you change the rules of the game after the fact that is somewhat of a disservice. This is a Text Amendment; it will go to anyone who has a 20-acre property and they could try to put in 150 properties in there if you go with the maximum density allowed by the MFDD. He felt the Commission was considering this for one development but this could apply to any property in town that fits the criteria.

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Discussion then turned to the potential properties which would be affected by this proposal. Commissioner Gobin noted someone said on record that there's a parcel next to St. Catherine's Cemetery; Commissioner Kowalski suggested other properties, if combined, would then fit the criteria. Commissioner Kowalski suggested it comes down to allowing more density in a residential area.

Commissioner Gowdy questioned what happens if the Commission doesn't approve this Text Amendment? Commissioner Kowalski suggested they develop at the density currently allowed under the existing zoning. Commissioner Thurz suggested that would allow going through the back way through the cul-de-sac, which is what the neighbors don't want. Chairman Ouellette noted that could be debated during the subdivision approval plan.

Noting the Commission wasn't statutorily required to take action this evening, Chairman Ouellette questioned the Commissioners if they were ready to take action on this application tonight, or if they would prefer deferring their decision to the May 11<sup>th</sup> meeting? Commissioners Gowdy and Thurz were ready to consider action tonight; Commissioners Gobin and Kowalski and Chairman Ouellette could go either way.

Chairman Ouellette noted he realized the Commission is discussing a Text Amendment, but there's always this perception of spot zoning; he questioned Planning Consultant D'Amato if someone could make an argument that the Commission was trying to tweak the regulations for a particular piece of property?

Planning Consultant D'Amato noted there is some case law to support the idea that spot zoning is not this red herring that everyone has thought it to be. He recalled a lot of testimony during the Hearing that perhaps this wasn't tailored enough; this could apply to a number of properties in town. The fact that there are more than a number of properties that are eligible he felt would make it very clear to anyone on the outside that the Commission understands and have contemplated how this would apply to the various properties that would be eligible. Planning Consultant D'Amato felt that an accusation of spot zoning wasn't something he would be concerned about.

Hearing no further comments, Chairman Ouellette called for a motion.

**MOTION:**

**To APPROVE Application PZ-2021-06, SJK Properties, LLC, Text Amendment Application to East Windsor Zoning Regulations Section 802 Multi Family Development District (MFDD) with the findings and conditions stated in Planning Consultant D'Amato's memo revised April 22, 2021.**

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Motion to Approve:**

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**Application #PZ 2021-06** for Text Amendment Application, Section 802 Multi Family Development District. Applicant, SJK Properties, LLC

This approval is granted subject to conformance with the submitted application, supporting materials and public hearing presentation (as may be modified by the Commission and this approval) and the following conditions/modifications.

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**Findings:**

1. The Commission finds that the proposed changes are in keeping with the general intent of the Plan of Conservation and Development and the existing MFDD Regulations.

**Modifications:**

1. The proposed language shall be modified as indicated below:

**802.4 APPLICABILITY**

No area shall be rezoned to a Multi-Family Development District **without the submission of a concept plan which designates the specific development type ([A] [C] [E] [P]) to be constructed and** unless the applicant has demonstrated and the Commission has determined that:

- a. [C, E, P] the site is at least 4 acres in area, and [A] for apartment developments, the site is a minimum of 25 acres and has frontage on CT. RTE. 5 or CT. RTE. 191 (with regard to non-elderly occupancy developments).
- b. [A, C, E, P] the site is or will be served by public water and municipal sewer **as identified by the Town's Sewer Service Area map,** and
- c. [A, C, E, P] the site is located within an area identified as a "Village Area" or a [A,C,P]"Non- rural Area" OR [E] NOT LOCATED IN WITHIN A RURAL AREA on the Residential Growth Guide Plan in the Plan of Conservation and Development, as amended, However, for [C], if the site is not located within one of the aforementioned areas, then the site may be located within a rural area, as identified on the Residential Growth Guide Plan, as amended, provided all of the following criteria have been satisfied:
  1. The property to be developed is limited to detached single-family residential units; and,
  2. The minimum setback for dwelling units from any residentially zoned property shall be increased to 100 feet; and,
  3. Any secondary means of egress shall be from an arterial or collector roadway and in accordance with 802.17(h); and,



- d. [A, C, E, P] all of the following conditions/requirements have been satisfied:
1. That the location and size of the proposed use and the nature and intensity of use in relation to the size of the lot will be in harmony with the orderly development of the area and compatible with other existing uses.
  2. That the proposed plans have provided for the conservation of natural features, drainage basins, the protection of the environment of the area, and sustained maintenance of the development.
  3. That the design elements of the proposed development are attractive and suitable in relation to the site characteristics and style of other buildings in the immediate area.
  4. That streets providing access to the proposed use are adequate in width, grade, alignment and visibility, and have adequate capacity for the additional traffic generated by the proposed use.
  5. That the proposed use shall have easy accessibility for fire apparatus and police protection and is laid out and equipped to further the provision of emergency services.
  6. That the water supply, the sewage disposal, and the storm water drainage shall conform with accepted engineering criteria and comply with all standards of the appropriate regulatory authority.
  7. That the proposed use will not have any detrimental effects upon the public health, safety, welfare, or property values, and that the proposed use will not conflict with the purposes of the Regulations.

#### **802.5 EXEMPTIONS AND EXCEPTIONS**

No individual, group or organizations, whether private, public or governmental shall be automatically exempted from this section. No use in this zone shall be permitted by a use variance granted by the Zoning Board of Appeals.

**Gobin moved/Gowdy seconded/DISCUSSION:** No additional comments.

**VOTE by show of hands:**    **In Favor:**        **Thurz/Gowdy**  
   **Opposed:**        **Ouellette/Gobin/Kowalski**  
   **Abstentions:** **None**

**The motion failed.**

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Chairman Ouellette noted the applicant has the option of submitting something different to tweak the language.

**NEW PUBLIC HEARINGS/A. PZ-2021-13, 14 Sullivan Farm Road, Special Use Permit Application** for an accessory apartment. (Map 100, Block 77, Lot 016-07) Zone R-3. Applicant/Owner: Samantha Seamans-Frizzell:

At this point in the meeting Samantha Seaman's Frizell, the applicant for Public Hearing Application #PZ 2021-13 for the accessory apartment at 14 Sullivan Farm Road, joined the meeting virtually. Mrs. Seaman-Frizzell indicated she had been unable to join the Commission earlier. Discussion followed regarding appropriate action to allow Mrs. Seaman-Frizzell to present her proposal, as the Commission had previously tabled action. Commissioner Gobin offered to rescind her motion to table action on this application so discussion could occur.

**MOTION: To RESCIND the motion to TABLE the Public Hearing on Application PZ-2021-13, 14 Sullivan Farm Road, Special Use Permit Application for an accessory apartment. (Map 100, Block 77, Lot 016-07) Zone R-3. Applicant/Owner: Samantha Seamans-Frizzell until the Commission's May 11, 2021 Meeting.**

**Gobin moved/Kowalski seconded/DISCUSSION:** None.

**VOTE by show of hands: In Favor: Ouellette/Gobin/Gowdy/Kowalski/Thurz  
(No one opposed/No Abstentions)**

Chairman Ouellette read the description of this item of business again. Appearing to discuss the application was the applicant/owner, Samantha Seamans-Frizzell. Discussion followed.

Mrs. Seamans-Frizzell introduced herself, noting she lives at 14 Sullivan Farm Road, in the area the Commission was voting on for the previous application. Mrs. Seamans-Frizzell advised the Commission her intention is to finish an accessory apartment downstairs for her special needs son to give him some independence; the area will include a kitchen.

Chairman Ouellette noted Director Chapin has been working with Mrs. Seamans-Frizzell regarding establishing where on the property the accessory apartment will be located. Director Chapin concurred.

Chairman Ouellette opened discussion to the Commissioners.

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Commissioner Gobin referenced the floor plan submitted with the application, indicating the location wasn't clear. She noted the applicant had said the apartment will be located in the open storage area nearest the stairs; she requested clarification on the location. Mrs. Seamans-Frizell indicated everything is on the first floor; it's a walk-out basement. On the floor plan submitted there are a couple of open storage spaces; we were going to utilize one for his bedroom. Commissioner Gobin thanked Mrs. Seamans-Frizell for her response.

Commissioner Gowdy had no questions for Mrs. Seamans-Frizell but commended her for doing what she's doing for her special needs son.

Commissioner Thurz had no questions, but concurred with Commissioner Gowdy's comments.

Commissioner Kowalski questioned if the Sullivan Farm subdivision has a homeowners association? Mrs. Seamans-Frizell replied negatively. Commissioner Kowalski had no additional questions.

Chairman Ouellette opened discussion to the public; no one requested to speak.

Chairman Ouellette called for a motion to close the Public Hearing.

**MOTION: To CLOSE the Public Hearing on Application PZ-2021-13, 14 Sullivan Farm Road, Special Use Permit Application for an accessory apartment. (Map 100, Block 77, Lot 016-07) Zone R-3. Applicant/Owner: Samantha Seamans-Frizzell.**

**Gobin moved/Thurz seconded/DISCUSSION:** None.

**VOTE by show of hands: In Favor: Ouellette/Gobin/Gowdy/Kowalski/Thurz  
(No one opposed/No Abstentions)**

Chairman Ouellette noted the availability of a motion provided by Staff, should the Commission consider taking action this evening.

**MOTION:**

**To APPROVE Application PZ-2021-13, 14 Sullivan Farm Road, Special Use Permit Application for an accessory apartment. (Map 100, Block 77, Lot 016-07) Zone R-3. Applicant/Owner: Samantha Seamans-Frizzell, with the 10 conditions listed in Director Chapin's memo dated April 21, 2021.**

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**Motion to Approve: Application #PZ-2021-13** for a Special Use Permit for an Accessory Apartment at 14 Sullivan Farm Road, (Map 100, Block 17, Lot 016-07), Zone R-3.

This approval is granted subject to conformance with the submitted application, supporting materials and public hearing presentation (as may be modified by the Commission and this approval) and the following findings and conditions:

**Findings:**

3. The proposed use is in compliance with the standards set forth by Section 407 and Section 701.

**Conditions:**

1. The entrance to the accessory apartment shall not be located on any wall facing any street and shall be designed in such a way that does not draw attention to accessory apartment. Shared access between the primary and accessory dwelling units shall be maintained.
2. Occupants shall be family or extended family members, related by blood, marriage, or adoption with no more than 2 occupants. One employee of owner may be substituted for the above.
3. The accessory apartment should not exceed 35% of the total of the above ground floor area of the primary dwelling unit, and shall not exceed 900 sq. ft.
4. The property shall be and shall remain owner occupied. A notarized affidavit in a form acceptable to the PZC, signed by the owner of the one family dwelling affirming the intent that either the principal or accessory dwelling unit is to be occupied by the owner of the premises shall be required. Affidavit shall be filed on the land records. The ZEO may request renewed notarized affidavit at 1-year intervals.
5. A certificate of zoning compliance shall be filed on the land records and will automatically expire with change of ownership.
6. The design and use of the accessory apartment shall clearly be secondary and subordinate to the primary dwelling. The entire structure

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shall continue to be metered by one common electrical service and one common heating service.

7. The accessory apartment shall have its own independent bathroom and kitchen facilities.

8. The water and septic system serving the residence and/or the accessory apartment shall be approved by the Health Department.

9. Adequate off-street parking shall be provided for all dwelling units.

10. Parking location, design, and access from the public right-of-way shall serve both dwelling units and are not distinguishable as separate facilities.

**Gobin moved/Kowalski seconded/DISCUSSION:** None.

**VOTE by show of hands: In Favor: Ouellette/Gobin/Gowdy/Kowalski/Thurz  
(No one opposed/No Abstentions)**

**NEW BUSINESS:** None.

**OTHER BUSINESS:** None.

**CORRESPONDENCE:** None.

**BUSINESS MEETING:**

**A. Kingshire Subdivision Expiration:**

Director Chapin reported this discussion came about because the person who owns what is Phase IV and Phase V of a five phase subdivision called in asking originally if he could sell Phase IV and Phase V to two different buyers. While researching the subdivision they discovered it had been approved as a 35-lot subdivision in 2005; in 2010 when it came up for renewal they indicated that things from 2008 forward had slowed down the project so, it was renewed for another 5 years. Director Chapin felt that Phase I was one developer, Phase II and Phase III were two different LLCs but with the same members. In 2015 they missed the renewal deadline (which Director Chapin felt was April) and came back to PZC who renewed it a couple of months later. The Statute provides a limitation of 14 years, so it was renewed until April 26, 2019. This was discovered when the owner of Phases IV and V contacted the Planning Office.

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Director Chapin indicated that C.G.S. 8-26.c requires when a subdivision expires it should be filed on the mylars in the Town Clerk's Office. Director Chapin indicated the Town's Land Use Attorney suggested that information be filed on the mylars; that has now been done.

Director Chapin indicated he's had subsequent discussions with the owner who has now indicated he has one buyer for Phases IV and V together. Legal counsel has indicated that would be allowed, with the understanding that it's no longer an approved subdivision, it's just a piece of raw land. However, in further discussion with the owner Director Chapin was informed that 2 of the previously approved lots belong to someone else.

Planning Consultant D'Amato shared a Site Plan of the subdivision, including the various phases. Director Chapin indicated that Phase I was completed, and the Town accepted the road; no issues. In Phase II, there was actually 1 lot that has a Zoning Permit to build a house but the house hasn't been constructed. Phase III was fully built out but the road wasn't accepted because the final surface of the road wasn't completed; there doesn't appear to be a bond in place to do that. Director Chapin was told the LLC is no longer in existence, and the bonds have expired. Staff has been struggling on how to complete Napoleon Drive to bring it up to Town standards.

Referencing the Site Plan, Director Chapin noted it's the 2 lots on right of the screen, lots 10 and 9, which belong to someone else. The cul-de-sac at the end of Napoleon Drive is temporary; it exists today because Abraham George Lane was never constructed. If the owners of Phase IV and Phase V, with the exception of lots 10 and 9, does convey it then lots 10 and 9 would be landlocked. Director Chapin indicated he's spoken with the owners of the two lots on the right, as well as the owners of the remaining 10 lots, and the gentleman who owns the 10 lots indicated he could sell it as raw land provided he did what he could to provide access to the 2 rear lots (lot 10 and lot 9).

Chairman Ouellette questioned if there were any houses on lots 10 and 9; Director Chapin replied negatively. Chairman Ouellette questioned if both lots were owned by the same person; Director Chapin indicated they are owned by DMD Family Trust. He indicated there was a note on the area to the right on the Site Plan which says "the remaining land to be retained by DMD Realty Family Limited Partnership". Director Chapin indicated they did not retain it but rather sold the 14.56 acres – there's a parcel to the north of the lot owned by Jeffrey Rommel, there's 2 or 3 acres there, and then the rest was sold to 2 different people. So, there's no access from that side either.

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Chairman Ouellette questioned the best option; could someone reapply for a subdivision for Phases IV and V and build the infrastructure for that road that doesn't exist? Director Chapin agreed, but noted he's been told the person who's interested in purchasing the 10 lots is interested in farming it, which would mean the road would never be built. Commissioner Thurz questioned why someone would be interested in farming the parcel when it has more value as a subdivision? Director Chapin indicated he couldn't answer that question.

Chairman Ouellette questioned that no one has a legal obligation to put the final topcoat on Napoleon Drive? There is no one around any longer? Director Chapin indicated that was his understanding. Commissioner Thurz indicated the bonds shouldn't have been released without the final coat having been completed. Director Chapin indicated they've not found any evidence that the Planning Department ever had a bond, or released a bond.

First Selectman Bowsza indicated this is a real concern for the Town. He indicated they're trying to find out who the responsible party is for finishing Napoleon Drive, if that person still exists. The Developer's Agreement is intended to stop this from reoccurring. The circumstance with the bond gets back to a process management that had been going on in town on an indeterminant number of subdivisions for a long time. The Developer's Agreement that was approved last year is designed to stop that prospectively, but this is another one of those circumstances where we don't know how many of these timebombs we're going to stumble across. We're trying to use any legal means that we can to recapture any obligation of a former developer.

Chairman Ouellette questioned if we have any mechanism to force the perspective buyer for Phases IV and V to make a resubdivision application? Director Chapin indicated not that he was aware of. Chairman Ouellette indicated that legally, those lines on a map don't exist any longer; those approvals have expired. Director Chapin replied affirmatively.

Chairman Ouellette noted a Legal Notice went out on this; he questioned the intent of that? Director Chapin felt that would be the process that should happen when a subdivision approval expires. Planning Consultant D'Amato suggested it's like an official action on behalf of the Board, like a Notice of Decision. He noted the Statute says the Commission "shall file; we are obligated to file this notice the moment it expires.

Commissioner Gobin questioned if there were other subdivisions in the same boat, where they didn't get fully built and their time has expired. First Selectman Bowsza indicated they're looking into ascertaining how broadly the

circumstances may apply. Commissioner Gobin indicated she wasn't aware of this process. First Selectman Bowsza suggested this predates almost everyone's involvement in the government process; we're tasked with trying to improve it. He cited ongoing discussion regarding process improvements.

Referencing the Site Plan Chairman Ouellette suggested there's an interested party that wants to buy the remaining land, Phase IV and V other than lots 10 and 9; he suggested that action doesn't require Planning and Zoning action because it's not a subdivision, as a subdivision requires 3 or more lots, or combining the lots. Chairman Ouellette questioned what that person wants to do, combining the lots or breaking up the lots? Director Chapin indicated it was his understanding that with the expiration of the subdivision it reverts back to a single lot so there would be nothing to combine, and the owner of lots 10 and 9 understands it's no longer 2 lots, it's a roughly 2-acre lot. Chairman Ouellette questioned if a person, as of right, could build a single dwelling unit on that lot? Director Chapin questioned how you could build a house without having access to a Town road. Chairman Ouellette questioned why they couldn't have access via a long driveway from Apothecaries Hall Road, where Abraham George Lane is? Director Chapin felt they would need an easement to do that, and currently there's no easement in place for the owner of those 2 lots. Director Chapin suggested one possible solution which might make it more palatable for everyone involved would be providing that access via easement off the end of Napoleon Drive. He also noted 2 tobacco barns currently exist between Apothecaries Hall Road and lots 10 and 9.

Commissioner Gobin questioned if all of the houses on Napoleon Drive are actually built? She suggested it looks like there's still a vacant lot on the right-hand side of the road if you go all the way back on Napoleon Drive. Director Chapin felt they were all built. Chairman Ouellette noted there was clearing going on in that area; Commissioner Gobin felt the clearing was occurring on a front lot. She also noted there's also clearing going on at the back of Dempsey Road; she noted there's a significant number of Mountain Tree trucks going back there.

No action taken by the Commission; staff continues to work through ownership issues of the expired subdivision application.

**B. Charbonneau Pit/Gravel Pit Solar:**

Commissioner Kowalski questioned the status of the current excavation permit for the Charbonneau pit; he understands Gravel Pit Solar has been approved. Commissioner Kowalski questioned if Mr. Charbonneau has ceased operations,



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or is he operating without a permit? Director Chapin indicated the Town no longer has any jurisdiction because the certificate has been issued in February 2021 by the Siting Council. Discussion followed regarding who has responsibility for closure of the pit.

Chairman Ouellette questioned if the solar farm on East Road has been approved yet? First Selectman Bowsza indicated the Town has been approached regarding a stabilization agreement, but he's not aware of the status of the approval of this project.

**EXECUTIVE SESSION:**

No Executive Session this evening.

Chairman Ouellette called for a motion to adjourn the meeting.

**Randy Clifton, 6 Hickory Lane**, requested to speak to the Commission regarding Application PZ 2021-09 for construction of a commercial building at 124 Newberry Lane. Chairman Ouellette advised Mr. Clifton that the Planning and Zoning Commission meeting process is different than other Commissions Mr. Clifton may have attended; an opportunity for the public to speak for the Planning and Zoning Commission had been announced earlier in the meeting. Chairman Ouellette declined Mr. Clifton's request but suggested he contact the Planning staff with his questions.

**ADJOURNMENT:**

**MOTION: To ADJOURN this Meeting at 8:17 p.m.**

**Kowalski moved/Thurz seconded/VOTE: In Favor: Unanimous**

Respectfully submitted,

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