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

**REGULAR Meeting #1808
August 10, 2021
In-person meeting**

AND

**Meeting also held via ZOOM Teleconference
Meeting ID: 945 1740 8282**

MEETING MINUTES

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

I. TIME AND PLACE OF MEETING:

Chairman Gobin called Regular Meeting #1808 of the East Windsor Planning and Zoning Commission dated August 10, 2021 to Order at 6:30 p.m. The Meeting is being held in-person in the Town Hall, 11 Rye Sreet, Broad brook, CT., and via telconference as well..

PRESENT: Regular Members: Anne Gobin, Frank Gowdy, Michael Kowalski Joseph Sauerhoefer, and Jim Thurz

Alternate Members: There are presently three vacancies for Alternate members.

ABSENT: No one; all Regular Members present.

Also present was Planning Consultant Michael D'Amato.

GUESTS/SPEAKERS present in person: Planning Consultant D'Amato hosted the meeting. There were members of the public present in person.

Public signed in remotely (as identified in the Meeting participation list): First Selectman Bowsza, Ruth Calabrese, Zoning Enforcement Officer/Wetlands Agent, Noreen Farmer.

II ESTABLISHMENT OF QUORUM:

Vice Chairman Gobin noted a quorum was established as five Regular Members were present in person at the Call to Order. She welcomed newly appointed member Joseph Sauerhoefer to the Commission. All members will participate in discussion and votes this evening.

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III. ELECTION OF OFFICERS:

Vice Chairman Gobin called for nominations for the position of Chairman.

Commissioner Gowdy nominated Commissioner Gobin for Chairman;
Commissioner Thurz seconded the nomination; no other nominations were
brought forward.

MOTION: To NOMINATE/ELECT Anne Gobin as Chairman.

Gowdy moved/Thurz seconded/DISCUSSION: None.

**VOTE: In Favor: Gowdy/Kowalski/Thurz/Sauerhoefer/Gobin
(No one opposed/No abstentions)**

Chairman Gobin called for nominations for the position of Vice Chairman.

Commissioner Thurz nominated Commissioner Kowalski for Vice Chairman;
Commissioner Gowdy seconded the nomination; no other nominations were
raised.

MOTION: To NOMINATE/ELECT Michael Kowalski as Vice Chairman.

Thurz moved/Gowdy seconded/DISCUSSION: None.

**VOTE: In Favor: Gobin/Gowdy/Kowalski/Sauerhoefer/Thurz
(No one opposed/No abstentions)**

Chairman Gobin called for nominations for the position of Secretary. Vice
Chairman Kowalski nominated Commissioner Thurz; Commissioner Sauerhoefer
seconded the nomination; no other nominations were brought forward.

MOTION: To NOMINATE/ELECT James Thurz as Secretary.

Kowalski moved/Sauerhoefer seconded/DISCUSSION: None.

**VOTE: In Favor: Gobin/Gowdy/Kowalski/Sauerhoefer/Thurz
(No one opposed/No abstentions)**

IV. ADDED AGENDA ITEMS: None.

V. LEGAL NOTICE:

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Planning Consultant D’Amato reported there are no new Legal Notices to acknowledge this evening.

VI. PUBLIC PARTICIPATION:

Chairman Gobin noted there were no in-person audience members to offer comments; she queried the remote audience for comments regarding items/issues not posted on the Agenda.

First Selectman Bowsza, and Elliott: First Selectman Bowsza, and Elliott, would like to wish Anne Gobin well in her position as Chair of the Commission, and to Joe Sauerhoefer as a new member to the Commission.

VI. APPROVAL OF MINUTES: (ITEM #VI LISTED TWICE ON AGENDA – *Our apologies*)

A. July 27, 2021:

MOTION: To APPROVE the Minutes of Regular Meeting #1807 dated July 27, 2021, with the following amendment: Page 5, **OLD BUSINESS**, A. PZ 2021-19 Text Amendment to East Windsor Zoning Regulations Section 802.1 and 802.4 Multi Family Development District (MFDD), Applicant: SJK Properties, LLC; bullet two, “...**Property maintenance**: Commissioner Gobin also suggested when you have an association maintaining a property you get better maintenance. She cited **THAT** in areas of single family lots...”

Kowalski moved/Gowdy seconded/DISCUSSION: Nothing additional
VOTE: In Favor: Gobin/Gowdy/Kowalski/Sauerhoefer/Thurz
(No one opposed/No Abstentions)

VII: RECEIPT OF APPLICATIONS:

Planning Consultant D’Amato noted the Commission is receiving Application PZ-2021-24 Special Use Application, 17 Thompson Road to allow outdoor live entertainment and outdoor alcohol consumption. Map 082, Block 18, Lot 11. Zone M-1. Applicant: La Notte Wedding & Banquets. Owner: KGS Realty Inc.

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He noted this application will be scheduled for a Public Hearing; the Commission will receive the application documentation in the next meeting packet.

Commissioner Kowalski questioned if this request for dining conditions was covered under the Legislative actions as a result of the impact of COVID? Planning Consultant D’Amato noted that the applicant has had previously approvals for the restaurant; he wants to do this permanently, The Legislative actions did allow some expansion of dining services As-of-Right, but this approval gets the applicant his Liquor Permit.

VIII. PERFORMANCE BONDS – ACTIONS; PERMIT EXTENSIONS; ROAD ACCEPTANCE

No requests presented under this Item of Business this evening.

IX. CONTINUED PUBLIC HEARINGS: None.

X. NEW PUBLIC HEARINGS: None.

XI. OLD BUSINESS: None.

XII. NEW BUSINESS:

A. Review to proposed text changes to Section 406 (Living Area Requirements);

Planning Consultant D’Amato noted new legislation has prohibited setting a specific size on the living area of a building or apartment. His proposed changes to Section 406 eliminate the minimum unit size, and will comply with all minimum standards of Building, Housing, and/or Health codes. The Commission will no longer have a separate set of standards.

Commissioner Kowalski questioned how the Commission will know someone is in compliance with the regulation when they come before the Commission? Planning Consultant D’Amato suggested the Commission would no longer judge the compliance; that would occur when the applicant files for their Building Permit or their review through the North Central District Health Department.

Chairman Gobin noted the reference to “as amended” in the proposed language. While she felt “as amended” was a good addition she reported

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that when working for the State they weren't allowed to adopt regulations that reached into the future because there wasn't a public process where it could be considered. Planning Consultant D'Amato suggested the regulation change would have an effective date; he didn't want to create confusion that the Commission was citing a specific code. Chairman Gobin suggested "as amended" was a good addition because you would want to adopt the changes as they happen. Planning Consultant D'Amato considered the following revised language: "...No dwelling unit shall be created that does not comply with the minimum standard as set forth in all current and applicable Building, Housing, and/or Health codes"; "as amended" is being struck from the regulation language.

The Commission had no further comments regarding the revision of Section 406.

B. Review of proposed text changes to Section 407 (Accessory Apartments):

Planning Consultant D'Amato cited new legislation requires that Accessory Apartments (Accessory Dwelling Units/ADU) must be allowed As-of-Right, without holding a Public Hearing. He noted he has listed the term "Accessory Dwelling Units (ADU) in the regulation as it's consistent with the legislation. The accessory apartments must be allowed to be attached, or detached; ADU's can't exceed 35% of the above-ground floor area of the primary dwelling or exceed 900 square feet of the basement area. No maximum size limit can apply. The owner must submit a floor plan which shows a separate kitchen, living area, and sleeping facilities. For detached units, which are units which will result in expansion of the structure's footprint, a site plan has been requested to demonstrate compliance with all applicable bulk standards. An ADU with a maximum of one bedroom shall be allowed per parcel.

Chairman Gobin:

- **Definition of Accessory Dwelling Units:** She noted Accessory Apartments are currently included in the Regulation definitions; she questioned if the definitions should be revised? Planning Consultant D'Amato indicated he didn't delete Accessory Apartments because he wanted to track previous language; he suggested adding the term Accessory Dwelling Units to the definition section.
- **Number of allowable units:** She questioned that only one ACU is allowed per primary dwelling? Planning Consultant D'Amato replied

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affirmatively, noting his proposed language allows one ADU which has one bedroom.

Commissioner Kowalski:

- **Tiny houses vs. Accessory Apartments:** Commissioner Kowalski questioned how this legislation applies to “tiny houses” which can be under 800 square feet? Planning Consultant D’Amato suggested the ADU will be tied to the primary dwelling for use of septic systems, and electrical service. Commissioner Kowalski suggested “tiny houses” pump waste into a tank like a camper. Commissioner Gowdy cited the current regulations limit primary dwellings to no smaller than 1,200 square feet. Commissioner Kowalski suggested this legislation changes that; instead of the kid coming back from college and living in the basement he can now live in a tiny house. Planning Consultant D’Amato suggested revising the definition of Accessory Apartment to include language to make it clear that an Accessory Dwelling Unit is not something located on wheels or constructed for temporary habitation. He also noted the legislative language that was also added says that for the purposes of a Health Department review adding a single bedroom via an ADU does not trigger an entirely new code compliant septic area, etc. Commissioner Gobin noted the North Central Health Department (NCDHD) sets the septic system size on the number of bedrooms; she questioned what would happen if the primary dwelling were already at its maximum? Planning Consultant D’Amato suggested in many towns you can expand to one additional bedroom over the maximum number allowed.

Discussion continued regarding language within the new legislation as it relates to ADUs. Planning Consultant D’Amato suggested he would review the Commission’s questions with the NCDHD.

Commissioner Gowdy:

- **Occupancy relationship:** Commissioner Gowdy questioned why the proposed regulation language excludes the requirement that the occupant must be a blood relative? Planning Consultant D’Amato cited under the new legislation the ADU can be rented to anyone, while the property owner must live on site. The Commission suggested under the new regulation anyone can add an ADU and rent it out. Planning Consultant D’Amato suggested the theory is that if the owner occupies the primary dwelling and you add an apartment that you can rent it won’t become this party house because the owner

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is still the responsible party. Commissioner Gowdy cited the previous regulation also required that the property owner request renewal of the accessory apartment every two years, and if the relative left you had to remove the kitchen. He speculated that under this legislation if he was a farmer he could have several farm workers living at the property.

- **Ownership change of primary residence:** Commissioner Gowdy questioned what happens to the occupant of the Accessory Apartment if the owners dies? Chairman Gobin suggested the new owner/heir would decide if they wanted to continue the occupancy. Commissioner Gowdy questioned what would happen if the new owner didn't want the apartment? Planning Consultant D'Amato suggested the new owner would have to evict the tenant; he explained the eviction process for the Town. He noted that a lot of towns are allowing ADUs As-of-Right and there hasn't been a surge of activity; limiting them to one bedroom and one ADU somewhat controls it.

Commissioner Kowalski:

- **Architectural compatibility:** He noted Planning Consultant D'Amato has stricken the appearance guidelines. Planning Consultant D'Amato indicated they were subjective, which couldn't be controlled without holding a Public Hearing and managing these ADUs via a Zoning Permit. Commissioner Kowalski recalled that usually with additions builders try to match the architecture of the existing house; with detached units that might not be the case.
- **ADU location:** Commissioner Kowalski questioned where can they be located on a property, no front yards? Planning Consultant D'Amato replied negatively, noting the locations must meet accessory structure regulations.
- **Internal access to ADU:** Commissioner Kowalski questioned if they can have an internal connection as they do now? Planning Consultant D'Amato indicated there could be an internal connection but questioned what that would do for the occupants?

Planning Consultant D'Amato noted the existing regulations also ***prohibit a second door facing the street***; Chairman Gobin felt that would depend on how the dwelling looked. Chairman Gobin questioned if, in the Towns that do allow the ADUs As-of-Right, do they have visual standards? Planning Consultant D'Amato suggested the Commission leave this regulation change open until the next meeting. He noted that everyone is dealing with this at the same time; he'll do more research and report back to the Commission.

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Chairman Gobin suggested she'd like to see an architectural review included in the regulation requirements

XIII. OTHER BUSINESS: None.

XIV. CORRESPONDENCE: None.

XV. BUSINESS MEETING

A. Adult Use Cannabis Legislation:

Planning Consultant D'Amato advised the Commission that the State has passed legislation that allows Towns to handle the adult use of cannabis in the following ways:

- **Do nothing** – which means the sale must be allowed and treated as any other retail or equivalent use. If we have someone cultivating marijuana we would have to treat them the same as someone cultivating flowers; someone selling marijuana would have to be treated like Dollar General. He cited the sale isn't the same as someone cultivating plants; he questioned that cannabis could be grown in open fields vs. in a controlled facility. Planning Consultant D'Amato suggested there will be 8 different licenses issued through the State.
- **Adopt regulations regarding the location, and how, the sales would be allowed.**
- **Adopt a temporary moratorium.** Planning Consultant D'Amato indicated this would prevent someone from coming in for a Zoning Permit for a location and sign at Bassdale's Plaza, as an example, and be ready to open shop when the State Regulations commence.
- **Prohibit cannabis sales across the board.** Planning Consultant D'Amato suggested this option would require the passing of an Ordinance by the Board of Selectmen.

Planning Consultant D'Amato queried the Commission on their intent for management of the cannabis sales? A temporary moratorium would require a Commission action, while the out-right prohibition would require the concurrence and approval of the Board of Selectmen. He noted he is of the understanding that the First Selectman is considering holding a joint meeting to discussion solar farms and cannabis.

Commissioner Kowalski:

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- Could cannabis be sold in school zones? Planning Consultant D'Amato suggested if retail sales were allowed in a school zone then the sale of cannabis would be allowed as well.
- Does the recent legislation include farming cannabis as well? Planning Consultant D'Amato replied negatively.

Commissioner Sauerhoefer:

- Location: Commissioner Sauerhoefer felt if people want to sell cannabis then they would want to be on a major road, such as Route 5 or 140.
- Disagrees with outright ban: Commissioner Sauerhoefer cited the positive economic impact to the community from the cannabis sales; he suggested people will be looking to open growing facilities as well. Planning Consultant D'Amato advised the Commission the legislation includes ratios of facilities to population, so for a community under 25,000 – such as East Windsor – we would be allowed one cultivation facility, one retail sales location, one of each of the other six licensees. Discussion continued regarding the statistics of retail stores vs. cultivators in Massachusetts as related to their population, and application fees vs. tax revenue

Zoning Enforcement Officer (ZEO) Calabrese noted the Town can get 3% revenue on the sale of cannabis while the State will get 17%; the total tax on the sale of cannabis is 20%. Commissioner Sauerhoefer suggested someone could occupy a unit at the Industrial Park, set up a grow operation, and because of our location near I-91 they'll be able to market it easily. Commissioner Sauerhoefer felt if the facilities were self-contained he felt they could go on Route 140.

Discussion continued regarding cultivation facilities, and retail facilities in adjacent states.

Planning Consultant D'Amato returned discussion to the Commission's preference for developing regulations vs. setting a moratorium, which would mean the Commission and Staff wouldn't accept applications for 4 to 6 months, and no one would be issued Zoning Permits on use locations during that time. During that time, the Commission could develop regulations, and/or discuss options with the Board of Selectmen.

Chairman Gobin, and Commissioner Gowdy preferred the moratorium.

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Commissioner Sauerhoefer felt the revenue was a good opportunity for the town but he didn't want a lot of them.

Commissioner Kowalski suggested the uses should be regulated via a Special Use Permit; nothing should be allowed As-of-Right.

Chairman Gobin suggested the Commission should have input regarding the location of the sales, or cultivator, location; she doesn't want to see them next to the school. Planning Consultant D'Amato cited the State's location criteria; he suggested the intent of the Legislature was to handle cannabis sales like liquor sales.

Commissioner Thurz felt the Police Department should be included in the discussions. He felt they hadn't been included significantly in discussions of the new Walmart location and they are now experiencing a lot of activity as a result of the location.

Planning Consultant D'Amato will advise the Board of Selectmen of the Commission's preference to establish a moratorium at this time.

B. South Road (Formerly Creative Housing) Future Zoning:

Planning Consultant D'Amato advised the Commission the South Road property is a complex of old military housing which the Town took over when the non-profit managing the property, Creative Housing, failed to pay property taxes and went under. The parcel is under 4 acres, containing 16 single family dwellings; the density equates to 4 units per acre. The road within the complex is a Town road; the property is served by a Town sewer which runs through the back yards of the properties and rings the total parcel. The dwellings are individually owned, while the land beneath them is owned by the Town. The families each pay a \$67/month fee to the Town. The properties are income restricted for the homeowners to be eligible to live in the complex; the Town is trying to have the income restriction lifted through the Department of Housing. The lease lines will become lot lines; the monthly fee paid to the Town will be replaced by property taxes

Commissioner Sauerhoefer noted the Town currently maintains the road, and takes care of the circle of open land in the center of the complex. The intent is to turn the center area into a traditional cul-de-sac. He noted there are also 3 houses fronting on Phelps Road, and a 4th home with a driveway onto Phelps Road.

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Planning Consultant D'Amato suggested the Town doesn't have a current zoning regulation to address this density; the Commission can't create a zone for this one complex. Some of the residents have pools and sheds, which sometimes overlap lot lines. Essentially, the Commission is being asked to create a 16-lot subdivision.

Planning Consultant D'Amato suggested he felt this is a case for a variance application, because there isn't another piece of property in town that is similar. He's reluctant to move towards the variance route if the Commission would prefer to create some type of overlay zone.

Commissioner Gowdy felt the over-lay zone creates problems; he favored the variance approach.

Commissioner Sauerhoefer noted that all the properties have exterior oil tanks. One has already failed, which cost the Town \$100,000 to remediate the site because the Town owns the entire parcel. All of the dwellings sit on 8 foot full foundation walls, a slab was then poured over the foundation areas. The furnaces are above ground within the dwellings.

Commissioner Kowalski questioned that the homeowners must agree to accepting the properties; he questioned if there would be a purchase agreement or a purchase price, or a conveyance fee for them? Planning Consultant D'Amato noted a meeting had been held last Fall explaining the situation to the homeowners; only one homeowner hasn't agreed. He felt the properties would be transferred to the homeowners without a fee.

Planning Consultant D'Amato will keep the Commission updated regarding conveyance of this property.

XVI. EXECUTIVE SESSION:

XVII. ADJOURNMENT:

MOTION: To ADJOURN this Meeting at 7:30 p.m.

Gowdy moved/Thurz seconded/

VOTE: In Favor: Gobin/Gowdy/Kowalski/Sauerhoefer/Thurz
(No one opposed/No abstentions)

Respectfully submitted,

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

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