### TOWN OF EAST WINDSOR PLANNING AND ZONING COMMISSION

### REGULAR Meeting #1837 October 25, 2022

THIS MEETING IS BEING HELD IN-PERSON
In the John Daly, Jr. Meeting Room,
Town Hall, 11 Rye Street, Broad Brook, CT 06016
AND
VIA REMOTE ACCESS
via ZOOM Teleconference
Meeting ID: 714 897 1799

#### **MEETING MINUTES**

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

### I. TIME AND PHYSICAL PLACE OF MEETING:

Chairman Gobin called Regular Meeting #1837 of the East Windsor Planning and Zoning Commission dated October 25, 2022 to Order at 6:30 p.m. The Meeting is being held in-person in the John Daly, Jr. Meeting Room, Town Hall, 11 Rye Sreet, Broad Brook, CT., and via telconference as well

**PRESENT:** Regular Members: Anne Gobin (Chairman), Michael Kowalski (Vice Chairman), David Leason, Joseph Sauerhoefer, and Jim Thurz (Secretary).

<u>Alternate Members:</u> Frank Gowdy. There are presently two vacancies for Alternate members.

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

Director of Planning and Development/Town Planner Calabrese hosted the Planning and Zoning Commission Meeting. Also present in person was Planning Consultant D'Amato.

GUESTS/SPEAKERS present in person: Jay Ussery, of J. R. Russo & Associates, Marek Kement, Skip Kement, Deputy First Selectman DeSousa, Don Walker of Don's Auto Care Center.

GUESTS/SPEAKERS present remotely identified as they sign in: Heidi Alexander; and Peg Hoffman, Recording Secretary.

### II. <u>ESTABLISHMENT OF QUORUM:</u>

A quorum was established as five Regular Members and one Alternate Member were present at the Call to Order. Chairman Gobin noted all Regular Members will participate in votes made this evening, while Alternate Gowdy may participate in discussions.

### III. ADDED AGENDA ITEMS:

Planning Director Calabrese requested the addition under <u>NEW</u> <u>APPLICATIONS TO BE RECEIVED</u> - application #PZ-2022-24 Dana Groszyk, Site Plan and Special Use Permit for field workers housing at 10 Wapping Road, Map 27, Block 65, Lot 33.

### IV. <u>LEGAL NOTICE:</u> None

# V. <u>PUBLIC PARTICIPATION (FOR ITEMS NOT LISTED ON THE AGENDA):</u>

Chairman Gobin queried the in-person audience for comments regarding items/issues not posted on the Agenda. No one requested to speak. Chairman Gobin then offered the same opportunity for comment to the remote participants; no one requested to be acknowledged.

### VI. APPROVAL OF MINUTES:

### a. October 11, 2022 – Regular Meeting of PZC:

Chairman Gobin queried the Commission for comments or revisions; no one requested any changes. Charman Gobin then called for a motion of approval.

MOTION: To APPROVE the Regular Meeting #1836 held on October 11, 2022 as presented.

Kowalski moved/Thurz seconded/<u>DISCUSSION:</u> None.

VOTE In Favor: Gobin/Kowalski/Leason/
Sauerhoefer/Thurz

(No one opposed/No Abstentions)

### VII. RECEIPT OF APPLICATIONS:

Chairman Gobin acknowledged receipt of the following application which was received today:

**PZ-2022-24 Dana Groszyk**, Site Plan and Special Use Permit for field workers housing at 10 Wapping Road, Map 27, Block 65, Lot 33.

Chairman Gobin noted this application will be heard at the November 8<sup>th</sup> Meeting.

# VIII. <u>PERFORMANCE BONDS – ACTIONS; PERMIT EXTENSIONS; ROAD ACCEPTANCE</u>

Planning Director Calabrese advised the Commission the Planning Office reached out to Mark O'Neill, the developer for Jessie Lane, regarding improvements prior to road acceptance. Yesterday Mr. O'Neill sent an electronic copy of an updated As-Built Plan to Town Engineer Norton for review.

Commissioner Kowalski questioned that the next step would be the release of any remaining bonds if Town Engineer Norton is satisfied? Planning Director Calabrese replied affirmatively.

Chairman Gobin indicated no action is required on this item this evening.

### IX. CONTINUED PUBLIC HEARINGS:

# a. <u>PZ-2022-19 297 North Road – Special Use Permit Renewal for Soil</u> Management Facility – Applicant: North Road Materials LLC:

Chairman Gobin read the description of this continued Public Hearing.

Jay Ussery, of J. R. Russo and Associates, LLC joined the Commission. Mr. Ussery advised the Commission he is now representing the applicant, 297 North Road Materials LLC. Mr. Ussery noted Skip and Marek Kement are also present this evening.

Mr. Ussery noted that at the last meeting the attorney discussed an extension of the permit for 2 years to allow testing of the materials, and construction of the bins. Apparently there was a conflict, and Attorney Merriam is no longer employed by the Kements.

Mr. Ussery reported that he spoke with the Planning Director Calabrese to discuss a path forward. A Cease & Desist Order has been issued several weeks ago by Planning Staff regarding some materials deposited outside the permitted area, and untested dredged material has been deposited on the site, including the side slope. Mr. Ussery referenced plans submitted this evening which he has prepared includes section 1/Phase 1, which is the side slope.

Mr. Ussery noted that Mr. Kement had, at one time, worked for Anchor Engineering. The Kement family has contracted with Scott Atkins, of Anchor Engineering, to act as the Licensed Environmental Professional (LEP) for this project. Mr. Ussery suggested the Commission may be familiar with Mr. Atkins as he had previously represented the Botticellos regarding a gravel removal operation for NORCAP in East Windsor. As the LEP Mr. Atkins will test the material coming in to this site and report his findings to the Planning Staff.

Mr. Ussery indicated Mr. Atkins felt the work can be completed fairly quickly. He understands that the Planning Staff doesn't want to extend or renew the permit, but he would ask that they consider extending the application until the Commission's next meeting scheduled for November 8<sup>th</sup>. Mr. Atkins will be able to review the status of the application and develop a resolution to work through the Cease & Desist Order and move forward. Mr. Ussery noted Staff is recommending a denial without prejudice.

Commissioner Gowdy questioned if Mr. Ussery had discussed this proposal with the Town Planner? Mr. Ussery suggested they discussed withdrawing this application, working through the Cease & Desist Order with some testing, and resubmitting a new application. Mr. Ussery indicated they hope to be able to test some of this in the next 2 weeks to work through some of the issues and continue to work with Staff. Commissioner Gowdy questioned if the ex-attorney advised them of which path to take? Mr. Ussery replied negatively.

Marek Kement joined the discussion. Mr. Kement suggested the Cease & Desist Order and the Special Use Permit are intertwined with the permit renewal. One of the issues is that we've extended beyond our limits so with the Permit renewal we're proposing to modify that plan to begin conformance. The other issues relate to the questionable materials, we can't install the bins and without the bins we can't put the materials in

those bins. Mr. Kement suggested if the material was stored in the bins they would be in complete compliance. If we could get the extension to install the bins, and if we could get the amendment of the area as noted on Mr. Ussery's plan then the Cease & Desist Order would be eliminated.

Commissioner Kowalski questioned why Mr. Kement couldn't install the bins without an earth-filling permit? Mr. Kement suggested the Cease & Desist Order prevented them from doing any further work. Commissioner Kowalski cited the grandfathered construction permit, felt the lack of installation of the bins was part of that permit. Mr. Kement indicated they were not allowed to construct the bins in the area of that permit.

Commissioner Thurz indicated that he didn't feel the 2 week extension would hurt in the long run.

Commissioner Kowalski felt activities to bring you into compliance should be allowed under the Cease & Desist Order

Planning Director Calabrese suggested she sees this as being two different, intertwined, pathways. There is the Special Use Permit application for the soil facility and the landfilling which falls under Section 814. If the applicant isn't in compliance with that you can't extend it. Planning Director Calabrese felt the Cease & Desist Order was a separate issue. Part of that is a requirement to seek a permit for the excavation of the material, part of that is the LEP doing the sampling and making a determination whether to leave it or remove it.

Commissioner Kowalski reiterated his contention that the bin installation should fall under the Cease & Desist Order.

Commissioner Kowalski questioned if this application was within the Statutory time limits, or is an extension needed? Planning Director Calabrese suggested if the Commission closed the Public Hearing on November 8<sup>th</sup>, you would still have 65 days to make your decision. Planning Director Calabrese indicated she felt the Cease & Desist Order should be separate from the Special Use Permit.

Chairman Gobin suggested what the applicant is calling clean fill may not actually be clean fill, without the LEP it may not be clean fill, definitions change over time. The intent of the earth-filling regulations is to keep the fill clean and for the land to be reusable. The Commission has heard

comments about the proximity of the fill to the Scantic River. Chairman Gobin suggested the LEP needs to assess the site and she didn't know if the LEP will be able to get those answers in 2 weeks, but she had no problem continuing the application for the 2 weeks.

Commissioner Thurz felt the Commission wouldn't know unless we give them time.

Chairman Gobin noted this application is being heard under a Public Hearing, she asked if anyone in the audience would like to comment? No one responded. Chairman Gobin asked the remote participants for comments; no one requested to be acknowledged.

Chairman Gobin asked the remaining Commissioners for comments.

Commissioner Leason questioned that assuming we extend the meeting to November and the LEP comes up with a protocol for sampling and testing, and we need to close the Public Hearing, can the applicant or the LEP still correspond with Staff after the Public Hearing is closed? Chairman Gobin clarified that the record would be closed. Planning Consultant D'Amato concurred, noting the Commission can't take any additional information after the closing of the Public Hearing, he suggested the criteria for the decision must be in the Public Hearing record.

Commissioner Kowalski questioned if he understood Planning Director Calabrese is suggesting that there should be a separate application to allow the applicant to come under compliance. Planning Director Calabrese replied affirmatively, she cited material has been deposited on site which wasn't permitted which they are proposing may be better to leave on site rather than remove, she indicated the LEP will make that decision. Planning Director Calabrese felt that was part of the Cease & Desist Order, while the Special Use Permit would include installation of the bins and restoration or excavation of the material. Chairman Gobin questioned if the quantity of fill has exceeded the amount allowed? Mr. Kement clarified they are allowed a million yards. Commissioner Sauerhoefer questioned if that could be completed in 2 weeks, do you have a scope of what is in the material? Mr. Kement advised the Commission they've already had testing of the questionable material, and we do have all the material slips for the site so the LEP will have to decide what needs testing. The LEP's memo indicates he can do a review in a week. Commissioner Sauerhoefer requested Mr. Ussery's input. Mr. Ussery felt

> it could be done if the test results could be expedited at the lab, if that occurred Mr. Ussery felt they could have the information in 2 weeks. Commissioner Gowdy suggested it may be easier to come in with a clean application and not have to worry about the information. He felt it would take the pressure off the Commission to start over.

Deputy First Selectman DeSousa requested to comment from the audience. For clarification, the permit to remediate the site hasn't been put forth yet. That concerns her, she agrees with Mr. Gowdy. Her concern is that the answer will be available in the 2 weeks, she felt they should have hired someone 2 weeks ago.

Mr. Kement reiterated the need for the LEP to determine if the fill is clean or if needs to be removed. He suggested continuing the application for another 2 weeks will enable the LEP to make his review.

Chairman Gobin polled the Commissioners for their preference for continuing the Public Hearing for 2 weeks?

Commissioner Thurz wanted to extend the Public Hearing. Commissioner Leason also wanted to extend the Public Hearing for 2 weeks.

**Commissioner Sauerhoefer** also agreed with leaving the Public Hearing open for 2 weeks.

Commissioner Gowdy noted that although he isn't voting on the application he felt it may be easier to come in with a new application.

Chairman Gobin cited 3 Commissioners, which is a majority, want to extend the Public Hearing for the 2 weeks.

Chairman Gobin called for a motion to continue the Public Hearing.

**MOTION:** To CONTINUE the Public Hearing on application PZ-

2022-19 for 297 North Road for a Special Use Permit Renewal for Soil Management Facility, the applicant is North Road Materials LLC., Public Hearing continued until the Commission's next meeting scheduled for

**November 8, 2022.** 

Kowalski moved/Thurz seconded/DISCUSSION: Chairman Gobin indicated she didn't see any harm extending the Public Hearing but felt it may be delaying a resolution.

TOWN OF EAST WINDSOR PLANNING AND ZONING COMMISSION Regular Meeting #1837 – October 25, 2022 In-Person and ZOOM Teleconference

Meeting ID: 714 897 1799 MEETING MINUTES

VOTE: In Favor: Kowalski/Leason/Sauerhoefer/Thurz

Opposed: Gobin Abstained: No one

# b. <u>PZ-2022-23 14 North Road – Special Use Permit for a Site Plan</u> <u>Modification. Applicant: Don's Auto Care Center/Don Walker:</u>

Chairman Gobin read the description of this Public Hearing.

Jay Ussery, of J. R. Russo & Associates LLC joined the Commission again, noting he is representing Mr. Walker for this application. Mr. Ussery noted Mr. Walker is also present in the audience.

Mr. Ussery noted this application is for the installation of a solar canopy at Don's current location. The solar canopy would provide cover for EV super chargers and vacuums for Don's car wash. While they are waiting for architectural drawings from Mayberry and GreenEarth Mr. Ussery submitted photos of existing, similar, facilities throughout the area for the Commission's review:

- The photo of the green canopy is the USA facility on Mullen Road which is a bit taller than Mr. Walker is proposing.
- The second photo shows the top of a canopy which wouldn't be visible from the road in front of Mr. Walker's car wash. Mr. Ussery noted the canopy will have LED lighting underneath the canopy which would be covered with a wide band of medium bronze color material which would match the existing building.
- The third photo showed an existing canopy in Vernon.
- The final photo was Noble's car wash further east on Route 140

Commissioner Kowalski questioned if the installation would include a gutter system, or will the water sheet flow off the site? Mr. Walker noted there will be a gutter pipe on the east side of the structure, everything will be directed into that. Mr. Ussery noted the location of an existing drain which would be the recipient of the water.

Commissioner Thurz suggested putting bollards in front of the transformer. Mr. Ussery concurred. He also noted there are bollard covers which can be installed and make the bollards and concrete look better.

Planning Director Calabrese questioned what they propose for signage. Mr. Walker noted there's an existing sign on the front of the building. He'd be willing to remove that in place of other signage which would be more visible to potential customers. Mr. Ussery suggested that would require a plan modification for signage. Planning Director Calabrese suggested the applicant can apply for signage separately.

Chairman Gobin offered the in-person audience an opportunity to comment; no one requested to speak. Chairman Gobin then offered the remote participants the opportunity to comment; no one requested to be acknowledged.

Chairman Gobin noted receipt of a memo from Planning Director Calabrese advising the Commission they need to close the Public Hearing by November 1, 2022. She called for motions from the Commission.

**MOTION:** To CLOSE THE PUBLIC HEARING on application

PZ-2022-23 for a Site Plan Modification for a Special Use Permit for 14 North Road, applicant is Don's Auto Care Center, express is North Boad Books, LLC

Care Center, owner is North Road Realty, LLC.

Kowalski moved/Leason seconded/<u>DISCUSSION:</u> None VOTE: In Favor: Gobin/Kowalski/Leason/Sauerhoefer/Thurz

(No one opposed/No abstentions)

Chairman Gobin asked if the Commission was ready to vote on the application this evening? Commissioner Kowalski offered the following motions.

MOTION TO grant a fifty percent (50%) reduction to the front and side yard setbacks for application #PZ 2022-23 for the installation of a solar canopy as allowed by Section 601.8 c of the East Windsor Zoning Regulations.

### **Finding:**

- 1. The proposed location will not disrupt on-site traffic circulation.
- 2. Any increased drainage or runoff generated by the proposed canopy will not discharge toward adjacent property lines.
- 3. The canopy design and proposed location will not create glare to adjacent properties.

4. The purpose of the proposed canopy, as supported by the submitted application materials is to reduce the overall dependency of the building or tenant on traditional energy systems.

Kowalski moved/Leason seconded/<u>DISCUSSION</u>: None

VOTE: In Favor; Gobin/Kowalski/Leason/Sauerhoefer/Thurz

(No one opposed/No abstentions)

MOTION TO APPROVE: #PZ 2022-23\_ Site Plan Modification & Special Use Permit 14 North Road\_ Don's Auto Care Center; Owner: 14 North Road Realty, LLC/ Applicant: Don Walker. This approval is granted subject to the conformance with referenced plans (as may be modified by the Commission and this approval) and the following conditions/modifications.

This approval is granted subject to the conformance with the plan set entitled: Site Plan Property of 14 North Road Realty, LLC, 14 North Road, East Windsor, Connecticut; Map 112- Block 17- Lot 002A; Zone M-1; Sheet 1 of 1, Dated: 9-7-22.

### Conditions which must be met prior to the signing of final plan set:

- 1. A copy of the final approved plans with any necessary revisions shall be submitted to the Planning & Development Office for review and comment.
- 2. A copy of this approval motion has been incorporated into a final plan.
- 3. All final plans submitted for signature shall require the seal and live signature of the appropriate professional(s) responsible for the preparation of the plans.
- 4. The conditions of this approval shall be binding upon the applicant, landowners, and their successors and assigns

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

- 5. A single, PDF copy of the final plans, will all necessary revisions shall be provided to the Planning & Development Office.
- 6. A zoning permit has been obtained from the Planning and Development Office for the project.
- 7. An Erosion Control Bond has been provided, such estimate shall be reviewed and approved by the Town Engineer.

# Conditions which must be met prior to the issuance of a Certificate of Compliance:

- 8. Final grading, stabilization and seeding shall be in place or adequate bond filed with the Town for the unfinished work.
- 9. One electronic PDF and paper copy of the final as-built survey showing structures, pins, driveways, final floor elevations and spot grades shall be submitted

#### **General Conditions:**

- 10. In accordance with Section 900.3(h) of the Zoning Regulations, the construction of any buildings associated with this approval shall commence within one year of this approval date and all improvements shall be completed within five years. Such approval shall otherwise be null and void unless an extension has been granted by the Commission.
- 11. This project shall be constructed and maintained in accordance with the final plans. Minor modifications to the approved plans that result in lesser impacts may be allowed subject to staff review and approval.
- 12. Any modifications to the proposed drainage or grading as depicted on the site plan are subject to review and approval by the Town Engineer.
- 13. Additional erosion control measures may be required by Town staff if field conditions necessitate.
- 14. By acceptance of this approval and its 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.

Kowalski moved/Leason seconded/DISCUSSION: None

VOTE: In Favor; Gobin/Kowalski/Leason/Sauerhoefer/Thurz

(No one opposed/No abstentions)

X. <u>NEW PUBLIC HEARINGS:</u> None

XI. OLD BUSINESS: None

XII. <u>NEW BUSINESS</u>: None

XIII. OTHER BUSINESS:

### a. Update on Warehouse Point Design District:

Planning Consultant D'Amato advised the Commission that a couple of weeks ago he, Planning Director Calabrese, and Zoning Enforcement Officer Miller reviewed the map for potential new zones in the Warehouse Point area and decided to reduce the number of zones from 3 to 2, they are now proposing the Core Zone and the Transitional Zone based on lot size and use. What would have been the Periphery Zone will become the area along the river because development in that area will be difficult.

Commissioner Kowalski recalled that one of the purposes of this was to give some of the existing, non-conforming uses some leeway for development, he questioned if the reduction to 2 zones would adversely affect a property owner? He referenced the rough draft of the map provided for the Commission, noting some properties are in the Core Zone while others out outside of the area. Planning Consultant D'Amato suggested the zones will treat the uses differently, he referenced the document before Commissioner Kowalski and noted "this" area becomes less restrictive. Commissioner Kowalski questioned if a property owner had frontage on Route 140 would they be in the Core Zone? Planning Consultant D'Amato indicated Staff hopes to have a new map for the Commission's review in 2 weeks which will be more reflective of their intent.

### b. Update on the Affordable Housing Plan:

Planning Consultant D'Amato reported he has been working with Planning Director Calabrese and First Selectman Bowsza to develop a draft survey which would be offered to citizens via the Town website and a short hard copy was provided for the schools which provided access via a QR code.

The draft survey has received 50 responses, which included the following information:

- 37% of the respondents live and work in East Windsor
- 54 % of the respondents live in East Windsor but work outside of town. Commissioner Kowalski questioned that 43% of the respondents don't live in town? Planning Consultant D'Amato suggested a similar situation occurred during discussion of the Tiny Houses; people who didn't live in East Windsor offered an opinion on the proposal.
- 52% responded that housing is an important component to East Windsor's overall prosperity
- 41% of the respondents feel a reasonable cost for housing is \$1,000 to \$1,250 per month
- 48% of the respondents feel housing options would improve the town overall, 35% feel it would negatively impact the town
- 65% of the respondents feel housing for young families is the type of housing most needed

- 55% of the respondents feel that Broad Brook is most desirable for additional housing needs
- 62% of the respondents feel local attitudes to affordable housing are the biggest obstacle to future development

Chairman Gobin questioned if these respondents are different from other Towns Planning Consultant D'Amato assists? Planning Consultant D'Amato felt this sampling is a reasonable response to housing costs. He noted there are a significant number of free-form comments as well.

Commissioner Gowdy questioned the bottom line? Planning Consultant D'Amato suggested that like many people in other communities people find problems with really good examples of well executed housing plans which meet the standards of affordable housing. Commissioner Gowdy suggested the bottom line is education. Planning Consultant D'Amato suggested that most often the children living in single parent, most often the mother, would benefit by affordable housing options so if you turn down affordable housing you're prohibiting those families from locating in your community. Planning Consultant D'Amato noted East Windsor already provides more than the required 10% of affordable housing.

He suggested he'll try to expand the sampling.

Chairman Gobin suggested they've made an effort to reach the young parent households, she questioned how they've reached the senior population? Planning Consultant D'Amato suggested he'll work with Parks and Community Services Director Maltese to determine the most comfortable way for them to participant in the survey.

### XIV. **CORRESPONDENCE:** None

## XV. BUSINESS MEETING

### a. <u>Election of Officers:</u>

Commissioner Thurz nominated Michael Kowalski for Chairman; Chairman Gobin seconded the nomination. Chairman Gobin asked Commissioner Kowalski if he would accept the nomination; Commissioner Kowalski responded affirmatively. Hearing no other nominations, the Commission unanimously voted for Michael Kowalski as Chairman of the Planning and Zoning Commission.

> Commissioner Leason nominated Jim Thurz for Vice Chairman; Commissioner Sauerhoefer seconded the nomination. Chairman Gobin asked Commissioner Thurz if he would accept the nomination; Commissioner Thurz agreed. Hearing no other nominations, the Commission unanimously voted for Jim Thurz as Vice Chairman of the Planning and Zoning Commission.

Commissioner Sauerhoefer nominated David Leason as Secretary; Commissioner Thurz seconded the nomination. Chairman Gobin asked Commissioner Leason if he would accept the position, Commissioner Leason replied affirmatively. Hearing no other nominations, the Commission unanimously voted for David Leason as Secretary of the Planning and Zoning Commission.

### XVI. EXECUTIVE SESSION:

Chairman Gobin noted there is no need for an Executive Session this evening.

### **XVII. ADJOURNMENT:**

Chairman Gobin called for a motion to adjourn the Planning and Zoning Commission Meeting.

MOTION: To ADJOURN the October 25, 2022 Planning and Zoning

Commission Meeting at 7:45 p.m.

Sauerhoefer moved/Thurz seconded/DISCUSSION: None

VOTE: In Favor: Gobin/Kowalski/Leason/Sauerhoefer/Thurz

(No one opposed/No abstentions)

Respectfully submitted,

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