

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

REGULAR Meeting #1772 – January 14, 2020

MEETING MINUTES

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

Regular Meeting #.1772 of the East Windsor Planning and Zoning Commission held on Tuesday, January 14, 2020 was called to order in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT. at 6:30 P. M. by Chairman Ouellette.

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

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

ABSENT: All Regular and Alternate Members were present this evening

Also present was Town Planner Ruben Flores-Marzan.

GUESTS: Selectman Alan Baker, Board of Selectmen Liaison to the Planning and Zoning Commission; Deputy First Selectman Marie DeSousa;

Apothecaries Hall Road Enterprises, LLC and the East Windsor Sportsman Club, Inc.: Jay Ussery, of J. R. Russo & Associates, LLC, representing Apothecaries Hall Enterprises, and Kevin Charbonneau, owner, Apothecaries Hall Enterprises; **LADA, P.C., Land Planners:** Terri Hahn.

Public: Meadow Farms Homeowners Association Members: Ray Embury, President; Andy Hoffman, member; and David Macdaid, member; Richard P. Pippin, Jr., Kathy Pippin.

PRESS: No one from the Press was present.

ESTABLISHMENT OF QUORUM:

A quorum was established as five Regular Members were present at the Call to Order. All Regular Members would sit in, and vote, on all Items of Business this evening. Alternate Members may join the Board regarding discussion on all Items of Business this evening as well.

LEGAL NOTICE: None.

ADDED AGENDA ITEMS: None.

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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/December 10, 2019:

MOTION: To APPROVE the Minutes of Regular Meeting #1771 dated December 10, 2019 as submitted.

Sullivan moved/Moore seconded/DISCUSSION: None.

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

Chairman Ouellette requested a motion to go out of the posted Agenda Order and take Item XI/C. OLD BUSINESS Continued discussion regarding Warehouse Point Planning Study to include Terri Hahn of LADA, P.C., Land Planners next.

MOTION: To GO OUT OF THE AGENDA ORDER and hear Item XI/C. OLD BUSINESS - Continued discussion regarding Warehouse Point Planning Study to include Terri Hahn of LADA, P.C., Land Planners next.

Sullivan moved/Kowalski seconded/DISCUSSION: None.

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

OLD BUSINESS/B. Continued discussion regarding Warehouse Point Planning Study to include Terri Hahn of LADA, P.C., Land Planners:

Terri Ann Hahn, of LADA, P.C., joined the Commission. Mrs. Hahn reported everything is starting to come together on the Warehouse Point Planning Study; she anticipates joining the Commission at least monthly for updates over the next six months.

Mrs. Hahn provided five maps to the Commission:

- Current Zoning (Existing Zoning and Impervious Surface Area by Zone – Exhibit #1 – 12/10/2019)
- Existing Conditions (Existing Impervious Coverage by Watershed – 1/9/2020 – Exhibit #2)
- Parcel Data (Proposed Zoning Map – Draft – 11/20/2019)
- Parcel Data (Future Use/Density Plan – Draft – 11/20/2019)
- Parcel Data (2nd Draft – Zoning Map 1/9/2020)

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(Plans are available as pdfs through the Planning Department)

Mrs. Hahn reported that previously the Commission had reviewed the Future Use/Density Plan (Exhibit #1) to see what uses might work as a Zoning Map. While her initial plan was more general the Commission wanted the map to better reflect the Land Use Map. At the same time they looked at how the future development relates to the stormwater management, and how the existing impervious coverage allotments relate to existing and proposed uses. Mrs. Hahn noted various zones within the Warehouse Point Master Plan, and their current maximum allowable impervious coverage – R-1 allows 25%, R-2 allows 25%, B-1 allows 65%, M-1 allows 75%, and B-2 allows 65%.

Mrs. Hahn then referenced the Watershed Plan (Exhibit #2), noting there are 5 sub-watersheds which flow into the Blue Ditch – the Northside of Bridge Street which allows 37% impervious coverage, Main Street east which allows 17% impervious coverage, Main Street, Dean Avenue, and School Street which allow 60% impervious coverage, South Water Street in the area of the athletic fields and the WPCA which allows 20.5% impervious coverage, and the remainder of South Main Street which allows 24% impervious coverage. Mrs. Hahn suggested the lots in the area of Dean Avenue already exceed the impervious coverage allowed in an R-1 zone and are non-conforming under the current regulations. The Commission could consider creating a new zone to accommodate those existing conditions. Mrs. Hahn indicated she'll run a series of models to develop a bulk table for the new zone based on the triggers within the associated watershed.

Commissioner Kowalski questioned if the installation of dry wells would help with stormwater management? Mrs. Hahn replied affirmatively; she also noted she'll look at the impact of the road crossings at Holcomb Terrace and other locations along the Blue Ditch where the water currently ponds.

Mrs. Hahn then referenced the second draft of the Zoning Map, noting this plan is still evolving from the Future Land Use Map. Mrs. Hahn referenced various areas within the map area, noting the new proposed zones and their potential uses.

Mrs. Hahn suggested homework for the Commission is to review the maps provided, taking into consideration the proposed zone lines, the proposed uses, and the bulk requirements which include the allowable impervious coverage.

At the Commission's request Mrs. Hahn agreed to add the location of the Blue Ditch as it flows through the Warehouse Point Center area on the various maps.

Chairman Ouellette questioned if the watershed lines on the revised Zoning Map follow property lines? Mrs. Hahn responded affirmatively, but noted if a property is long and perhaps contains wetlands in the back the line might go into the middle of the property.

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As an example she noted the Bridge Street mixed use zone may eventually become two zones.

Chairman Ouellette questioned at what point would Mrs. Hahn involve the public for input. Mrs. Hahn felt the public workshops may occur in February or March, 2020.

Commissioner Moore questioned if the HIFZ (Highway Interchange Floating Zone) is being taken into consideration for this study? Mrs. Hahn noted it does intrude into the Warehouse Point area (at the Hartfield Business Park) although it doesn't impact the center of Warehouse Point where most of this rezoning is being considered. She noted a good part of the HIFZ is on the other side of I-91.

Mrs. Hahn will work with Town Planner Flores-Marzan regarding scheduling future meetings.

RECEIPT OF APPLICATIONS:

No new applications presented this evening.

PERFORMANCE BONDS – ACTIONS; PERMIT EXTENSIONS; ROAD ACCEPTANCE

No requests presented under this Item of Business this evening.

CONTINUED PUBLIC HEARINGS/A. Apothecaries Hall Enterprises, LLC and The East Windsor Sportsman Club, Inc. - Special Permit Renewal (PZ-2019-10) for Earth Removal at Apothecaries Hall Road (MBL: 057-49-003, 057-65-001 and 048-65-007, Zone Districts: M-1, R-3, A-1 (65 days: January 30, 2020 deadline to make decision):

Chairman Ouellette read the description of this item of business; he noted January 30, 2020 is the date to close this Public Hearing.

Jay Ussery, of J. R. Russo & Associates, LLC, representing Apothecaries Hall Enterprises, joined the Board for an update; Kevin Charbonneau, owner of Apothecaries Hall Enterprises, was present in the audience.

Mr. Ussery referenced a Site Plan reflecting the various phases within the pit. He recalled that at the previous Commission Meeting in December, 2019, a couple areas of concern were noted. The anticipated completion of grading and seeding of the area south of the power lines was questioned; Mr. Ussery indicated that work has now been done. The second area of concern was the slope near the other entrance; Mr. Ussery suggested that area has been graded and will be seeded in the Spring.

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Mr. Ussery referenced the memo from Town Engineer Norton presented at the previous meeting citing concern for mud and soil getting out onto adjacent roads. Mr. Ussery felt most of the mud issue occurs at the Windsorville Road entrance. He and Mr. Charbonneau reviewed the area again. Mr. Charbonneau has already purchased a “rattle rack”; Mr. Charbonneau has recently had that equipment cleaned out. Mr. Ussery indicated the tracking pad has been refreshed; they also increased the length of the tracking pad both inbound and outbound.

Mr. Ussery indicated they were able to visit the site with Town Engineer Norton. He likes what he saw, but wants additional improvements. Mr. Ussery recalled that a couple of years ago they had complaints of dust from the pit so they posted 5 to 10 mile per hour speed limit signs to slow the trucks down within the pit. They’ve decided the trucks should move through the area of the anti-tracking pad faster to make the mud drop off better so they’ll post signs for 20 miles per hour as the trucks get closer to Windsorville Road. Mr. Ussery suggested there is another area within the pit where there’s a low spot in the road where they plan to add additional fill. Mr. Ussery feels Town Engineer Norton agrees that there may be problems during periods of rain.

Mr. Ussery noted Town Engineer Norton has not yet had time to prepare a follow-up memo; his understanding is Town Engineer Norton is comfortable with a 6 month extension. Mr. Ussery felt a memo will be forthcoming from Town Engineer Norton by the next meeting.

Mr. Ussery also noted they have spread hay in the area near the berm across from the neighbor who has been complaining.

Commissioner Thurz questioned if there was discussion of the purchase of a wash rack? Mr. Ussery reported Mr. Charbonneau looked into that and found the price of the equipment to be at least \$80,000, or up to \$100,000 for a deluxe model. Commissioner Thurz questioned if installation of the wash rack would relieve the problem? Mr. Ussery felt it would help but he questioned how it would operate in the Winter.

Chairman Ouellette queried the Commissioners for questions?

Commissioner Gobin recalled the neighbor present at the previous meeting complained about the number of phases which are open; she questioned if there’s a movement on Mr. Charbonneau’s part to close more of the phases? Mr. Ussery noted most of the grading has been done at the entrance; that’s 2 to 3 acres of land which will eventually go to the Gun Club as their property was bisected by the rail line in the 1920s. Their plan is to install an archery range. He felt that perhaps half of Phase 17 will be done in 6 months.

Chairman Ouellette noted that at the previous Public Hearing Meeting there was discussion of the “no trespassing” signs. Mr. Charbonneau reported he has a receipt for the purchase of 74 “no trespassing” signs; all of those signs have been removed by people

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illegally using the site. Commissioner Sullivan reported that on the past Sunday there were 27 bikes and ATVs coming up from the south through the back yards on Rye Street; he questioned if anything can be done to mitigate that. Commissioner Sullivan suggested the installation of the archery range may help discourage the ATV use. Mr. Charbonneau reported they've spent a lot of time blocking holes. Mr. Ussery suggested the only thing that works is what David Botticello did on his property, which was the installation of a 20 foot high berm of stumps. Commissioner Gobin noted a solid wall of blocks has been installed which blocks access better.

Chairman Ouellette noted the Commission had added 2 additional conditions to the excavation permit approved at the previous meeting for another pit operator; those conditions were: 1) a geo-referenced aerial by drone reflecting the conditions of the pit, and 2) an activity report of the number and time of the trucks entering and exiting the site. He felt the cost of either condition wouldn't be burdensome for the applicant. Discussion followed regarding the suitability of the conditions for Mr. Charbonneau's operation. Mr. Ussery felt the aerial photo would help; Chairman Ouellette indicated the photo would be provided annually. Mr. Charbonneau clarified he has information on the number of trucks entering and leaving the site but he doesn't note the time; Mr. Ussery indicated the other operation referenced by Chairman Ouellette operates a scale which would provide the time of the trucks entering the site. Chairman Ouellette noted the complaints about this operation have been about site conditions; he questioned the value of asking this applicant to provide the truck count information on a quarterly basis? Commissioner Kowalski suggested making the submission of the information on request.

Chairman Ouellette opened discussion to the audience.

Kathy Pippin, 37 Woolam Road: Mrs. Pippin indicated she felt this applicant has gone above and beyond what's been asked of him for his operation. He's trying to make a buck. Mrs. Pippin felt what this applicant was going through here was unfair and ridiculous. This isn't business-friendly. Mrs. Pippin noted she reported bikers at the Holden pit to the Police Department; the bikers are causing problems for the property owners as well.

Chairman Ouellette called for additional comments; no one requested to speak.

Chairman Ouellette suggested keeping the Public Hearing open to allow receipt of Town Engineer Norton's memo. In general, the Commission was in favor of continuing the Public Hearing to continue dialogue with the applicant upon receipt of Town Engineer Norton's memo. Commissioner Sullivan felt, in the interest of fairness, the same conditions applied to WSG, LLC, conditions #43 and #44, should be applied to other excavation permits. Commissioner Thurz noted this applicant has been operating for 30 years and established a relationship with the Town, while WSG, LLC is beginning their first year of operation and has no track record yet. Commissioner Gowdy questioned the fairness of requesting the time from Mr. Charbonneau when WSG, LLC has the scale that

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provides the information. Commissioner Kowalski indicated he was comfortable with requesting the information upon request. Town Planner Flores-Marzan suggested the Commission should be consistent with all applicants. WSG, LLC is new and is establishing his relationship. Town Planner Flores-Marzan noted Mr. Charbonneau isn't saying no to supplying the time because he won't provide it, he's saying he doesn't presently note that information. Commissioner Moore agreed; the additional conditions should be on the Holden permits as well. He suggested the drone photo can also be used as an enforcement tool and to confirm or refute complaints. Commissioner Gobin agreed the drone photo is important to accumulate data to assist Town staff determine compliance. She agreed the other applicant is new and the Town had received complaints about material being brought in in the middle of the night. Commissioner Gobin felt Mr. Charbonneau could submit the reports on request.

Chairman Ouellette suggested the Commission keep the Public Hearing open.

MOTION: To CONTINUE the Public Hearing on the Application of Apothecaries Hall Enterprises, LLC and The East Windsor Sportsman Club, Inc. for a Special Permit Renewal (PZ-2019-10) for Earth Removal at Apothecaries Hall Road (MBL: 057-49-003, 057-65-001 and 048-65-007, Zone Districts: M-1, R-3, A-1 until the Commission's next regularly scheduled meeting to be held on January 28, 2020 at 6:30 p.m. in the Town Hall Meeting Room, 11 Rye Street, Broad Brook, CT.

Moore moved/Thurz seconded/DISCUSSION: None

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

NEW PUBLIC HEARINGS None.

NEW BUSINESS/A. DDJ Group Enterprises – 1-year extension to site plan approval:

Chairman Ouellette noted receipt of a letter from J. R. Russo & Associates, LLC, on behalf of DDJ Group Enterprises requesting a one year extension of their previously approved Site Plan for property at 12 South Main Street, across from Mercury Gas. Discussion followed regarding for process going forward should the approved Site Plan change.

Mr. Ussery summarized that DDJ Group (Sardilli) found another existing building, which is what Mr. Sardilli wanted in the beginning; he found that building in Windsor. He still has a purchase agreement pending on this site, which also now has an OSTA approval. This site now has substantial value, and he has someone interested. Mr. Ussery indicated that Mr. Sardilli was impressed with the treatment he got from East Windsor regarding

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his application process and feels he owes the Town something with regard to development of this site.

MOTION: To APPROVE a one-year extension through January 22, 2021 to DDJ Group Enterprises for Site Plan Approval.

Moore moved/Sullivan seconded/DISCUSSION: None

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

OLD BUSINESS/A. Site visits:

Town Planner Flores-Marzan indicated he had no updates this evening; he plans to visit properties next week.

OLD BUSINESS/B. Continued discussion regarding Warehouse Point Planning Study to include Terri Hahn of LADA, P.C., Land Planners:

See discussion earlier in the meeting.

OLD BUSINESS/C. 54 Windsorville Road, R-2 Zone Accessory Apartment Requirements legal interpretation letter provided by Attorney Diane Whitney:

Town Planner Flores-Marzan recalled the question raised by the property owner at 54 Windsorville Road at a previous meeting regarding his ability under the current regulations to allow family members to occupy the second apartment at the home. Town Planner Flores-Marzan referenced correspondence from Attorney Diane Whitney, which offers two solutions: 1) a regulation amendment could be initiated to allow more bedrooms and more occupants, or 2) change the property to an R-1 Zone. Town Planner Flores-Marzan suggested that when reviewing the general location of the subject property Attorney Whitney's second option would be spot zoning. Town Planner Flores-Marzan suggested the Commission review Attorney Whitney's letter and discuss the options at a future meeting.

Chairman Ouellette requested that the property owner be provided a copy of Attorney Whitney's letter.

Commissioner Sullivan noted that in that stretch of Windsorville Road (heading towards Old Ellington Road) there are at least 3 other properties which contain multiple apartments.

Commissioner Moore questioned if changing the zone to R-1 would increase the density? Town Planner Flores-Marzan replied the ordinance actually is more restrictive with regard to multi-family residences.

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Town Planner Flores-Marzan indicated he'll share this information with the homeowner and report back to the Commission.

OTHER BUSINESS/A. Meadow Farms Updates:

Town Planner Flores-Marzan reported Mr. Hoffman sent a letter on December 12, 2019 summarizing the outstanding issues at the Meadow Farms Active Adult Community. Staff subsequently researched computer files to build a timeline of previous activity and found files associated with this community had been misfiled – some were filed under East Windsor Housing LTD and others filed under Housing LTD – so they then went to the paper files. Town Planner Flores-Marzan referenced a packet before the Commission which presented a timeline from 2005 through 2019. Within that timeline they found a memo from Planning and Development dated June 19, 2013 which contained information from Town Engineer Norton indicating that the road had not been completed. Town Planner Flores-Marzan reported that letter asked that the Commission call the bond in the amount of \$131,000.

Town Planner Flores-Marzan reported that on June 25, 2013 the Commission approved calling the bond for Farms Road, and from that point nothing happened. Town Planner Flores-Marzan suggested the packet contains the chronology; Town Engineer Norton was ready to go. Subsequently the Town Planner left East Windsor's employment, Town Planner Flores-Marzan joined the Planning Office and has been trying to understand the pending issues. Town Planner Flores-Marzan felt the Town has a Cash Bond in the amount of \$162,000 available for road improvements.

Discussion followed regarding the amount of the Cash Bond. Town Planner Flores-Marzan suggested the total bond was for \$176,000 but \$14,000 was specified for Erosion and Sediment Control, leaving \$162,000 for road improvements.

Town Planner Flores-Marzan felt the Town could use the \$162,000 for road improvements to Acorn Drive and Field Circle. He plans to discuss the issue with the First Selectman, and the Town Attorney, and go from there.

Commissioner Kowalski questioned if there were any stipulations associated with the request to call the bond? Town Planner Flores-Marzan indicated he didn't know at this point.

Commissioner Sullivan questioned who plows the snow at Meadow Farms? **Mr. Embury, 14 Acorn Drive, President of the Meadow Farms Homeowners Association**, reported they have a private contractor. Commissioner Sullivan questioned who did the work around the manholes? Mr. Embury reported Jason Ziegler put down the first layer of the road (Meadow Farms and Field Circle). Commissioner Sullivan questioned that the road has been in the current condition for 5 years or so? Mr. Embury

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replied affirmatively, noting the Homeowners Association has also spent \$5,000 of their money to fix a patch at the beginning of the road which has deteriorated.

Mr. Embury noted that at the beginning of Town Planner Flores-Marzan presentation he mentioned Farms Road, rather than Acorn Drive or Field Circle. He questioned if the bond had been called and used to repair Farms Road? Mr. Embury indicated that in the beginning of the development of the Meadow Farms community Farms Road and Acorn Drive were connected. Mr. Ziegler got a plan revision to make Farms Road single family homes rather than continue as part of the Active Adult Community. Mr. Embury reported he has been a homeowner in Meadow Farms since 2014; some time prior to that Farms Road, which the Town now owns and must maintain, received additional paving. Mr. Embury is concerned that Farms Road is already cracking; he questioned why have Mr. Ziegler do the road improvements? He no longer wants to be a builder; Town Planner Flores-Marzan gets no response from him; Mr. Ziegler drags things out and makes promises; Mr. Embury noted various accommodations made for Mr. Ziegler regarding the elimination of a walking trail, sidewalks, and the gazebo to assist him complete the project. Mr. Embury indicated he wanted to see a firm timeline from Mr. Ziegler for completion of the work, or he requested the Commission call the bond.

Discussion continued regarding the process to acquire whatever funds are being held by the Town to have the work completed. Mr. Hoffman cited Town Engineer Norton has discussed the road improvements with Galasso; he felt the road could be completed for the funds currently being held. Town Planner Flores-Marzan felt the Planning and Zoning Commission did their job in 2013; he now wants to discuss this issue with the First Selectman, the Town Treasurer, and the Town Attorney. Follow-up information will be provided to the Meadow Farms homeowners present at this meeting.

David Macdaid, 14 Field Circle: Mr. Macdaid thanked the Commission for listening to him and his fellow homeowners and their tales of woe. It's a serious issue for them. He questioned if Town Planner Flores-Marzan has any idea of a timeline for action from the First Selectman? Town Planner Flores-Marzan reiterated his plan; he indicated he would provide the homeowners an update of his progress.

**CORRESPONDENCE/A. CRCOG Letter regarding Regional Planning
Commission Representative:**

Town Planner Flores-Marzan reported CRCOG is requesting Commission members to volunteer to participate in the Regional Planning Commission; he queried the Board for volunteers. Discussion followed regarding current representation, and the meeting location; Commissioner Gowdy suggested the Town should consider paying for gas for the volunteer involvement. Chairman Ouellette volunteered to be the primary representative, while Commissioner Moore volunteered to fill the alternate position.

BUSINESS MEETING/A. General Zoning Issues:

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- The Commission briefly discussed the decision on the MMCT lawsuit.
- Town Planner Flores-Marzan had provided the Commission with photos sent to the Planning Department by staff at the Department of Public Works regarding erosion issues within the West River Farms Subdivision. Discussion will occur at a future meeting.

BUSINESS MEETING/B. Signing of Mylars/Plans, Motions:

Motions:

- **WSG, LLC** – Special Use Permit Renewal (PZ-2019-19) for earth excavation at 140 Wapping Road.

Mylars: None.

ADJOURNMENT:

**MOTION: To ADJOURN this Meeting at 8:15 p.m.
Moore moved/Kowalski seconded/VOTE: In Favor: Unanimous**

Respectfully submitted,

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