

**TOWN OF EAST WINDSOR
PLANNING AND ZONING COMMISSION
Regular Meeting #1714 – March 28, 2017
MEETING MINUTES - Draft**

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MOTION: To ACCEPT the Minutes of Regular Meeting #1713 dated February 28, 2017 as presented.

Devanney moved/Sullivan seconded/DISCUSSION: None.

VOTE: In Favor: Unanimous (Devanney/Kowalski/Ouellette/Sullivan/Thurz)

RECEIPT OF APPLICATIONS:

Chairman Ouellette noted receipt of the following new Applications:

1. Application of WSJA, LLC for Site Plan Approval for proposed 1,288 sq. ft. office space addition to front of existing building at 34 Newberry Road. [M-1 Zone; Map 92, Block 19, Lot 1].

PERFORMANCE BONDS – ACTIONS; PERMIT EXTENSIONS; ROAD ACCEPTANCE

- **Newberry Village** – Request for release of bonds for Newberry Village active adult community.

Chairman Ouellette read the description of the request for release of bonds for Newberry Village.

Town Planner Whitten referenced her memo to the Commission regarding the status of bonds held on Newberry Village. Accompanying her memo is a memo dated 1/15/2017 from Town Engineer Norton regarding the same issue; Town Engineer Norton has recommended retaining \$74,744 to cover additional work remaining to be completed on the site. The total amount to be released at this time is \$65,387.00 The Town continues to hold a landscaping bond and a surety bond.

**Motion to Approve the release of the following bonds for Newberry Village:
\$11,241.00 paving bond for Phase 3
\$15,000.00 Erosion and Sedimentation Control Bond , and
\$39,146.00 of \$113, 890.00 Performance bond,**

Totaling \$65,387.00 to be released.

The remaining cash bonds will stay in place until such time as other items are verified and final pavement is laid, the entire site is stabilized, wetlands and other plantings are in and healthy, and staff recommends full release of remaining bonds.

Devanney moved/Sullivan seconded/DISCUSSION: None.

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**VOTE: In Favor: Unanimous
(Devanney/Kowalski/Ouellette/Sullivan/Thurz)**

- **Coleman Farms** – Final release of bonds for Coleman Farms active adult community.

Chairman Ouellette read the description of this request for release of bonds.

Town Planner Whitten noted there are 2 bonds remaining in place on Coleman Farms; a Performance Bond/Surety Bond in the amount of \$175,700, and an Erosion Control/Cash Bond in the amount of \$10,700. She noted the recommendation is to release both bonds in full, which will enable the homeowners association to take possession of the community in full.

Commissioner Sullivan questioned that even though everything is working within the community what's the option if it's difficult to ascertain the details of the plans? Town Planner Whitten suggested the Commission could retain the "as-built" plans for the driveway but this is a private drive. The plans are hard to decipher; everything looks ok but there have been numerous updates. Mr. Sal Saitta, speaking from the audience on behalf of the Coleman Farms Homeowners Association, noted the project began in 2003. Commissioner Thurz questioned if the homeowners association is happy; Mr. Saitta replied affirmatively. Chairman Ouellette suggested an alternative would be to have the developer go back and survey everything, and perhaps get the same results – but you would have a better record. Chairman Ouellette also noted the recommendation of the Town Engineer to release the bonds.

MOTION TO APPROVE the full release of \$10,700.00 Erosion Control Bond, and \$175,700.00 Performance Bond for the Village of Coleman Farms, located off Tromley Road, Map 63, Block 19, Lot 67B

Devanney moved/Kowalski seconded/DISCUSSION: None.

**VOTE: In Favor: Unanimous
(Devanney/Kowalski/Ouellette/Sullivan/Thurz)**

CONTINUED PUBLIC HEARINGS: None.

NEW PUBLIC HEARINGS None.

OTHER BUSINESS: None.

OLD BUSINESS: None.

NEW BUSINESS: None.

BUSINESS MEETING/(2) Informal Discussion on Charbonneau Gravel Pit:

Appearing for this informational discussion was Jay Ussery, of J. R. Russo and Associates, and Kevin Charbonneau. Mr. Ussery noted that over the years the PZC has revised the excavation regulations to include conditions which restrict hours of operation and load limits. The Charbonneaus have been operating in town for many years; taxes on the operation have doubled to \$50,000 per year over time. The Charbonneaus are finding that business is picking up, but they are having difficulty competing due to the restrictions on the hours of operation, and the number of loads they can run per day. Most of the jobs require a certain amount of material to be delivered and they can't do that because of the load counts/restrictions allowed under their operation. Mr. Ussery noted that in Ellington there are no load counts on gravel operators; while they do have specific hours of operation contractors can work on Saturday.

Mr. Ussery recalled that a few years ago his firm came in with Herb Holden's operation – RCPC – located at 33 Apothecaries Hall Road. They had the same stipulations but their permit was issued under a volume reduction facility. In that case the Commission gave Mr. Holden a half a day on Saturday. Mr. Ussery noted a lot of concerns have been the truck traffic and the routes, and protecting the neighbors. Mr. Ussery noted the location of the Charbonneau's pit; he described the routes trucks currently take which are dependent on the destination of the material.

Mr. Ussery suggested he is asking the Commission to think about considering a few revisions, such as starting at 7:00 a.m. instead of 7:30, operating on Saturday, maybe just loading but not processing material on Saturday or early in the morning, or allowing a higher load count to enable the operators to deliver the required amount of material. Mr. Ussery noted he often hears during his presentations people ask how long it will take to finish a project, the higher load count would enable them to finish a job quicker.

Chairman Ouellette recalled that there was an additional operation that was permitted at this location but was never begun. Mr. Ussery noted they have a permit for taking in stumps and grinding that debris up; that permit is still valid. A permit was also issued under an emergency situation to take in debris from a storm which took down trees. Chairman Ouellette questioned the amount of noise from grinding material? Mr. Ussery noted that operation is a significant distance off the road and is located in a depression; he questioned that the sound of the grinder could be heard at the road. He felt it would be noise from the trucks leaving the site and traveling down the roads. Town Planner Whitten noted a problem with enforcement of the vehicle count is finding what operation a truck is leaving. Commissioner Sullivan questioned that on a daily basis there are a number of companies that show up to work each day; he felt Charbonneau doesn't have enough trucks to meet the load count of 60 trucks per day with their own equipment. Town Planner Whitten clarified that outside companies come in, pick up material, and leave the site.

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Town Planner Whitten indicated the Commission has been discussing tweaking the regulations for some time. Some of the issues being considered for revision include: phasing, as it seems there are often two phases open at a time as companies follow a seam of gravel to process the material; making sure the control points remain in place to measure grade/elevations; the 1 year renewal or permit extension; and the 1 mile radius limitation between new and operating pits. She noted the reality is all the pits are in the same area because of the location of the material. She suggested that if the Commission allows these operations we should allow them to operate and be profitable. Chairman Ouellette noted the regulations should be for everyone; the Commission should invite the other operators to come in for a discussion/workshop.

Discussion followed regarding the load counts. Commissioner Zhigailo suggested it may be busier in the morning to get the material ready. Chairman Ouellette noted the trips aren't spread out over the day. Mr. Ussery noted that Charbonneau, Holden, and Spazzarini in Ellington, all bid on the same projects. It's not likely that there would be more than one large project being bid at the same time; they all compete for the same market. Commissioner Zhigailo suggested it needs to be a fairer playing field in the same market. Chairman Ouellette questioned Mr. Charbonneau if he had to prioritize the changes, would it be hours of operation, load counts, or Saturday hours? Mr. Charbonneau replied his first choice would be to increase the load counts. Chairman Ouellette noted the Commission has heard complaints of operations starting earlier than their permitted hours, and trucks lining up outside the pits prior to starting time. Mr. Ussery reported that most contractors start at 7:00 a.m. or earlier and they need the material on the job site by 7:00 a.m. There might be a wagon train of trucks loaded the day before that leave in the morning to get to a job; it's a 7:00 a.m. start time for nearly everyone now. Commissioner Thurz noted the tobacco riggins start early as well.

Town Planner Whitten noted the office often receives complaints from the neighbors about trucks on the road before starting time, and the traffic on Plantation Road. Discussion followed regarding the Commission's lack of authorization to regulate traffic routes.

Discussion followed regarding the process, and timeframe, for regulation changes. Town Planner Whitten noted the current regulations were based on those in Ellington but were tweaked to fit East Windsor's operations. The consensus of the Board favored review of current regulations. Commissioner Sullivan cited neighbors often cite noise as a frequent complaint; he queried Mr. Charbonneau if he would be receptive to restricting use of the jake brake? Mr. Charbonneau cited the jake brake is safety equipment; he would prefer to put up signs requesting conscientious use. Discussion continued regarding which operations/businesses are subject to trip limitations. Town Planner Whitten will work on revisions and schedule a workshop.

BUSINESS MEETING/(1) Review of Aquifer Protection Regulations:

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Ginny Higley, who has prepared the Acquirer Protection Registration Plan, was not present; Town Planner Whitten presented Mrs. Higley's Aquifer Protection Follow-Up Plan to the Commission. Town Planner Whitten recalled for the Commission the intent is for businesses located within the Aquifer Protection Area to register with the Town regarding a description of their business use. The registration includes a permit application, and associated fee, and a site inspection to verify that the use has been registered/identified correctly. The fee schedule for business uses is attached; a \$60 State fee is charged in addition to the application/permit fee listed on the attached fee schedule. When the initial registration is completed the business will be placed on an annual inspection schedule. Mrs. Higley's Follow UP Plan notes the regulations call for the agency associated with the Aquifer Protection Area Regulations to appoint an authorized person to implement, manage, and enforce the process; Mrs. Higley's recommendation is that the authorized person should be the Zoning Enforcement Officer (ZEO).

Commissioner Zhigailo suggested the regulations mandate that an authorized agent is appointed; she suggested that agency doesn't have to be the Planning and Zoning Commission (PZC). Commissioner Zhigailo suggested the authorized agent could be someone associated with conservation; she didn't feel it should be the ZEO exclusively. Commissioner Zhigailo cited the need for experience with environmental issues and natural resources, which may require the need to hire a consultant; she felt the ZEO limits it. Town Planner Whitten concurred, but noted it's most often the ZEO. Commissioner Sullivan questioned if the agent should be someone hazmat certified? Town Planner Whitten suggested no one is hazmat certified in town; this is an unfunded mandate imposed by the State. Town Planner Whitten suggested the Commission needs to appoint someone, but she prefers the broader language citing a staff person.

Commissioner Sullivan questioned that this really only applies to businesses located in the Aquifer Protection Area, not on Newberry Road for instance? Town Planner Whitten concurred. Commissioner Sullivan clarified that really only 6 businesses are involved? Town Planner Whitten believed that to be the case. Chairman Ouellette suggested the attached site list is too broad as it lists many businesses not located within the Aquifer Protection Area.

The Commissioners raised the following questions:

- **Who gets the money for the fees being charged?** Town Planner Whitten indicated the money listed on the fee schedule comes to the Town; a \$60 State fee is charged in addition to the Town fee.
- **Proposed fee schedule:** Chairman Ouellette noted the fee schedules currently in place in the Planning Office for application and permit registrations already have the State fee included as a component of the total fee; this fee schedule should be adjusted accordingly.
- **Source of fee schedule:** Chairman Ouellette questioned if the fee was a Town schedule or a DEEP schedule? Town Planner Whitten thought it originated through the DEEP.

- **Is there an annual permit renewal fee?** Town Planner Whitten replied negatively; she noted Mrs. Higley had recommended the addition of a renewal fee.
- **Is the registration a one time process?** Town Planner Whitten noted the registration is good for 5 years; a business must reapply/re-register for permit renewal.
- **What of modifications?** Town Planner Whitten indicated modifications would require filing a new application.
- **When do we know we will need another inspection?** Town Planner Whitten felt an inspection schedule would be created, and perhaps a reminder card sent as needed.
- **The properties on Rye Street which have been contaminated by edbs are not included in the attached list; how are they affected by these regulations?** Town Planner Whitten reported those properties are already contaminated.
- **Failure to register:** Chairman Ouellette suggested if the business fails to register then there will not be an annual inspection? Town Planner Whitten concurred, but noted the business would probably be subject to a fine.
- **Regulations, Page 24, Section 14 – Enforcement, B. Written Order:** Commissioner Sullivan cited the 10 day notification timeframe isn't consistent with the Commission's meeting schedule. Town Planner Whitten suggested wetlands violations are subject to a similar timeframe but that Commission meets only once a month. Mailing of notices are adjusted to conform with the meeting schedule.
- **Time limit for registration:** The consensus of the Commission was at least a month should be allowed for a response time. Commissioner Sullivan suggested the Commission invite the 6 businesses affected by these regulations to come in to discuss the regulations and the registration process rather than sending them letters and the regulation packets. He also suggested a short bulleted list be prepared as a summarization of the packet; Chairman Ouellette concurred, noting a one page fact sheet should be accompanied by a simple flow chart.

Discussion continued regarding the impact on the people involved in this registration process, or located within the Aquifer Protection Area. Chairman Ouellette questioned if a DEEP representative, or a PowerPoint presentation, might be available to assist in simplifying the process?

Chairman Ouellette requested Commissioners send additional questions, or suggestions to Town Planner Whitten. He noted he will not be able to attend the next meeting but would like to present for subsequent discussion.

BUSINESS MEETING/(3) General Discussion of Planning Issues:

HIFZ (Highway Interchange Floating Zone):

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Town Planner Whitten advised the Commission she is considering a rezone of properties currently located within the HIFZ floating zone as a permanent zone. The intent is to promote economic development and make the process more permanent. Town Planner Whitten reviewed the current process, noting the various steps an applicant must pursue to have the HIFZ overlay the permanent zone. She recalled one of the benefits of the HIFZ is the additional flexibility of design criteria, as well as the large pylon signs which are visible from I-91.

Discussion followed regarding the impact on business vs. residential properties. Town Planner Whitten referenced the area under discussion, noting it's included in the Route 5 corridor which is part of the CRCOG study being initiated soon. The Commission preferred to delay consideration of this project until more is known about the CRCOG study.

BUSINESS MEETING/(4) Signing of Mylars/Plans, Motions:

Mylars/Plans: None.

Motions:

- **Steve Moser** - Renewal of Special Use Permit/Excavation (per Section 814) to allow driveway relocation and parcel regrading for property located at 55 & 57 Kreyssig Road. (A-1 zone; Map 136, Block 75, Lots 10 & 11)

ADJOURNMENT:

MOTION: To ADJOURN this Meeting at 8:25 p.m.

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

Respectfully submitted,

Peg Hoffman, Recording Secretary, East Windsor Planning and Zoning Commission
(2896)