

TOWN OF SOUTH WINDSOR
PLANNING & ZONING COMMISSION

MINUTES

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MAY 23, 2023

MEMBERS PRESENT: Robert Vetere, Kevin Foley, Stephen Wagner, Bart Pacekonis, Alan Cavagnaro, Michael LeBlanc

ALTERNATES PRESENT: Atif Quaraishi, Carolyn Carey sat for Stephanie Dexter, Paul Bernstein

STAFF PRESENT: Michele Lipe, Director of Planning, Michael Lehman, IT Support; Tersee Flores, Recording Secretary

PUBLIC HEARING:

Commissioner Wagner read the legal notice.

1. **Appl 23-15P, O'Evergreen LLC** – request for a zoning text amendment to Sections 4.2.2, 4.2.5 and 10.3 to modify Sec 10 Definition of Drive-through Facility and add Definition of Drive-up Facility and Fast Casual Restaurant; modify several criteria in Sec. 4.2.5 for such uses in the Buckland Gateway Development zone.

Sarah Stine, Development Manager of O'Connell Development Group and Attorney Michael Ceccorulli of Pullman & Conley LLC represented the applicant and explained the text changes being requested to the Buckland Gateway Development. These changes would help facilitate their plans which consist of a 1,260 sf., fast-food restaurant with drive-thru window, and 1,260 of unspecified retail space for a proposed new building area of 2,520 sf. In the area of Unit 5a in Evergreen Walk.

Sarah introduced Attorney Michael Ceccorulli of Pullman & Conley LLC who represents the petitioner. They are proposing this text amendment to help clarify the definitions of the permitted uses related to drive thru and pick up windows in the Buckland Gateway Development zone. Other changes proposed will help better align the regulations applicable to this specific district, in a way that allows South Windsor to benefit from a lot of positive developments that are happening nationally in the restaurant industry specifically.

Atty Ceccorulli mentioned the town amended its regulations in 2015 to permit drive throughs in this zoning district subject to several conditions. He expressed regulations focus on traditional drive thru uses for goods and services however, they don't meaningfully distinguish between restaurant uses and other drive thru applications for instance banks with drive thru teller windows or ATMs. He shared many new high quality restaurant options are coming out now which don't use traditional drive thru formats, some of these restaurants use drive-up format instead which allows customers the option to order ahead, pick out their food at the store or while parked in their cars at a designated space.

Ceccorulli shared restaurant operators have figured it out this works well particularly if you're not doing traditional fast food and you don't need to invest in logistics and operational needs that are associated with a traditional drive thru. This existing drive thru regulation doesn't really contemplate this format were looking at for perspective tenants for the future for the development of this property and in this district. It's created ambiguity and some uncertainty for restaurants in deciding how to plan their site selection they look at this regulation and not sure how to handle it. The intent is to create a distinction between the drive thru uses and the drive up uses and to give some clarity for applicants who are interested in locating within this district, while still allowing the town an opportunity to continue to carefully manage proposed drive thru uses. They also proposed the creation of a new category fast casual restaurant use which is relevant to the drive thru facilities and that reflects the trends in restaurant development nationally, the idea is to establish a high level of quality specific type of user who is going to be attractive to the town, enhance the evergreen district, the property generally and also to have a level of quality and set the bar so high that your not going to have to worry about the traditional

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fast food use and the extraneities that sometimes comes with that. They believe this proposed regulation change is consistent with the plan of conservation development.

Director of Planning Michele Lipe provided the Planning report

1. This is request for a zoning text amendment to Sections 4.2.2, 4.2.5 and 10.3 to modify Sec 10 Definition of Drive-through Facility and add Definition of Drive-up Facility and Fast Casual Restaurant; modify several criteria in Sec. 4.2.5 for such uses in the Buckland Gateway Development zone
2. This new text would modify definitions of a drive through and add language a pick-up window and define casual dining. Modifications proposed to Section 4.2.5.E to allow “fast casual type” restaurant, eliminate the requirement of food delivery on plates, etc.; require frontage on at least non-arterial two roads, not allow franchise designs, and require the incorporation of outdoor seating (min. 25% of the indoor seating). Section F would require drive-up facilities adhere to the same design standards as drive through facilities. Any new store is subject to the rigorous design standards, walkability and access management standards contained in the Buckland Road Gateway Zone.
- E. The Planning Department would recommend that that section 4.2.5.F be modified to read A Drive-Up Facility is a permitted use provided it complies with the design standards as set forth in Section 4.2.16 (however signage referenced 4.2.16.D and E are not permitted).
3. A zoning amendment request is the appropriate time to consider traffic impacts that could result from the proposed amendment. In this instance, the zone is well served by Buckland Road; there should be no unusual infrastructure impacts from adoption of the proposed amendment. Each site would be evaluated at the time of site plan approval.
4. The Town Plan of Conservation and Development does not speak specifically to this issue; however the two primary goals of Chapter 8: Business Development are to attract additional businesses that is consistent with the character and scale of its surroundings; and encourage business development that builds the tax base and provides job and services. Buckland Road corridor currently supports a variety of commercial and mixed-use developments. The plan supports minor updates to zoning to help accomplish business goals of the community.
5. The Capitol Region Council of Governments. The CRCOG Report has been delayed and expected May 30 – so staff requests the hearing stay open until Jun 13.
6. If this amendment is approved, the Commission must find that it is in conformance with the Town Plan and must set an effective date.

Chairman Pacekonis asked for public comments.

John Caldwell of Natisky Farms Drive spoke in favor of the proposal and expressed it’s a good idea for the town.

Commissioners asked questions and made comments regarding prevention of drive-thru back up, definition of fast casual vs food place, examples of non-traditional fast-food places, outdoor dining, and parking.

Commissioner Bernstein requested examples of the type of facilities they are referencing.

Mr. Ceccorulli responded the red line amendment shows a fast-casual kind of pair up any specific property within this district is going to look alike what you have permitted traditionally for a drive thru because the regulations not substantially changed were using the existing frame work. The proposed regulation would

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require operators are meeting the requirements of a fast-casual operation - focusing more on establishing a higher bar for quality.

Commissioner Cavagnaro under the second section of the proposed 4.2.5.H questioned the requirement for setting aside a certain amount of outdoor seating?

Sarah Stine mentioned the attempt is for the outdoor seating promotes the walkable outdoor field of the area sometimes with drive-thru there are some concerns that the walkable area is impacted so outdoor seating often opposing option that increases the walkable field area.

Atty Ceccorulli expressed their intention to have designated spaces and drive-up flow with adequate area to que and have a pull off for cars that may need to wait. It will be the responsibility of the applicant to demonstrate compliance with the fast-casual definition. The existing regulations focuses on things like silver wear table service whereas the proposed regulation focuses more on the operation of the business focusing on what are the ingredients, preparation models and branding.

Ceccorulli explained the current regulations essentially make it almost impossible to operate a fast-food location in this zone. The current regulations they are proposing is more restrictive not only do you have to meet the criteria, but you also must have fresh ingredients, must meet additional standards. Is not intended to make it easier for a fast-food location, is to increase the standards they are trying to establish for an operator.

Lipe commented on the proposed regulation regarding outdoor seating indicating she encourages the language to support creating a walkable community. She expressed concern that multiple drive-up restaurants could become congested with cars. We want to make sure it is safe for the pedestrian and the thought was outside dining as part of that development would provide more opportunities for walkers.

Commissioners expressed their interest, concept and idea but further discussed in detail parking, the concept of waiting in line, the difference between fast casual vs fast food and requested more time to review.

Ceccorulli shared this exclusively relates to this zoning district this is not something that is going to be all over town. There are extremely restrictive requirements.

Chairperson Pacekonis expressed he agreed with all comments from Commissioners especially the one Commissioner LeBlanc mentioned. He discussed the 9ft aisle for the drive up suggesting that 9 feet may not be wide enough. He also had concerns about reserved parking or parking requirements.

Sarah Stine responded their intention was not to change any drive aisle widths or any setbacks that are existing which are in Section 4.216 She agreed that 9 feet is narrow and did not have any concern if a wider drive was required.

Commissioner Foley asked who makes the decision whether the franchise fits within the fast casual and not fast-food? Lipe responded that the commissioners would make the decision based on the proposal and your interpretation of the regulations.

Commissioner Bernstein expressed to the commission members to not get to hung up with this nomenclature of fast casual, these subcategories of fast and fast casual were largely developed for the marketing end industry to

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create competitive sets. He did ask Director Michele Lipe if we adopt this text amendment, then we are precluding fast food from coming to the town?

Lipe indicated this proposal is specific to the Buckland Gateway zone and business that can meet the criteria can make an application.

Chairperson Pacekonis expressed both public hearings are going to be kept open for them to receive the comments from CRCOG.

A motion to continue the public hearing until June 13, 2023, was made by Commissioner LeBlanc, seconded by Commissioner Carey and the motion passed unanimously.

2. **Appl 23-16P, Ivanov Text Amendment** – request for a zoning text amendment to add a definition for short term rentals and define criteria for such rentals in all residential zones.

The applicant, Vasily Ivanov discussed the text proposal to create a regulation to allow for short term rentals.

Director of Planning Michele Lipe provided the Planning report.

1. Request for a zoning text amendment to add a definition for short term rentals and define criteria for such rentals in all residential zones.
2. The applicant's proposal would allow short term by obtaining a permit in the Planning Department. The proposal defines a short-term rental as "a type of accommodation where a property owner or a rental operator rents out a furnished property, such as a house, apartment, or a room, to guests for a temporary stay. Short-term rentals are typically booked for a period of less than 30 days and are often used by travelers, tourists, and business professionals who need a temporary furnished place to stay.
3. The applicant has provided a number of review criteria to be included in reviewing a short-term rental permit. His proposal is suggesting this be done as a zoning permit handled at the staff level. He has also suggested existing operators be allowed to be grandfathered.
4. Currently our zoning regulations have provision for Bed and Breakfast facilities in residential zones by Special Exception. We have no other provisions for short rentals.
5. In researching short term rental regulations, I found some fairly current information that addresses some of the benefits and concerns with short term rentals and also some different ways that communities have regulated (or not) these types of uses in CT.
6. The proposed regulations would need some editing to fit into our regulations – but first the Commission should decide if they want to allow such use. If so, what types of properties would be included (e.g. rooms, accessory apartment, houses), what zones and any specific review criteria and the process for permitting.

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7. The current Town Plan of Conservation and Development under the Residential section encourages flexibility in meeting emerging housing needs and updates to the zoning regulations that are compatible with the surrounding neighborhood. The housing section also talks about protecting established neighborhoods.
8. The Capitol Region Council of Governments has been sent this amendment for review however a report will not be issued until May 30 – so I would request the hearing stay open until Jun 13 to receive that report.

If this application is approved, in addition to clarifying the definition of a short term rental, Table 4.1.1A should be modified to reflect the decision of how short-term rentals will be regulated – whether by allowed by Special Exception, site plan or zoning permit and develop review criteria.

Chairman Pacekonis asked for public comments. No comments.

Commissioner Quraishi shared he does like the idea of Airbnb in our neighborhoods, but voiced his concerns regarding disruptions, not permitting in every neighborhood especially if citizens in that neighborhood object.

Commissioner Carey discussed we should do more research to get a better understanding on how it's been done in other towns and what works.

Commissioner Leblanc mentioned he likes the idea, but the lack of regulation could be a problem. There must be some guidelines and regulation otherwise it becomes a huge issue for neighboring properties.

Commissioner Wagner expressed he doesn't see how you can write into regulations something that would prevent what Commissioner Leblanc described even with the best intentions on the part of the renter and Airbnb company.

Commissioner Vetere asked Lipe how we regulate that nobody in town is doing short term rentals currently. He also added consensually he liked the idea of having this type of housing, but he also voiced his concern in reference to regulation and monitoring.

Lipe shared its complaint respondent if the zoning officer finds out it's an Airbnb, they will get fined.

Commissioner Cavagnaro mentioned he is in favor of this concept and coming back at a future meeting with further research to maybe update proposed regulations in front of them. He expressed it is a multi-prong angle of why he supports this, he discussed we can be helping small businesses in town. He added if someone owns a plot of land and it's their house and they choose not to live there and have it as a short-term rental they should have the freedom to do so.

Commissioner Bernstein expressed when he thinks of the Town of South Windsor lending itself to this proposal the first thought he has is Main Street. It's hard to imagine the property owner on Main Street providing their property without some tight regulations. He suggested we do a one-year test run and see how it goes.

Chairperson Pacekonis asked would it be possible to do it under a Temporary and Conditional permit?

Lipe expressed that's a possibility, someone come in and apply for a permit. Lipe shared some of the safeguards to think about is it be an owner-occupied situation and only allowed an apartment to be rented. At the staff level those are some items discussed. The other thing she was concerned about the enforcement of a regulation indicating it may be better in conjunction with a town ordinance.

Chairperson Pacekonis shared in reading the information that Lipe gave to the commission he expressed our regulations are enforced by our zoning officer. That person doesn't work 24 hours a day. If it was covered by an ordinance in town then it would be enforced by the police department. With the Plan Conservation and

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Development coming up that might be the ideal time to get the input from the public. He expressed our job as Commissioners is to look out for the residence of South Windsor.

Commissioner Cavagnaro shared as he was reading through the Southeastern Connecticut Council of Government document on page 5 party houses are band by Airbnb, Verbo or Vrbo with other recommendations of municipal regulations for zoning. He expressed we can touch up on these recommendations and requirements.

Chairperson Pacekonis pointed out the time frame and Lipe expressed they do have a different timetable we can keep the hearing open 65 days after the hearing opens.

Mr. Ivanov responded to the Commissioners concerns of the number of occupants Airbnb limits one person per bed, the people who host or those who want to be tenant. As far as parties they will decline any request for a party on any property obviously that is a potential for hazard and other issues. As far as South Windsor currently we don't have a definition of what a short-term rental is. He researched residential zone and other zones the town doesn't define how long a rental should be no regulations as of right now. He expressed we can't really enforce it if it's not on the books. He is proposing a permit, that any host or potential host would go through the permitting process.

Lipe shared we do have a regulation it's a bed and breakfast that's the only short-term rental allowed. She expressed our regulations are permissive they must be permitted to be allowed and she mentioned to the representative that is why he is here tonight to propose it.

Commissioner Wagner expressed his disappointment that no one from the public was present.

Commissioner Leblanc added it does work he has used Airbnb in the past and had great success with it as a renter, but he has also seen the other side where it becomes a big party scene, loud music etc. and it certainly needs to be looked at.

A motion to continue the public hearing until June 13, 2023 was made by Commissioner Cavagnaro, seconded by Commissioner Vetere and the motion passed unanimously.

REGULAR MEETING

PLEDGE OF ALLEGIANCE:

CALL TO ORDER:

PUBLIC PARTICIPATION: None

MINUTES: 5/09/23 - The minutes were adopted by consensus

NEW BUSINESS: Discussion/Decision/Action regarding the following:

1. **Appl 23-17P, Leonard Retail-Restaurant Site Plan** – request for a site plan to construct a 2,520-sf retail/restaurant with a drive-up window at 1014 Sullivan Ave, GC zone.

The applicant requested the item be postponed until Jul 11,2023; extension was received.

2. **Appl. 23-19P, TOSW Farmers Market** – request for a site plan approval to operate a farmer's market weekly from June through October, offering produce and other items such as vegetables, fruits, cheeses, meats, baked goods, soaps, and candles, on property located at 220 Nevers Road, RR zone.

John Caldwell, Superintendent of Parks and Grounds reported on improvements that had been made to the farmers market since the last approval.

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Director of Planning Michele Lipe provided the Planning report.

1. Request for site plan modification for the farmers market sponsored by the SW Parks & Recreation Commission located on the southern portion of the farm field at 220 Nevers Road, RR zone
2. The market will be held on Saturdays from June 3 through October 7 . Set up will start at 8:00 a.m. The market will run from 9am – 12pm.
3. The market will feature items grown or produced by local farmers such as: vegetables, fruits, flowers, honey, cheeses as well as specialty products produced from local farmers' products. Live entertainment will be featured as well.
4. An aerial map has been provided showing the parking and layout for the event (vendor location, vehicle entrances and exits as well as traffic flow.) Access into the site is from a single access drive which has been improved. The parking area, which accommodates 130+ cars, is located in front of the market area.
5. With the relocation to this site, town parks department created a soft berm, planted with forsythia, within the 50-foot buffer area along the property boundary of Windemere Court.
6. All health code requirements for vendors selling food or offering food samples must be met. The applicant will be responsible for ensuring that all necessary permits are obtained and submitted to the Health Department and to coordinate an inspection of the vendor booths prior to opening for the season.
7. A permanent sign has been located at the entrance along Nevers Road. Temporary signage is permitted Civic non-profit groups are allowed temporary signage on and off-site advertising special events and are permitted through the Planning Department.

If this application is approved, the Planning Department has no modifications to request.

Commissioners asked questions and made comments.

A motion to approve was made by Commissioner Leblanc with the following conditions:

1. The market will be held weekly on Saturdays during the months of May through October. Set up will begin at 8 a.m. and generally run from 9 a.m. to 4 p.m. Future dates should be submitted to the Planning Department on an annual basis.
2. The Health Department must be consulted and proper permits obtained for vendors selling or providing food at the market.
3. If there are buildings, structures, signs or other items that require a building permit or other Town approvals/permits, all such approvals or permits must be obtained prior to construction or use of the site.
4. All free-standing signs and/or building signs (temporary or permanent) require the issuance of a sign permit before they are erected.

Second by Commissioner Wagner. Motion passed unanimously.

OTHER BUSINESS: Lipe indicated the POCD survey worked on last week should be ready to go on line at the end of the week. Lipe is working on a press release to advertise the survey and public meeting as well as put on the website and email blast.

APPLICATIONS OFFICIALLY RECEIVED:

Appl 23-20P, Fedex Gateway Expansion – request for a site plan modification for 2,500 sf addition to the security building, on property located at 40 Kennedy Road, I zone

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Appl. 23-21P, Bahler Brothers, Inc. – request for renewal of a 2-year temporary and conditional permit for a 30' x 60' storage shed on property located at 24 Jeffrey Drive, I zone

Appl 23-23P Raghbinder Bajwa DBA Bajwa Aesthetics – request for 5-year Major Home Occupation for a medical office on property located at 20 Oxford Drive, AA-30 zone

Appl. 23-24P Cusson Automotive Enterprises, LLC – request for a site plan approval for a 12,000-sf ph. 1 and 5,250 sf ph. 2 facility, for automotive repairs, on property located 753 John Fitch Boulevard, I zone.

ADJOURNMENT: Commissioner Cavagnaro motioned to adjourned. Commissioner Carey seconded the motion and the motion passed. Meeting adjourned at 8:45 pm.

Respectfully Submitted,

Tersee Flores, Recording Secretary