

TOWN OF SOUTH WINDSOR
PLANNING & ZONING COMMISSION

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SEPTEMBER 14, 2021

MEMBERS PRESENT: Stephanie Dexter, Bill Flagg, Bart Pacekonis, Kevin Foley, Frank Bonzani, Stephen Wagner

ALTERNATES PRESENT: Alan Cavagnaro, Paul Bernstein

STAFF PRESENT: Michele Lipe, Director of Planning; Michael Lehmann; IT Support; Caitlin O'Neil, Recording Secretary

PLEDGE OF ALLEGIANCE

Chairman Pacekonis appointed Alternate Commissioner Bernstein for Commissioner LeBlanc.

CALL TO ORDER:

REGULAR MEETING/ COUNCIL CHAMBERS

CALL TO ORDER Chairman Pacekonis called the Regular Meeting to order at 7:00pm

PUBLIC PARTICIPATION: None

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

1. **Appl. 21-34P, Pete's RV Parking T&C Renewal-** request for renewal of a 2 year temporary and conditional permit (Section 2.13.a) for storage of up to 35 RV campers, on property located at 395 John Fitch Boulevard, GC zone

The applicant David Gould was present and commented that he wanted to renew his permit and nothing new had changed since his last renewal.

Director of Planning Michele Lipe read Planning Report.

1. A request for renewal of a two-year temporary and conditional permit for the storage of campers on approximately .5 acres, on property located at 395 John Fitch Boulevard (northerly side of Chapel Road), General Commercial zone.
2. The original permit was approved on July 9, 2019.
3. The applicant stores up to 30 campers (approx. 12 X 30 in size) on the site. This site is adjacent to Pete's RV parking.
4. Sales and storage of recreational vehicles are allowed in the General Commercial zone when associated with a business. (GC is the zone in which the main Pete's RV sales facility is located. The applicant utilizes a golf cart between the two facilities to allow customers to see the RV's without having to go back out onto Route 5.
5. The site is currently vacant and historically had an automotive use. There is an existing driveway into the site, but is not being used.
6. The wording of the T & C permit regulation is that, "Temporary and conditional permits may be granted by the Commission for a period not to exceed two years. Such approval may be given after a Public Hearing if, in the judgment of the Commission, the public convenience and welfare will be substantially served, and the appropriate use of neighboring property will not be substantially or permanently injured, and traffic and other hazards will not result from such use."

If this application is approved, there are no planning modifications requested.

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Chairman Pacekonis asked for Commissioner comments. No comments were made.

Chairman Pacekonis asked for a change in the approval condition to read by the time of the renewal.

Commissioner Wagner moved to approve the application with the following conditions.

1. The storage area is limited to 30 campers and must be accessed through the adjacent lot to the north.
2. The Temporary and Condition permit will expire on 9/14/23 and will have to be renewed by that time if the use is to continue.

Commissioner Flagg seconded the motion.

The motion passed unanimously.

2. **Appl. 21-35P, Mangino Temporary & Conditional Permit Renewal-** request for a renewal of a 2-year temporary and conditional permit to allow two apartments on property located at 272 Pierce Road, RR zone

The applicant William Mangino commented that he was looking to renew his two in law apartments that have been in existence for approximately 30 years.

Director of Planning Michele Lipe read Planning Report.

1. Request for the renewal of a two-year temporary and conditional permit for two in-law apartments at 272 Pierce Road, RR zone. These apartments were originally created through a temporary and conditional permit granted by the ZBA in 1989. The most recent approval expired on July 9, 2021.
2. The wording of the Temporary and Conditional permit regulations is that “Temporary and conditional permits may be granted by the Commission for a use which is not specified elsewhere in these regulations for a period not to exceed two years. Such approval may be given after a Public Hearing if, in the judgment of the Commission, the public convenience and welfare will be substantially served, and the appropriate use of neighboring property will not be substantially or permanently injured, and traffic and other hazards will not result from such use”.
3. The RR zone allows for both accessory apartments and in-law apartments. However, the regulations do not allow for the creation of more than one accessory/in-law apartment. In addition, there are no provisions in our regulations for multiple apartments in single-family zones.

If this application is approved, the Planning Department would recommend that the standard approval conditions apply:

- This approval is for two in-law apartments for a family member/relative only. When the in-law apartments are no longer occupied by a relative of the family, the apartments cannot be treated as a second dwelling unit. Instead, the kitchens must be removed and the living areas must be converted into other living space for the main dwelling.
- This permit will expire in two years, on 9/14/23, and will have to be renewed at that time if the use is to be continued. Owner(s) of the property must reside in an apartment or the main dwelling unit.

Chairman Pacekonis asked for Commissioner comments.

Commissioner Wagner clarified that with new in law and accessory apartment regulations this applicant would still require a temporary and conditional permit for these units.

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Chairman Pacekonis questioned who currently lives in each unit. Mr. Mangino responded that his brother lives in one unit and his son lives in the other unit.

Commissioner Bonzani moved to approve the application with the following conditions.

1. This approval is for two in-law apartments for a family member/relative only. When the in-law apartments are no longer occupied by a relative of the family, the apartments cannot be treated as a second dwelling unit. Instead, the kitchens must be removed and the living areas must be converted into other living space for the main dwelling.
2. This permit will expire in two years, on September 14, 2023, and will have to be renewed before or at that time if the use is to be continued. Owner(s) of the property must reside in an apartment or the main dwelling unit.

Commissioner Dexter seconded the motion.

The motion passed unanimously.

3. **Appl. 21-45P, Cathy Paschetto, LLC** – request for a 5-year renewal of a major home occupation for an electrolysis office on property located at 89 Glenwood Road, A-30 zone

The applicant Cathy Paschetto commented on behalf of application. Ms. Paschetto commented that she is looking to renew her business permit and added that nothing had changed since her last request.

Director of Planning Michele Lipe gave Planning Report.

1. This is an application for the renewal of a 5-year major home occupation permit to operate an electrolysis office at 89 Glenwood Road, A-30 zone. This permit was originally issued in 2001, and has been renewed in 2006, 2011 and 2016.
2. At the time of the original application, the applicant indicated that she would have up to 10 clients a day.
3. In approving the original application, the PZC placed several conditions on the original approval including:
 - Operation of this business is restricted to the present owner;
 - Hours of operation are limited to Monday – Friday, 8:30 a.m. – 5:00 p.m.; Saturday, 9:00 a.m. – 3:00 p.m.; Sunday closed.
4. Public sewer and water serve the existing house.
5. The parking requirement is being met within the existing driveway.
6. The applicant has a 2 square foot wooden sign on the light post on the property.
7. If this application is approved, the applicant would also be required to return to this Commission for renewal upon expiration of the 5-year permit period.

Chairman Pacekonis asked for Commissioner comments.

Commissioner Dexter questioned if the hours still work for the applicant. Ms. Paschetto responded that they do.

Commissioner Cavagnaro questioned if the number of clients had changed due to COVID. Ms. Paschetto responded that COVID did cause a decrease in her business.

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Commissioner Bernstein questioned how business was for the applicant. Ms. Paschetto responded that it had been good overall and because of COVID she had been able to cut back, for example, she is currently not working Saturdays. Commissioner Bernstein wished her continued success.

Commissioner Wagner moved to approve application with the following conditions.

1. Operation of the business is restricted to the present owner.
2. The permit will expire on 9/14/2026, and will have to be renewed at that time.
3. Hours of operation limited to: Monday – Friday, 8:30 a.m. – 5:00 p.m.; Saturday, 9:00 a.m. – 3:00 p.m.; Sunday closed

Commissioner Foley seconded the motion.

The motion passed unanimously.

4. **Appl. 21-29P, Davis Resubdivision** - request for 90-day extension to file mylars in the Office of the Town Clerk

Director of Planning Michele Lipe clarified it is two consecutive 90 day extensions.

Commissioner Flagg clarified with Ms. Lipe that two 90 day extensions are allowed.

Commissioner Dexter moved to approve the two consecutive 90 day extensions.

Commissioner Bernstein seconded the motion.

The motion passed unanimously.

5. **Appl 21-56P, UW Vintage Hill II** –Request to establish the fee in lieu of open space for this subdivision at \$27,500 which represents 10% of the appraised value of the subdivision land prior to subdivision approval

Commissioner Dexter moved to establish a fee in lieu of open space.

Commissioner Wagner seconded the motion.

The motion passed unanimously.

6. Discussion regarding 2021 Legislative change - Accessory Dwelling Units and Cannabis Retail Sales and Cultivation (see attached summaries)

Part A: Accessory Dwelling Units

Director of Planning Michele Lipe passed out a breakdown of the current Planning & Zoning Commission accessory and in law apartment regulations versus the new proposed State regulations. Ms. Lipe clarified the differences between an accessory apartment and an in law apartment, an accessory apartment is permanent while an in law is temporary. Ms. Lipe reviewed the options the Commission has with the new laws. The State regulations essentially reads that every single-family zone would be allowed to have an accessory apartment, certain items like setbacks and coverage ratios would still apply.

Ms. Lipe explained that the Commission could choose to opt out of the new law. Ms. Lipe explained if they chose to opt out the next steps would be to hold a public hearing process, would then need a 2/3rd majority vote within the Planning and Zoning Commission and then would need a 2/3rd majority vote with the Town Council. Ms. Lipe added that the Town of Ellington has recently adopted similar regulations to the proposed State regulations and the Town of Windsor has decided to do a hybrid

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approach, changing their regulations to be more in line with the State's proposed regulations but still opting out. Ms. Lipe added that if the Commission chooses to do nothing then they would be automatically adapting to the new State laws. Ms. Lipe commented that she did speak with the Town Attorney Kari Olson who clarified that the Planning and Zoning Commission has until 2022 to either fix their regulations unless they decide to opt out. Ms. Lipe commented that the accessory and in law apartments in South Windsor have not been very impactful on both schools and town resources and added that she encourages the Commission to change what is currently written in the regulations to allow a more accessory apartment friendly community for potential residents.

Chairman Pacekonis questioned if the Town Council would support the Commission should they decided to opt out of the new regulations.

Commissioner Dexter questioned if they chose to opt out would it be permanently. Director of Planning Michele Lipe commented that there is always an ability to change the regulations.

Chairman Pacekonis commented that the way he has read the new regulations, if they were to opt out they would still be allowed by permit.

Chairman Pacekonis commented that the Commission could choose to opt out for a year and change the regulations in that time frame but a decision would need to be made immediately one way or another.

Michele Lipe commented that the largest enforcement issue is people buying a home with an existing in law apartment and having to opt in the town.

Chairman Pacekonis asked for clarification the enforcement process for unpermitted in law apartment.

Commissioner Bernstein questioned if there is an audit follow up process for in law apartments. Michele Lipe responded that in general the department takes the word of the homeowner and do additional research should a neighbor or resident complain.

Commissioner Wagner questioned if new separate structures would be allowed under new State regulations. Michele Lipe responded that they would be under new law and added that currently under the Commission's regulation they do not allow a new building, only allow the re-use of existing garages and barns. Commissioner Wagner commented that he does not have an issue with the new State law.

Commissioner Bonzani commented that the biggest change seems to be requiring owner to live on property, the new State law reads that an owner does not have to live on the property. Commissioner Bonzani thinks this could be an issue, multiple tenants could be living in one home.

Commissioner Flagg commented that should they adopted the new State law, there could be some problems could be presented in the future. Commissioner Flagg used the example of the parking spaces, feels there should be two parking spaces per dwelling. Commissioner Flagg ultimately feels that the Commission should opt out for a year.

Commissioner Dexter commented that she likes the fact that the new law melds together in law and accessory apartments as she feels there is no need for the two different types of apartments. With that said, Commission Dexter agrees that the Commissioner should opt out for a year to update and improve their regulations accordingly.

Commissioner Bernstein clarified what actions need to be done immediately by the Commission. Commissioner Bernstein feels that more time is needed to make an educated decision. Chairman Pacekonis explained if they opted out then that recommendation would require a 2/3rd majority vote from

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the Planning & Zoning Commission and then the recommendation would be brought to Town Council where they would also need a 2/3rd majority vote.

Director of Planning Michele Lipe suggested drafting a text amendment to be reviewed by the Commission addressing the concerns that the Commission has voiced.

Chairman Pacekonis commented he likes that the new law streamlines the process, however, there are certain aspects to the new regulations that concern him. For example, Chairman Pacekonis feels that a homeowner should still live in one of the units.

Commissioner Foley commented that he thinks the Commission should consider following the same position as the Town of Windsor, opting out but creating new regulations in spirit of the new laws.

Commissioner Wagner commented that he would like to see a draft of the regulations highlighting current regulations, the new law and then the Commissions proposed changes to bring to the Town Council so they can understand the full spectrum of the decision.

Chairman Pacekonis summarized that it is the consensus of the Commission to opt out of the new regulations and to have Michele Lipe draft regulations to be presented to the Town Council.

Part B: Cannabis

Director of Planning Michele Lipe reviewed the documents regarding the cannabis law. Ms. Lipe reviewed the Commission's options; decide to do nothing and then the sale of cannabis would be treated like the sale of alcohol, other communities have put a moratorium to put together regulations to create a special exception or special permit with some additional guidelines. Ms. Lipe commented that other towns have decided to move forward and allow the sale of cannabis by special exception, for example, Newington and East Hartford. Ms. Lipe commented that the Commission could allow the sale of cannabis by special permit and could restrict the sale to certain zones.

Commissioner Wagner commented he is concerned with the date of 2022 since it is close to their election. Ultimately, seems too soon to decide before the election, therefore, would be in favor of a moratorium to allow for time to properly tweak the regulations. Commissioner Wagner commented that he is in favor of cannabis sales.

Chairman Pacekonis commented that the majority of the Commission seemed to be in agreement on the direction of cannabis. Chairman Pacekonis clarified that a moratorium would put a pause on the cannabis regulations to give the Commission time to review and discuss potential changes. Chairman Pacekonis questioned if a moratorium would require approval from Town Council. Director of Planning Michele Lipe responded that it would not and explained that there would be a text amendment regarding the moratorium that would be filed and sent to CRCOG. Chairman Pacekonis commented on potential security concerns with a cannabis facility. Ms. Lipe commented that in the Town's experience with medicinal cannabis sales, the State of Connecticut has many rules and strict security measures already in place.

Commissioner Dexter questioned which towns are moving forward to allow sale of cannabis. Michele Lipe responded East Hartford, Newington and Windham. Commissioner Dexter questioned the 3% of the sales tax from the sales of cannabis. Ms. Lipe explained that 3% of sales tax would go back to the town.

Commissioner Flagg questioned how far this issue could go, for example, some towns have put this item to a referendum. Michele Lipe commented that the Commission or Town Council could ultimately prohibit the sale of cannabis.

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Commissioner Bernstein clarified the decision options- prohibit the zoning use or permit the zoning use, would the Commission be banning the use of recreational marijuana. Michele Lipe responded no this does not pertain to use of marijuana, but the sale of the marijuana within the Town of South Windsor. Commissioner Bernstein commented that if the Commission was to ban the sale of marijuana and that was an unpopular opinion, would the voters should have a say, like a referendum. Ultimately feels that this decision is bigger than land use Commission. Chairman Pacekonis clarified a public hearing would be held on this item, although, a referendum could be an option. Chairman Pacekonis added that existing medical marijuana production facilities would not be altered no matter what is decided. Commissioner Bernstein questioned the amount of facilities allowed for the town. Ms. Lipe responded that due to the population in South Windsor two facilities would be allowed at the most. Ms. Lipe commented that a community could force a referendum by collecting enough signatures.

Commissioner Wagner commented that there is not enough time to get a referendum on the ballot for this election. Chairman Pacekonis and Commissioner Wagner discussed would a moratorium be considered for the sale or the production of cannabis. Commissioner Wagner commented that he felt the sale of cannabis was the more complicated issue but does not see an issue for the production of cannabis. Chairman Pacekonis and Commissioner Wagner discussed an appropriate time frame for a moratorium, settling on a one-year moratorium.

Commissioner Bonzani commented that he thinks there is strong popular opinion both for and against the sale of cannabis and feels the public should have a say. Chairman Pacekonis commented that if the public has a strong opinion they should move forward with a referendum. Chairman Pacekonis commented that he understands both sides of the discussion, however, cannabis is legal now.

Commissioner Cavagnaro commented that he would prefer a public hearing for the issue instead of a referendum.

Commissioner Foley agreed that a one year moratorium would be appropriate to allow the Commission to learn more and make the best decision for the community.

Commissioner Flagg echoed that a moratorium would be appropriate.

Chairman Pacekonis commented that the consensus of the Commission is a one year moratorium.

Commissioner Bernstein clarified that the Commission could act sooner than a year.

The Commission agreed to a one year moratorium.

7. Discussion regarding a residential moratorium

Chairman Pacekonis commented in favor of moving forward with a residential moratorium, South Windsor is a growing community and the regulations cannot always keep up with the growing population. A one year moratorium on subdivisions, apartments, condos etc. would be beneficial to allow the Town to catch up.

Commissioner Bernstein clarified this would be an across the board moratorium for all housing. Chairman Pacekonis commented that one year would allow time to tweak the Zoning Regulations and finish the Affordable Housing Plan, which needs to be completed by July 2022.

Commissioner Wagner commented that he did not agree with a moratorium, feels that the Commission could fix items regarding the regulations without stopping housing and applications. Chairman Pacekonis commented that it is hard to change regulations when applications are continuously coming in. This would allow for the Commission to pause and catch up and update their regulations accordingly.

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Commissioner Wagner reiterated he still does not understand the need for a moratorium, feels regulations can be updated as they go.

Chairman Pacekonis commented that he would like to see more done in way of Affordable Housing within South Windsor, for example, a 10% component at the 80% and a 10% component at the 60% level. Commissioner Wagner questioned why this could not be handled now. Chairman Pacekonis explained there are many items that are taken into consideration, ultimately, South Windsor has been growing rapidly and it's time for the community to take a breath. Commissioner Wagner commented that he felt that growth was not that rapid in South Windsor, the most recent census shows a growth of 1,000 people.

Commissioner Foley echoed Chairman Pacekonis, feels that a moratorium would be appropriate. Commissioner Foley commented that the schools need time to catch up as well.

Commissioner Flagg is in agreement with a moratorium. Commissioner Flagg commented on teachers feeling overloaded in the classroom and the fire department is increasingly using more mutual aid. Commissioner Flagg commented that there are areas that need to be looked at further and the regulations need to be changed accordingly.

Commissioner Cavagnaro commented in agreement with Commissioner Wagner, does not see a reason to stop housing.

Chairman Pacekonis commented on the Board of Education developing a new 10 year plan once the new Board takes office after the election. Chairman Pacekonis further explained that a plan would not be in effect until they receive statistics and get growth rates and a moratorium would allow the Board of Education time to gather accurate data.

Commissioner Bernstein clarified that a public hearing would be held on this issue as part of the moratorium process.

Commissioner Dexter commented that she is in agreement with Commissioner Wagner, feels that a moratorium would be an intrusion of homeowner's rights.

Commissioner Bonzani commented that he is in agreement with a moratorium, particularly to help with the growing schools. Commissioner Bonzani added that a year would go by quickly and would allow time to make changes to the regulations, particularly the Affordable Housing component.

Chairman Pacekonis commented that majority of the sitting Commissioners would want to move forward with a moratorium. Chairman Pacekonis commented that he understood Commissioner Dexter's point of view. Commissioner Dexter clarified if the Commission held a public hearing and the majority of the public was opposed to the moratorium how would this proceed. Chairman Pacekonis responded that it is the Commission's job to listen to the public and understand the general opinion of the public. Chairman Pacekonis commented that the Commission would move forward with a recommendation of a residential moratorium.

Commissioner Wagner commented that everyone on the Commission is trying to do the best for the community.

BONDS:

Landscaping Bond

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Appl. 09-37P, NuWay Solar- Landscape Bond in the amount of \$2,500 reducing by \$2,500 with a balance of zero.

Commissioner Dexter made a motion to reduce the bonds. Commissioner Foley seconded the motion. The motion was called and passed unanimously.

Appl. 18-29P, Harbor Chase- Landscape Bond in the amount of \$20,000 reducing by \$15,000 with a balance of \$5,000.

Commissioner Dexter made a motion to reduce the bonds. Commissioner Wagner seconded the motion. The motion was called and passed unanimously.

Appl. 17-01P, Empire Auto- Landscape Bond in the amount of \$5,000 reducing by \$5,000 with a balance of zero. Appl. 17-01P, Empire Auto- Stormwater in the amount of \$5,000 reducing by \$5,000 with a balance of zero.

Commissioner Dexter made a motion to reduce the bonds. Commissioner Wagner seconded the motion. The motion was called and passed unanimously.

Appl. 19-19P. Truth Baptist Church- Landscape Bond in the amount of \$5,000 reducing by \$5,000 with a balance of zero.

Commissioner Dexter made a motion to reduce the bonds. Commissioner Bernstein seconded the motion. The motion was called and passed unanimously.

Appl. 19-38P, The Learning Experience- Landscape Bond in the amount of \$5,000 reducing by \$5,000 with a balance of zero.

Commissioner Dexter made a motion to reduce the bonds. Commissioner Flagg seconded the motion. The motion was called and passed unanimously.

MINUTES: 8/17/21; Accepted by consensus.

OLD BUSINESS:

Michele Lipe commented that Kilkenney Heights would be on the agenda again and clarified why they the applicant would be back in front of the Commission, adding that nothing had changed to the plan.

APPLICATIONS OFFICIALLY RECEIVED:

1. **Appl. 21-41P, Evergreen Walk, LLC Multifamily Text Amendment** – request to amend Specific Requirements for Multifamily Residential Use in the Buckland Gateway Development Zone - including Section 4.2.15 A.2.e to increase the number of units permitted to 365 units; and modify Section 4.2.15 A.2.c to

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modify the criteria for achieving the required 2:1 residential to commercial ratio for mixed use developments within this zone

2. **Appl. 21-42P, Evergreen Walk, LLC** – request to modify the Evergreen Walk General Plan of Development and a special exception to Section 4.2.15 D.1 for an 165 unit residential development, for a portion of 151 Buckland Road [within "Evergreen Walk"] known as Unit 7C, and being approximately 2,000 feet west of Buckland Road and 1,000 feet north of Smith Street, Buckland Road Gateway Development Zone
3. **Appl. 21-45P, Cathy Paschetto, LLC** – request for a 5-year renewal of a major home occupation for an electrolysis office on property located at 89 Glenwood Road, A-30 zone
4. **Appl. 21-46P South Windsor Entertainment**– request for a two year temporary and conditional permit to operate a ‘Haunted Walk’ at Nomad’s Outdoor Aerial Park (alcohol proposed to be sold), on property located at 240 Governor’s Highway (known as L008), I zone

OTHER BUSINESS:

CORRESPONDENCE / REPORTS:

ADJOURNMENT:

Commissioner Flagg motioned to adjourn.

Commissioner Dexter seconded the motion.

The motion passed unanimously.

Meeting adjourned at 8:34pm.

Respectfully Submitted,

Caitlin O’Neil, Recording Secretary