

**TOWN OF SOUTH WINDSOR**  
**PLANNING & ZONING COMMISSION**

**MINUTES**

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**APRIL 28, 2020**

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

**ALTERNATES PRESENT:** Michael LeBlanc, Elizabeth McGuire

**STAFF PRESENT:** Michele Lipe, Director of Planning; Jeff Doolittle, Town Engineer; Scott Roberts, Assistant Town Manager/IT Director; Drew Guild, IT Systems Administrator; Lauren Zarambo, Recording Secretary

**PLEDGE OF ALLEGIANCE:**

**PUBLIC HEARING / WEBEX Conference Online Meeting**

Chairman Pacekonis called the meeting to order at 7:00 p.m.

Secretary Commissioner Bonzani read the legal notice as it was published in the Journal Inquirer on Friday, April 17 and Thursday, April 23, 2020.

**PLEDGE OF ALLEGIANCE**

Chairman Pacekonis stated the meeting is being live-streamed through a WEBex Call on our website as well as local channels and will be operated under the following procedures:

- This session is being audio-recorded and video recorded.
- To ensure sound quality, the default rule for this meeting is that everyone will remain on mute.
- Commissioners and staff will generally remain on mute except when speaking or voting, and will generally be keeping video of themselves on throughout the meeting.
- Applicants should feel free to leave their video on or off. However, they will be asked to turn on their video when speaking.
- The public can provide public comments by email and/or phone. The email address and phone number with meeting code can be found on the front of the agenda.
- During public meetings, all of the normal rules, including stating, and now spelling your name, still apply.
- If you are speaking at this meeting and have an exhibit to submit to the Commission, which was not distributed in advance of the meeting with the rest of the materials, please indicate that you wish to submit an exhibit. You will need to hold it up to the camera so that the Commission and all members of the public may review it. In addition, you will be required to email the exhibit, or take a photograph of it and email it to [planningzoningcomments@southwindsor.org](mailto:planningzoningcomments@southwindsor.org), and it will be included in the permanent records of the Commission.
- Members of the public may only speak during public participation for an item not on the agenda and during the public hearing comment period.
- Lastly, a reminder to the public on the phone to press \*3 to indicate that you want to speak and # to get back to the main menu.

Chairman Pacekonis appointed Alternate Commissioner LeBlanc to be seated for Commissioner Foley.

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1. **Appl. 20-18P, BL Companies Evergreen Walk Text Amendment** – request to modify Section 4.2.11F (2) to change hours of trash removal/compaction and eliminate and remove requirements and restrictions to hours of loading activities, deliveries or pickups in the Buckland Gateway Development Zone

Mr. Alan Lamson, Vice President and Planning Director of FLP Architecture and Planning, with Michelle Carlson and Jessica Bates of BL Companies, presented the application proposing to modify the zoning regulations in regard to the hours of trash removal and truck deliveries in the Buckland Gateway Development zone. Current regulations restrict trash removal between 10 p.m. and 7 a.m. and restrict truck deliveries between 10 p.m. and 7 a.m. Other current restrictions were described in detail, some of which included requiring loading areas not be visible from Buckland Road or residential zones; and for appropriate screening for loading and trash areas to reduce visibility and noise from streets and residential zones; and loading areas not be located within 100' of a residential zone boundary.

Mr. Lamson noted the Town has a noise ordinance more restrictive than the wording of the zoning regulations restricting sound, coming from a commercial property during night time hours, to 45 decibels measured at the lot line of a residential property. Comparisons of sound levels in decibels and distance were described in detail. The noise ordinance limits the amount of noise generated from trash removal and loading operations to 45 decibels from 8 p.m. and 7 a.m.

Mr. Lamson indicated there are already ample protections for surrounding properties with the restrictions in the noise ordinance and current zoning regulations and the ability for the Commission to review any application for site plan approval for shielding of sound and visual impacts. Mr. Lamson submitted that the proposed zoning amendment is more effective in properly controlling sounds of operation in the Buckland Gateway zone without impacting the proper operation of the uses in the zone than an artificial prohibition of operations that may affect the required viable operation of the businesses now in the zone or that may locate there in the future. The amendment offers a better way to control it at the source and it is easier to take care of these issues prior to them being constructed than to rely on a requirement for overview on a continuing basis from Zoning Enforcement, Planning Department or Police Department.

Director of Planning Michele Lipe gave staff comments:

1. The applicant's proposal eliminates any references to specific decibel limits that need to be complied with. The Town's noise ordinance would still have to be adhered to.
2. The second part of the request eliminates any restrictions to hours that truck deliveries and loading can occur. Currently the regulations prohibits truck deliveries between 10 pm and 7 am and limits loading activities without effective sound barriers.
3. I have provided the Commission a copy of the zoning map because, as you aware, this amendment would affect the entirety of the Buckland Gateway Development zone. I would note there are some area where single family residential properties do abut the Buckland Gateway Development Zone. Some Commissioners may recall that this requirement was created to address potential impacts on residential properties.
4. The Business Development section of the Town Plan has one of its goals for the town to "attract additional business development that is consistent with the character and scale of its surroundings with a strategy to maintain current business zones, with updates."
5. The Capitol Region Council of Governments has reviewed the amendment as required and has offered a report dated March 26, 2020 finding no apparent conflict to regional plans or policies.

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6. If this application is approved, the Planning Department would request additional criteria be added such as a minimum distance from residential houses for all night activities and/or incorporation of effective sound barriers reduce noise from night time activities be incorporated into the regulation.

Town Engineer Jeff Doolittle had no additional comments.

Chairman Pacekonis asked for comments from the public speaking for or against the application.

Commissioner Bonzani read a letter into the record from Mr. Marek Kozikowski of 863 Clark Street requesting denial of the text amendment proposing the elimination of noise and time restrictions for deliveries and loading in the Buckland Road Gateway Development Zone. (Exhibit A)

Commissioner Dexter read a letter written in opposition and with concerns into the record from Mr. and Mrs. Bill and Elizabeth Rotavera of 17 Diggins Court. (Exhibit B)

Chairman Pacekonis asked for comments from the public speaking for or against the application.

There were no calls coming in to the meeting from the public or other emails sent in to be read into the record.

Chairman Pacekonis asked for comments from commissioners.

Commissioner Bonzani noted his familiarity with how much noise generates from tractor trailers and back up alarms and noted the many kinds of residential developments the Commission has approved at Evergreen Walk's request for older residents in assisted living, independent living, and 55 and older facilities that will be affected by the hours of operation being proposed.

Commissioner Dexter agreed with Commissioner Bonzani and noted the entire Gateway zone is surrounded by Rural Residential and A-30 zones in addition to the residential units within the zone. As important, is the traffic from delivery trucks making their way through side streets to deliver to places like Aldi's, that the Commission has just approved, and is considering like Costco. Commissioner Dexter stated the biggest concern is going to be the flow of traffic and this amendment will add to that and voiced concern about how the amendment is currently written.

Commissioner Flagg confirmed with Director Lipe the amendment would affect the Buckland Gateway Development zone and noted his home is located 1/4 of a mile from Aldi's distribution center on Rye Street, and he can hear backup alarms all the time through the buffer of woods and trees. Commissioner Flagg stated the noise will be detrimental especially to elder residents in the area and is not in favor of the amendment.

Commissioner Greer stated the Commission has set the parameters for the different zones for a reason to protect the people around it. The noise ordinance is important to the residents and he is not in favor of changing the regulation.

Commissioner Wagner stated he is aligned with commissioners' previous comments and confirmed with Director Lipe that the noise ordinance is not enforceable on moving vehicles. Commissioner Wagner noted the difficulty in the enforcement of the noise ordinance, and that the perception of noise and the level of noise in the middle of night is different than in the day. He asked if the 45 decibel limit applies to the boundary of residential units within the Evergreen Walk property, and Director Lipe clarified it applies to the boundary of the residential zone. The Commissioner noted the lower level of typography where Costco is proposed may be less problematic for sound and suggested a special exception approval be considered for its review but preferred to leave the regulations as they are currently.

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Commissioner LeBlanc stated the whole Gateway Development area was developed the way it was for a reason and would like to see it remain as it is. He noted the impact of trucks maneuvering downhill in the area of L.L. Bean and the effects on nearby residents and stated he is not in favor of the amendment.

Commissioner McGuire stated there is always a balance of quality of life with commercial needs and asked why the amendment is necessary now and would business be harmed without it. Mr. Lamson stated there are one or two retail uses coming who prefer to make deliveries outside of their business hours so that they can avoid conflicts with their customers, and one of those businesses will not come if the regulation does not pass.

Chairman Pacekonis stated we have a Target, a Lowes, an approved Aldi's, and L.L. Bean, all developed with the regulations as they are. He noted the loading and unloading of trucks is done with fork lifts with back up alarms required by OSHA. The Chairman voiced appreciation for the letters read into the record from the public and stated protecting established neighborhoods is important and how there are many apartments and senior living residences in this zone. Changing the regulation will not only effect Evergreen Walk but also the houses in the areas surrounding Target and Lowes. The Chairman asked what the means of making a complaint about noise or the resolution of a complaint would be. Director Lipe stated a complaint would be addressed through the noise ordinance but if it met the noise ordinance there would be nothing that could be done regulatory wise. The Environmental Health Officer would handle a complaint if the noise was not in compliance.

Mr. Lamson withdrew the application.

Commissioner Wagner suggested there might be a compromise where trucks would not be allowed to enter or leave during restricted hours but would be allowed to unload at any time.

Chairman Pacekonis stated the Commission's intention to keep the public hearing open to solicit additional input and asked to clarify what the applicant wanted to do. Mr. Lamson confirmed they would like to withdraw the application and the public hearing was closed.

**REGULAR MEETING**

**CALL TO ORDER:** 7:43 pm

**PUBLIC PARTICIPATION:** None

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

- 1. Appl. 20-20P, J.E. Shepard Company**– request for renewal of a 2 year temporary and conditional permit (Section 2.13.a) to allow a modular office at 185 Governor's Highway, I zone

Mr. James King representing J.E. Shepard Company presented the application stating the building is not presently in use but would like to keep the permit active in case they need the building for a future project.

Director of Planning Michele Lipe gave staff comments:

1. Request for renewal of a two-year temporary and conditional permit for a modular office at 185 Governor's Highway, I zone.
2. This temporary and conditional permit was originally granted in 1991. The office area is approximately 880 sq ft. (40' x 22') and it is located slightly outside the building line along Governor's Highway.

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3. The modular office is currently not in use.
4. The Commission approved the permit with the condition that the property be brought into compliance before renewing the permit again.
5. 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 2 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."
6. There are no Engineering comments on this application.
7. If this application is approved, the Planning Department has no modifications to request.

Town Engineer Doolittle had no additional comments.

Chairman Packonis asked for comments from commissioners.

Commissioner Greer confirmed the permit had been renewed every two years over time.

Commissioner Bonzani confirmed with Director Lipe the applicant would be renewing the permit or applying for a variance for the property.

Commissioner Wagner discussed the temporary and conditional permit for a building not in use and not in conformance. Mr. King stated it would be quite a feat to move the building that has been there for 29 years and that it is located on land surrounded by land they own.

Chairman Pacekonis noted temporary and conditional permits are meant to be temporary and conditional and at this time there does not appear to be a use for the permit that has been in place for 29 years. The Chairman recommended the permit not be renewed.

Commissioner LeBlanc confirmed with Mr. King that the building is being maintained. Chairman Pacekonis asked how long the building had been vacant. Mr. King was unsure but stated the building is sometimes used.

Chairman Pacekonis discussed approval with commissioners.

Commissioner Wagner made a motion to approve with the following condition:

1. The permit is for a two year renewal and will expire on April 28, 2022. If this use is to continue beyond that date, a renewal will be required.

Commissioner Dexter seconded the motion.

Roll call vote was taken. The motion carried by a vote of 6 to 1. Commissioners Bonzani, Dexter, Greer, Wagner, Flagg and LeBlanc voting in favor and Chairman Pacekonis voting against.

2. **Appl. 20-21P, J.E. Shepard Company**– request for renewal of a 2 year temporary and conditional permit (Section 2.13.a) to allow an office for the 'Inspiration House Publishers' at 1865 Main Street, A-40 zone

Mr. James King representing J.E. Shepard Company presented the application.

Director of Planning Michele Lipe gave staff comments:

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1. Request for renewal of a temporary and conditional permit that had originally been granted by the ZBA in 1974 for an office for Inspiration House Publishers in the existing Post Office building at 1865 Main C
2. This property is owned by the applicant and currently houses the East Windsor Hill Post Office as well as an apartment. The applicant has used this location in the past for Inspiration House as well as for the Giving Tree (a card, gift and book shop) approved through a ZBA temporary and conditional permit. The current use is the inventorying of the cards and books of the "Inspiration House Publishers." There are no retail sales and all shipments are made directly from the East Windsor Hill Post Office.
3. The applicant's **previous** description indicates that the level of activity is approximately 4 hours a week and would entail the owner's car being parked in the East Windsor Post Office parking area.
4. 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."
5. There are no Engineering comments on this application.
6. If this application is approved, the Planning Department has no modifications to request.

Town Engineer Doolittle had no additional comments.

Chairman Packonis asked for comments from commissioners.

Commissioners had no comments.

Commissioner Wagner made a motion to approve with the following conditions:

1. The permit is for a two year renewal and will expire on April 28, 2022. If this use is to continue beyond that date, a renewal will be required.

Commissioner LeBlanc seconded the motion.

The motion carried and the vote was unanimous.

- 3. Appl. 20-22P, J.E. Shepard Company**— request for renewal of a 2 year temporary and conditional permit (Section 2.13.a) to allow two apartments, known as 'Home Farm Apartments', on property located at 176 Windsorville Road, RR zone

Mr. James King representing J.E. Shepard Company presented the application.

Director of Planning Michele Lipe gave staff comments:

1. Request for renewal of a temporary & conditional permit for two apartments located at 176 Windsorville Road, RR zone. The original approval was granted in January 1993. The building was constructed in 1911, and the subject building had been used for a variety of nonconforming uses in the past, including a boarding house, teen center, manufacturing and apartment, and studio.
2. The RR zone does allow for accessory apartments; however there is no provision for multiple apartments in separate buildings on a site.
3. This property is served by a well. The applicant is responsible to the Environmental Health Officer the testing of the well on an annual basis.

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4. 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."
5. There are no Engineering comments on this application.
6. If this application is approved, the Planning Department has no modifications to request.

Town Engineer Doolittle had no additional comments.

Chairman Pacekonis asked for comments from commissioners.

Commissioners had no comments.

Commissioner Wagner made a motion with the following conditions:

1. The applicant must insure that the well water is tested annually and provide the results to the Town's Environmental Health Officer.
2. The permit is for a two year renewal and will expire on April 28, 2022. If this use is to continue beyond that date, a renewal will be required.

Commissioner Greer seconded the motion.

Commissioner Flagg asked if the permit could be allowed a five year renewal. Chairman Pacekonis noted regulations allow for two year renewals of temporary and conditional permits.

The motion carried and the vote was unanimous.

**BONDS: Callings/Reductions/Settings**

**Site Bond**

Appl. 19-55P, Michels T&S for removal of junk in the amount of \$20,000 to be reduced by \$20,000 to leave a balance of -0-.

Commissioner Dexter made a motion to reduce the above mentioned bond; Seconded by Commissioner Flagg. The motion carried and the vote was unanimous.

**IWA/CC Bonds**

Appl. 17-38P, Evergreen Crossing E&S Bond in the amount of \$30,000 to be reduced by \$25,000 to leave a balance of \$5,000.

Appl. 17-38P, Evergreen Crossing Stormwater Bond in the amount of \$25,000 to be reduced by \$25,000 to leave a balance of -0-.

Commissioner Dexter made a motion to reduce the above mentioned bond; Seconded by Commissioner Flagg. Commissioner Greer confirmed with Director Lipe that all conditions had been met. The motion carried and the vote was unanimous.

**MINUTES: 4/14/20** Approved by consensus with a change noted by Commissioner Wagner regarding Page 2, in the paragraph starting with Commissioner Flagg voicing a concern about the corridor width, to include Mr. Wheeler's response that because the structures were prefabricated it would not be feasible to expand the width of the corridor.

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**OLD BUSINESS:** *see page 3*

**APPLICATIONS OFFICIALLY RECEIVED:**

1. **Appl. 20-20P, J.E. Shepard Company**– request for renewal of a 2 year temporary and conditional permit (Section 2.13.a) to allow a modular office at 185 Governor’s Highway, I zone
2. **Appl. 20-21P, J.E. Shepard Company**– request for renewal of a 2 year temporary and conditional permit (Section 2.13.a) to allow an office for the ‘Inspiration House Publishers’ at 1865 Main Street, A-40 zone
3. **Appl. 20-22P, J.E. Shepard Company**– request for renewal of a 2 year temporary and conditional permit (Section 2.13.a) to allow two apartments, known as ‘Home Farm Apartments’, on property located at 176 Windsorville Road, RR zone
4. **Appl. 20-23P, Nutmeg Properties of CT LLC** – request for a 2-lot minor resubdivision of 2.2 acres, on property located at 201-205 Nutmeg Road South, I zone

**OTHER BUSINESS:**

Director Lipe discussed with the Commission how to move forward with future agendas and public hearings. Commissioners voiced concern about moving forward with big applications requiring large public hearings in an online format but that a plan is needed to move applications forward. The Commission agreed to go forward in May with smaller applications and suggested the Town might consider using larger facilities like schools for public meetings where social distancing can be observed in order for all of the public to participate.

**CORRESPONDENCE / REPORTS:**

**ADJOURNMENT:**

Motion to adjourn the Regular Meeting at 8:19 p.m. was made by Commissioner Greer.  
Seconded by Commissioner Flagg. The motion carried and the vote was unanimous.

Respectfully Submitted,

Lauren L. Zarambo,  
Recording Secretary