

TOWN OF SOUTH WINDSOR
PLANNING & ZONING COMMISSION

MINUTES

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SEPTEMBER 29, 2020

MEMBERS PRESENT: Bart Pacekonis, Kevin Foley, Stephanie Dexter, Steve Wagner, Kevin Greer
(arrived at 7 pm and left at 8:15 pm)

ALTERNATES PRESENT: Michael LeBlanc, Paul Bernstein, Elizabeth McGuire

STAFF PRESENT: Michele Lipe, Director of Planning; Michael Lehmann, IT Support; Lauren Zarambo,
Recording Secretary

SPECIAL MEETING / Webex ONLINE MEETING

CALL TO ORDER: Chairman Pacekonis called the Special Meeting to order at 6:30 p.m.

PLEDGE OF ALLEGIANCE

EXECUTIVE SESSION:

Discussion with the Town Attorney of pending litigation related to **Appl. 19-12P, Educational Playcare, LTD** – request for a Special Exception to Table 4.1.1A and Section 7.4 and Site Plan of Development for a 16,000+/- sf daycare facility, located on property at L028 Ellington Road (to be known as 742 Ellington Road), RC zone (Denied 5/14/19)

Commissioner Wagner made a motion for Commissioners Pacekonis, Foley, Dexter, Wagner, LeBlanc, Bernstein, and McGuire to go into Executive Session to discuss pending litigation related to Educational Playcare, LTD with Town Attorney Kari Olson and Director of Planning Michele Lipe.

Commissioner Dexter seconded the motion.

The motion carried and the vote was unanimous.

Commissioner Wagner made a motion to come out of Executive Session at 6:59 p.m.

Commissioner LeBlanc seconded the motion

The motion carried and the vote was unanimous.

SPECIAL MEETING / Webex ONLINE MEETING 7 PM (continued)

1. Overview and discussion of the legal requirements of a residential moratorium
(Town Attorney Kari Olson to be present)

Chairman Pacekonis indicated the Commission is looking for a moratorium to delay applications on multiple family or multi-unit developments of more than four single-family houses or apartments. With all the recent development in South Windsor, there are concerns that developments and our school system are not working well together. Our population and the amount of school kids have increased tremendously. We want to get a handle on this by addressing the zoning regulations. With the heavy workload the Commission has been addressing, we would like to take a pause with a moratorium on these issues to have time to address this.

Attorney Olson summarized the goal stated by the Chairman was to limit the number of new dwelling units by putting a moratorium on any increase that would create more than four dwelling units. Pacekonis stated he used the number 4 to start the discussion and looks for direction on the number. We are not trying to stop someone from developing their property to build a house but rather reduce the impact on the school system.

Attorney Olson stated a reaction to a moratorium on development is the concern that you would be depriving someone the ability to develop their property. A moratorium is temporary. Defining the scope and length of

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time, and process, and procedure followed are important. A moratorium has to follow the same procedure for any zoning regulation with public hearing, vote, and effective date to start and end. The court will look with greater skepticism at moratoriums in place for more than one year. Any application currently pending will not be subject to a moratorium. When defining the moratorium the scope needs to be clearly defined and it is important to set forth the rational and reasoning behind the moratorium that the average person can understand.

Attorney Olson noted a housing study Director Lipe plans to begin when the new census data comes available, and stated if a study is tied to a moratorium it will have more weight. If proper procedures are followed with a reasonable limitation in scope and time and a justifiable planning purpose reason for a moratorium, a court is likely to uphold it based on existing precedent.

Director Lipe stated zoning regulations are already in place that do not allow multi-family developments by right. Regulations provide that it must come through a zone change and special exception process. The Director asked what would be the purpose of including it in a moratorium if the Commission has a right to deny it in the first place, and asked if certain types of housing, such as senior housing, can be excluded from a moratorium.

Director Lipe commented about the housing study stating we have filed for an affordable housing moratorium based on the current level of affordable housing in South Windsor, and are required to have an affordable housing plan every 5 years that can be coupled with the work related to housing that the Commission is discussing.

Attorney Olson stated only moratoriums approved by the State under the affordable housing statute are enforceable. If one type of housing is allowed, such as senior housing, and another type of housing, such as housing with children, is not allowed this could be viewed as a case of discrimination under the Fair Housing Act and a reason for concern.

Vice Chairman Foley indicated his main concern is the school system and the quality of education. Single-family housing is not the concern. It is multi-family units, track housing neighborhoods, and condos that have to slow down. We are past capacity at our schools.

Commissioner McGuire confirmed with the Chairman that the Commission is in the discussion phase about a housing moratorium and asked if there is hard data to show that Town services are overburdened. Chairman Pacekonis and Vice Chairman Foley commented about the schools and Commissioner McGuire asked if school enrollment numbers were in the purview of PZC. The Chairman noted the school's most recent projections for enrollment were lower, and their experts got it wrong. Commissioner McGuire recommended getting hard data from the Superintendent, school officials and the Board of Ed, in order to seriously consider a moratorium.

Commissioner Wagner asked about the appeal process if a moratorium was approved. Attorney Olson stated there would not be an automatic stay, and if overturned by the court, the moratorium would not apply.

Commissioner Wagner noted the updated school report on student population that the commissioners received clearly showed estimates used to build Pleasant Valley School and to resize Eli Terry. It had taken into account anticipated developments like Maskel Road and future apartments at Geissler's and Evergreen Walk. The surprise came five years ago with a change in demographics and the popularity of South Windsor.

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Commissioner Wagner noted the concern about adding students to a school system has often been a way of avoiding certain kinds of people moving into your suburban community and is concerning if it becomes the hidden reason behind a moratorium.

Chairman Pacekonis did not agree the data from the school report addressed future developments, and stated he would not want a moratorium to be used to exclude others. Planning is the goal and noted every future development needs to have an affordable component so that everyone has an opportunity to come here.

Commissioner Bernstein noted the data provided by the Board of Education and Superintendent of Schools is enough to make a compelling case for overburdened schools, and asked if a moratorium would need to encompass all types of housing.

Attorney Olson stated the public may raise a claim that the Commission could be discriminating against people with children if it tries to distinguish those types of developments that are likely to come with children versus those that are not, for purposes of planning and a moratorium. The Commission does not have the authority to regulate the schools, or to determine how many schools go in the town, which is between the Board of Ed and Town Council. There would be concern about distinguishing the types of dwelling units that are likely to have children based solely on the fact that the Commission thinks the schools are overburdened. The better approach is if the Commission has the view of a larger picture where for the overall planning of the town. Commissioner Bernstein voiced support to move ahead with the housing study the Director of Planning has recommended.

Commissioner Wagner noted the map included in the October 22, 2019 Enrollment Projections report from the schools that shows future projects including the Maskel Road subdivision now being considered, Vintage Hills II on Barber Hill Road, Geissler's redevelopment, Beelzebub land subdivision and Evergreen Walk Phase II. Future developments that had not yet come in as applications were considered in this report.

Attorney Olson clarified it would not take a year for a moratorium to be put in place, but an appeal process could have a year's timeline. Chairman Pacekonis projected it taking 6 to 9 months for the Commission to put something in place with the public hearing process.

Vice Chairman Foley voiced support to move forward with a moratorium, not only for single family residential, but across the board including senior housing. The Vice Chairman requested meeting with other Town departments to be good planners about concerns regarding public safety with the Police Chief, Fire Chief, Board of Ed, Human Resources, and medical services, stating schools are a key component but so are Town services, and it is time to meet again to plan ahead.

Commissioner McGuire discussed what type of moratoriums were being considered. Vice Chairman Foley clarified all residential development would be included, but no commercial. Chairman Pacekonis noted any projects currently being discussed could come forward in the next 6 months to get the process started, and not be stopped by a moratorium. Commissioner Wagner asked about Geissler's that had come before the Commission for discussion and text amendment. Chairman Pacekonis noted the Commission has been looking at it and could apply in the next 6 to 9 months before a moratorium was put into effect.

Commissioner McGuire asked Director Lipe for an average number of residential applications in a year, and how much land there is still to be developed for residential housing. Director Lipe stated she could put together charts for housing approved over the last 5 years. The POCD adopted in 2015 has information

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related to density in the area of Main Street showing existing zoning with the potential of 267 units; and with 60,000 sf zoning a potential of 185 units; and with 80,000 sf (2 acre) zoning a potential of 142 units. The purchase of development rights could affect these numbers slightly. Vice Chairman Foley confirmed with Director Lipe that the 100 acres of Willow Brook had not yet been calculated for potential units and could number in the range of 70 houses in the Eli Terry school district.

2. Discussion regarding potential zoning regulation updates: we are looking for input & how to move forward:

- a. Sign regulations (CGS 8-2 attached)

Commissioners discussed potential updates to the sign regulations. Commissioners Wagner and LeBlanc were appointed to a standing committee for the duration of one year with Director of Planning Lipe and Chairman Pacekonis.

- b. Animal Agriculture – chicken and bees (information attached)

Commissioners discussed a draft regarding chickens and bee keeping with Director Lipe who noted Town Staff are compiling regulations and best practices from other municipalities and the public and requested any input from commissioners or the public be sent to directly to the Director of Planning.

- c. Charging Station Requirements in multi-family developments/commercial parking areas

Commissioner Wagner stated members from the Energy Committee have established a subcommittee regarding charging stations, and are several weeks away from submitting information back to the Director of Planning and commissioners.

- d. Affordable Unit Requirements in residential housing

Chairman Pacekonis noted the Commission wants to establish the minimal amount of affordable housing required for all residential developments built in South Windsor going forward. After discussion, Director Lipe indicated a RFP is being developed for a consultant for the housing study and welcomes input from commissioners. Commissioners Dexter and McGuire were appointed to a standing committee to work with the Director of Planning.

- e. Sidewalk/Multi-Use Paths

Director Lipe noted an ordinance enacted by the Town of Manchester for a sidewalk fund to which developers can contribute. Chairman Pacekonis requested information and suggestions from Mr. Robert Dickinson be noted. Commissioner Wagner stated the South Windsor Walk and Wheel Ways (SWWW) is the official Committee working on sidewalks.

- f. Outside Dining Requirements (information attached)

Commissioners discussed permanent seasonal outdoor dining with Director Lipe who noted permitting is presently by Staff review.

ADJOURNMENT:

Motion to adjourn the Special Meeting at 8:41p.m. was made by Commissioner Bernstein.

Motion seconded by Commissioner Wagner.

The motion carried and the vote was unanimous.

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Respectfully Submitted,
Lauren L. Zarambo
Recording Secretary