

**MINUTES  
TOWN PLANNING AND ZONING COMMISSION  
JULY 14, 2020  
7:00 P.M. ONLINE VIRTUAL MEETING  
275 BROAD STREET WINDSOR, CT**

**Present: Commissioners Mips, Levine, Correia, Smith, and Alternate Commissioner Harvey. Alternate Commissioner Jaggon and Commissioner Mark Ferraina were present but not seated. Alternate Commissioner Harvey was seated for Commissioner Profe. Also Present: Town Planner Barz, Assistant Town Planner Sealy and Recording Secretary Lisa Ozaki.**

**I. NEW BUSINESS**

Commissioner Mips opened the meeting at 7:00 p.m.

**A. Public Communications and Petitions (five-minute time limit per person)**

Assistant Town Planner Sealy addressed the public on how to participate in Public Comments.

**B. Communications and Petitions from the Town Planning and Zoning Commission**

Commissioner Smith stated that on June 11<sup>th</sup> he attended the Regional Planning Commission meeting. The discussion included population growth, lack of population migration and an influx of residents coming in from New York.

**C. Zoning Enforcement Officer's Report – None**

**D. CGS § 8-24 Referral Requests**

Assistant Town Planner Sealy stated that he has promoted the following to panelists for this application: Adam Kessler

**1. C.G.S. §8-24 Recommendation for Approval – Day Hill Road Adaptive Signal Control Project (CMAO)**

Adam Kessler, Asst. Town Engineer was present and addressed the Commission. The project is an upgrade to the signal system throughout the Day Hill Corridor. Asst. Town Engineer Kessler said that construction bidding will take place soon and construction will be starting in the fall.

**Motion: Commissioner Levine moved that the Planning and Zoning Commission of the Town of Windsor, pursuant to the provisions of Section 8-24 of the General Statutes of**

**Connecticut recommend to the Town Council approval of the Day Hill Road Adaptive Signal Control Project (CMAO) as described.**

**Commissioner Smith seconded the motion and it passed unanimously, 5-0-0.**

**2. C.G.S. §8-24 Recommendation for Approval – Electric Vehicle Charging Stations Maple Ave.**

Adam Kessler, Asst. Town Engineer was present and addressed the Commission. The Maple Avenue parking lot is the preferred location for the single charging stations to service two parking spots there. The construction will begin following the Farmer's Market season.

Commissioner Levine asked if they are installing two charging stations. Asst. Town Engineer Kessler stated it's a single charging station, but serves two different vehicles.

Commissioner Smith asked what the plan would be for the future Farmer's Market's hours. Asst. Town Engineer said that is a policy that the Town Council will need to decide.

Commissioner Levine asked why it is a better location at the Maple Avenue parking lot and not the Town Hall parking lot. Commissioner Mips said that she assumed so the public can access it easier. Commissioner Levine noted that she misunderstood and thought it was for electric town owned vehicles. Asst. Town Engineer Kessler stated that this is for public use.

**Motion: Commissioner Levine moved that the Planning and Zoning Commission of the Town of Windsor, pursuant to the provisions of Section 8-24 of the General Statutes of Connecticut recommend to the Town Council approval of the installation of Electric Vehicle Charging Stations Maple Ave. as described.**

**Commissioner Smith seconded the motion and it passed unanimously, 5-0-0.**

**3. C.G.S. §8-24 Recommendation for Approval – Rehabilitation of Archer Road Project**

Adam Kessler, Asst. Town Engineer was present and addressed the Commission. This is a pavement rehab which is authorized through the DOT and is out to bid now. The construction will be completed before winter. The project is 100% funded through a grant.

**Motion: Commissioner Levine moved that the Planning and Zoning Commission of the Town of Windsor, pursuant to the provisions of Section 8-24 of the General Statutes of Connecticut recommend to the Town Council approval of the Rehabilitation of Archer Road Project as described.**

**Commissioner Smith seconded the motion and it passed unanimously, 5-0-0.**

**E. Pre-Application Scrutiny - None**

**F. Re-Approvals/Revisions/Extensions – None**

**G. Site Plans – None**

**Minutes**

**1. June 9, 2020**

**Motion: Commissioner Levine moved to approve the minutes as amended.  
Commissioner Smith seconded the motion and it passed unanimously, 5-0-0.**

**II. MISCELLANEOUS**

**1. Zoning Practice – June 2020**

**2. Connecticut Federation of Planning and Zoning Agencies – Quarterly newsletter**

Commissioner Smith said that it was interesting that a Planning and Zoning Commission can sue the Zoning Board of Appeals.

**3. SP 3.9 – 995 Day Hill Road, Exterior Generator, Windsor Federal, Becker**

**4. SP 3.9 – 801 Bloomfield Avenue, 25' Flag pole, Bill Selig Ford**

Asst. Town Planner Sealy reviewed the above site plan revisions application approved by the staff pursuant to Zoning Regulations Section 3.9.

**5. Determination of Use at 1010 Day Hill Road – Office and Soccer Practice Facility**

Town Planner Barz stated that the tenant leasing the building has a desire to put a half soccer field outside the building where the Hartford pro soccer team can drill and practice plays. The tenant is a partner in the Hartford pro soccer team that plays out of Dillon Stadium and is locating their office functions here and will use the conference room for reviewing game video and training films. Town Planner Barz is asking for the Commission's opinion if the field would be an accessory use to the office or require a special use for a recreational facility.

Commissioner Smith said that as long as it's a half field with no official game played on it, it no different than having a basketball hoop in a parking lot. Commissioner Smith noted that if it was a full soccer field, he would have a problem with it.

Commissioner Levine stated that she agreed with Commissioner Smith.

**III. PLANNER'S REPORT**

**1. Update on recent development.**

Town Planner Barz stated that there was nothing new to report at this time.

**IV. BUSINESS MEETING**

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**A. Continuation of New Business – None**

**B. Application Acceptance**

1. **TNDD Concept Plan/Repeal and Replace the existing the Great Pond Form Based Code Regulations**, Winstanley Business Park LLC/Great Pond Village, LLC
2. **Special Use Re-approval – 10 Adam Hill Road**, Professional Therapy Office, Section 4.5.4, A Zone, Noonan
3. **Special Use Re-approval – 226 Broad Street**, Coffee Shop/Art Gallery with Live Music, Madigan

The Commission directed that the above item to be scheduled for public hearing at the next regular Planning and Zoning Commission meeting on September 9, 2020.

**C. Old Business – None**

**V. PUBLIC HEARINGS**

1. **Special Use – 740 Prospect Hill Road**, Permanent Farm Stand, Section 10.5.11, AG Zone, Sedor/Newgate Farm

Assistant Town Planner Sealy stated that he has promoted the following to panelists for this application: Judith Sedor

Judith Sedor, owner of Newgate Farms was present and addressed the Commission. Mrs. Sedor stated that she wanted a stable structure to distribute the Newgate Farm's CSA farm share pickups to their members. The touchless pickup is all curbside and traffic does not get backed up.

Commissioner Levine asked if the farm stand is opened to non-CSA members. Mrs. Sedor said that yes it is, but they are given a list of what is available, park to the side and fill out the form. Once they have checked off what they want, their order is filled then put in their trunks. Commissioner Levine asked about a permanent sign. Mrs. Sedor noted that there is already a sign there.

No one spoke in favor or against.

Mrs. Sedor stated that this is no different from the way they did their CSA last year. There are 200 members this year.

Town Planner Barz stated that ordinarily we are not concerned with a farm stand if it is a temporary structure, tent or cart that can be removed, which is allowed by right, but this is a permanent structure. Town Planner Barz asked that the Commission to not limit hours or days of operation to those stated in case conditions change.

Commissioner Levine stated that she noticed that at holiday time there may be Christmas trees and other things. Mrs. Sedor noted that they are trying to think of ways to extend the season for their farm. The farm makes our own wreaths every year and always sold them. The trees would have to be ordered, but needs to be looked into. There is a CSA winter share pickup but pickup is on a different day.

**Motion: Commissioner Levine moved to approve the Special Use –740 Prospect Hill Road., Permanent farm stand, Section 10.5.11, AG Zone, Sedor/Newgate Farm.  
Commissioner Smith seconded the motion and it passed unanimously. 5-0-0**

**2. Subdivision – 357 Rainbow Road, 4 lots, R11/AG, The Connecticut Light and Power Company**

Assistant Town Planner Sealy stated that he has promoted the following to panelists for this application: Marek Kement, Kris McKelvie

Town Planner Barz addressed the Commission and recapped the application from the previous meeting. There was an executive summary of the Phase I & II environmental assessment done on the site. The summary showed the soil is acceptable for residential use.

Marek Kement, Engineer from Anchor Engineering was present and addressed the Commission. Mr. Kement noted the distance between the houses and to the street line. The new houses are 45 to 50 feet apart. Mr. Kement stated that other houses on Rainbow Road range from 18 to 30 feet apart. The distance from the street to new houses range from 85 to 90 feet and neighboring houses are about 85 feet from the street line.

Commissioner Levine asked if the utility box was a cable box or not. Mr. Kement stated that the cable box will remain in place on the site. Commissioner Levine asked if there was going to be a fence around the box. Mr. Kement said that it will be screened by vegetation.

Commissioner Levine read part of the environmental report executive summary and asked what it meant. Mr. Kement stated that this was done by a third party, who was not available tonight, so he cannot explain it. Commissioner Levine asked if that meant the soil needed to be disposed of in a regulated way. Kris McKelvie, Director of Construction from Hartford Habitat for Humanity was present and addressed the Commission. Mr. McKelvie stated that yes, that is what that means: if we excavated the soil to haul away, we would have to treat it as contaminated. Commissioner Levine asked the Town Planner if we approve this application, does that need to be a condition of approval. Town Planner Barz stated that that will be required by DEEP and not for the Town to enforce.

Commissioner Mips asked how long the R11 zone has been in that area. Town Planner Barz stated that it's been there since we established multiple residential zones based on the

average lot sizes different areas of town. Town Planner Barz explained his analysis of house and lot sizes and basements to the Commission that were issues raised by the public.

Commissioner Levine stated that the Fire Marshall strongly recommended sprinklers in the houses. Mr. McKelvie stated that it is a recommendation and it is not required by code.

Commissioner Mips asked if the driveway turnarounds were added to the plans. Mr. Kement noted that turnarounds have been added to the latest plans, which you have.

Commissioner Harvey asked if the homes are on public water. Mr. Kement said that is correct and on city sewer.

Commissioner Smith asked about the lot width on two of the lots. Town Planner Barz stated that lot width is measured at the building line and they meet the requirements. Commissioner Smith stated that he noticed on the executive summary, there is a lot of things red flagged. Commissioner Smith asked is it ok to spread the soil into the wetlands? Commissioner Smith noted that the ESA showed that a legal opinion to confirm the status of the site with respect to the Connecticut Transfer Act is recommended. Commissioner Harvey offered her professional opinion of the report's conclusions, that the site does not meet an establishment and is not subject to the cleanup regulations. The results are very common and found on many former agricultural lands. Commissioner Harvey explained the results to the Commission and how none of the results are high.

Commissioner Smith asked about the outflow that comes across Rainbow Road. It is a concern over the Eversource ROW and sewer easement. Mr. Kement stated that it is not near our project and wouldn't effect anything.

Commissioner Levine read letter dated June 23, 2020 from Richard Vassallo, 478 Rainbow Road.

Public Comment:

Hilary Carpenter, 45 Bradford Drive spoke that she is a member of First Church which has worked with Habitat before and is looking to help during this project with.

Matt Kozloski, 449 Rainbow Road spoke about not supporting this development since it will affect the property values and the quality of homes. He feels like he has been misled by Habitat for Humanity. The sheds that were supposed to be provided for storage are now gone. There are no concerns for PFAS that has even come up. He understood that the Commission needs to do what they need to do.

Sue Connor, 337 Rainbow Road asked where the homes on Rainbow Road without basements were in regards to the project. Town Planner Barz said that he is referring to spreadsheet analysis and he does not have it with him, but they were scattered throughout

the neighborhood in ranches and raised ranches. Commissioner Smith stated that from living and working on Rainbow Road, he knows the 20% of the homes without basements is probably correct. Mrs. Connor said that she not against the housing coming in, but how it's being done is the issue. She feels the neighborhood is not being heard by Habitat for Humanity.

Town Planner Barz asked Mr. Kement about the PFAS and the chemicals relating to the tobacco farming. Town Planner Barz asked if there is something we are waiting on or was there no analysis done for the PFAS. Mr. Kement stated that his understanding is the PFAS should have been picked up in the Phase I summary based on interviews with property owners and if not picked up on Phase I would it would not be tested for in Phase II. The summary from Stantec showed PFAS is not a concern.

Town Planner Barz stated that he is sorry that the perception of the process for the Rainbow Road residents is that it hasn't been very open for them. The town has had three nights of public hearings for a four lot subdivision, which is a lot.

Jane Oswecki, 458 Rainbow Road spoke about the May 5, 2020 IWWC meeting approval and how PFAS was removed at Mr. Kozloski's yard. The PFAS was supposed to be tested for and wasn't. The testing seems too quick to get results back for PFAS. Mrs. Oswecki said that she really urges the Commission to be very careful.

Commissioner Harvey stated that she can explain the PFAS foam questions. There was a consultant that was responsible for the tracing where the PFAS had gone. The consultant doesn't move as quickly as needed, but did a great job testing all of the areas where the PFAS had gone if they were on these properties.

Matt Kowloski, 449 Rainbow Road asked if that was fact or conjecture. Commissioner Harvey said that is fact and she is very familiar with the DEEP project and work that has been done.

Commissioner Levine stated that the applicant has met the regulations even though she doesn't want to vote this for this, but she is bound by the Regulations.

Commissioner Harvey stated that she feels similar to Commissioner Levine, but based on the zoning, it meets the regulations and can be approved. Commissioner Harvey doesn't have concerns about PFAS.

Commissioner Smith said that he read all the letters from the residents on Rainbow Road and he feels there is no concern for traffic, contamination to the land and the storm water management will be handled by the Engineering Department. Commissioner Smith stated that he has to deny this proposed 4 lot subdivision because it is too intense of land use which

will impact the environment, wildlife, water quality and most importantly it is not in harmony with the neighborhood.

Commissioner Correia stated that he agreed with all the other Commissioners.

Commissioner Mips stated that we are bound by our regulations to approve.

Asst. Town Planner Sealy stated that the applicant is requesting waivers in accordance with Section 5.3.1.I of the Subdivision Regulations:

1. 3.5.1.B (Zoning Regulations) Provision for Pedestrians
2. 3.8.4.A (Subdivision Regulations) Design Criteria for New Sidewalks

Commissioner Mips stated that she believed the sidewalks were needed there, especially for children.

Town Planner Barz stated that sidewalks cannot be completely waived. Town Planner Barz agreed with Commissioner Mips that a sidewalk is needed. Commissioner Mips said she would not move for approval without the sidewalk and definitely need it in the approval. Commissioner Levine, Smith, Correia, Harvey all agree that sidewalks are needed.

**Commissioner Levine moved to approve the Subdivision – 357 Rainbow Road, 4 Lots, R11/AG, The Connecticut Light & Power Company with the following modifications:**

1. Concrete sidewalks in front of all four lots.
2. Developer installed driveway turn arounds for each lot.

**Commissioner Harvey seconded and the motion passed 3-2-0.**

**3. Zone Change from “I” Industrial to Transect 4 (“T4”) Urban Core Zone / TNDD Concept Plan – 10 Great Pond Drive, 181 Multifamily Units, Real Group/Alford Associates, Inc.**

Assistant Town Planner Sealy stated that he has promoted the following to panelists for this application: David Sherwood and Wilson Alford, Jr.

David Sherwood, Attorney from Moriarty, Paetzold & Sherwood was present and addressed the Commission. Atty. Sherwood explained the application to the Commission. Any errors have been corrected that were made on the previous application. Atty. Sherwood stated that they were asking the commission to ratify the exact same application that was previously approved and is now pending appeal in court.

Wilson Alford, Jr. Engineer from Alford Associates, Inc. was present and addressed the Commission. Mr. Alford presented the Commission a slideshow and explained the application. Three buildings will be located along the south side of Day Hill Road and the fourth building is located along Great Pond Drive. There is a pool with a cabana along Day

Hill Road between buildings two and three. All units will be rentals. There is an industrial building to the south which is vacant and the Husky Volleyball has a lease to occupy the vacant building.

Commissioner Levine asked about the memo from Atty. Sherwood dated July 12, 2020 and if the town attorney has commented on this. Town Planner Barz stated that the town attorney spoke with and emailed him but did not have time to prepare a formal response on short notice. Atty. Fitzgerald found that of all the cases cited by Atty. Sherwood, none of them were specific to a zone change. Town Planner Barz summarized Atty. Fitzgerald's emails and read from a zone change case on point that stated that a commission is not bound to reapprove an application, even if conditions have not materially changed.

Atty. Sherwood stated that the Town Attorney failed to note that in this case, as it stands right now, the zone is still T4 and the concept plan is approved until the court says otherwise. If you approve the application tonight, the litigation will end. If the Commission denies the application, the zone of the property will continue to be T4.

Diane Whitney, Attorney from Pullman & Comley for Winstanley, stated that she has not seen the memo that was discussed from Atty. Sherwood. Atty. Whitney noted that when this was previously approved, there was no notice and no opposition. Among the deficiencies in the application, the zone change was clearly not addressed. Atty. Whitney said that this application is a parasitic application of spot zoning. It plucks the best part of the Great Pond Village form based-code and applies to property that was never intended for development without satisfying the code. It exploits the advantages of Great Pond while failing to adhere to requirements. No open space requirements have been met for this application. This is not a Great Pond Village plan. The development on the South side of Day Hill Road is industrial and residential is not to be allowed there. Mixing high-end industrial development with high-intensity residential has never been a good idea. There is no separation between industrial and residential at 10 Great Pond Drive. The form-based code Section 8.2 Open Space Area Requirements are not met and the Zoning Regulations Section 16.7.3c is not in harmony with POCD and not in harmony with surrounding neighborhood.

Craig Lewis, Design Manager from Stantec and Great Pond Architect, addressed the Commission. Great Pond Village is a planned development, where each decision is being developed with the next one in mind. This is the reason they are under one single master developer. The housing that the applicant is proposing on the south side will be affected by daily noise, odor, and vibration. The Great Pond Village has a very significant buffer to the development. There is a 50 - 100 foot setback from Day Hill Road from the resident development. Mr. Lewis stated that if there is residential on the south side, it should be held to the exact same standards of the Great Pond Village. Mr. Lewis noted that Great Pond were never notified of this plan and should have been since the code was written by them.

Bill Finger, Principal with East Pointe LLC, which is the owner and developer of the Preserve at Great Pond, noted that multifamily would be focused on the north side of Day Hill Road in the T4 areas of the Great Pond master plan. Mr. Finger stated that rules and regulations were strictly followed to develop Great Pond. At this time we are in discussions for the second phase of the Preserves. Mr. Finger stated that the buildings are not in similar size to Great Pond. Mr. Finger also noted that as a property owner, he is governed by covenants and restrictions and makes a substantial contribution to the upkeep of open space and other amenities, which this development will be able to use without contributing.

Dan Ferraina, 195 Ethan Drive, spoke about all of the developments he has done in Windsor. Mr. Ferraina explained all that he has done for this town and all the numerous awards he has received throughout his life in real estate. Mr. Ferraina said that he created a beautiful town and feels he hasn't received any credit for it.

Mr. Alford showed the Commission the major changes to the regulating plan of Great Pond from 2011 to 2018. Mr. Alford shared a slideshow illustrating conformance with the 2015 POCD – Day Hill Corporate Area pages 10-18 and explained that the applicant is extending the form-based code. Mr. Alford asked the question, do we have the right to make application under the Great Pond form-based code, answering that yes, once the Great Pond form-based code was approved, it became part of the Town of Windsor Zoning Regulations. Mr. Alford stated that there is no concern posed by the adjacent industrial development because of the following:

1. The existing building is more than 300 feet away.
2. There is a lease in place for volleyball.
3. The face toward our projects is a blank wall, which will deaden any interior sounds.
4. There will be a berm near the loading area.
5. There are carports that further screen the area.

Mr. Alford stated that it is appropriate to modify the regulating plan to have residential development on the south side of the Day Hill Road because of the following:

1. The Commission has modified the original 2011 regulated plan many times.
2. By the approval of the 2018 Regulating plan and the creation of the interior arterial street, it divided the north development by a road similar to Day Hill Road.
3. This plan was already approved in 2019.

Town Planner Barz stated that Great Pond is not spot zoning. Town Planner Barz recommended that if the Commission wanted a better opinion from the town attorney, the public hearing should be continued. Town Planner Barz stated that the staff comments are more for a site plan not the concept plan, so the Commission did not receive the comments. This is a zone change and it doesn't mean this concept is what is actually going to be built there. This needs to be treated as a rezoning to T4 and make sure that all of the uses that T4

allows can go on this property. The Commission is just being asked to approve a zone change to T4 that could be residential development here.

Commissioner Mips asked if it went to a T4 would they have to reduce the amount of coverage to have 1/3 of the land conserved. Town Planner Barz said that he would have to research this further. Commissioner Mips asked Town Planner Barz to have the memo reviewed by the town attorney.

Diane Whitney stated that Dan Ferraina and she have been friends for many years and doesn't object to his developments. The question is, is this use appropriate on this piece of property? The driveway is shared with industrial use. It has never been the right place for this use. A concept plan needs to be presented with the zone change. This site has always intended to be industrial use.

Commissioner Levine asked about the CRCOG letter about traffic. Town Planner Barz stated that the site plan will not go through the Commission, but through the Great Pond Architect then to town staff.

Diane Whitney stated that she doesn't think this would go to the Great Pond Architect.

**Motion: Commissioner Levine moved to recess the public hearing until September 9, 2020  
Commissioner Correia seconded the motion and it passed unanimously. 5-0-0**

**VI. Public Communications and Petitions - None**

**VII. ADJOURNMENT**

**Motion: Commissioner Levine moved to adjourn the meeting at 10:23p.m. Commissioner Smith seconded the motion and it passed unanimously, 5-0-0.**

Respectfully submitted, \_\_\_\_\_, Lisa Ozaki, Recording Secretary

I certify these minutes were adopted on September 9, 2020

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Jill Levine, Secretary