



# TOWN OF ELLINGTON

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## PLANNING AND ZONING COMMISSION REGULAR MEETING MINUTES MONDAY, AUGUST 24, 2020, 7:00 PM HYBRID ZOOM MEETING

**MEMBERS PRESENT:** IN PERSON - CHAIRMAN ARLO HOFFMAN, REGULAR MEMBERS SEAN KELLY, RICCI HIRTH, F. MICHAEL FRANCIS, MICHAEL SWANSON, AND ALTERNATE JON MOSER. VIA ZOOM - VICE CHAIRMAN WILLIAM HOGAN, REGULAR MEMBER ROBERT SANDBERG, JR. AND ALTERNATE KEITH DURAO

**MEMBERS ABSENT:** NONE

**STAFF PRESENT:** LISA HOULIHAN, TOWN PLANNER AND BARBRA GALOVICH, RECORDING CLERK

- I. **CALL TO ORDER:** Chairman Hoffman called the meeting to order at 7:03 PM.
- II. **PUBLIC COMMENTS** (On non-agenda items): **None**

By consensus the commission added to the agenda a request for a thirty day extension for filing of mylars for S202002 – Chilson Realty Company, owner/applicant, for re-subdivision of four parcels, Windermere Avenue and West Road, APN's 019-005-0000, 019-005-0003, 019-005-0004 and 019-005-0005, Commercial (C) Zone and IP (Industrial Park) Zone, originally approved April 27, 2020.

- III. **PUBLIC HEARING(S):** Public hearing items #1 & #2 were heard simultaneously.

1. S202003 – Hastillo Properties, LLC, owner/ TYMAC Holdings, LLC, applicant, request for a re-subdivision for seventeen (17) lots for 61.56 acres on west side of Tripp Road, APN 023-001-0000, in a RAR (Rural Agricultural/Residential), Zone and request to waive Section 4.06(iii) to allow permanent cul-de-sac of 1,350', Section 4.07 to allow 24' street width, and Appendix C 3.13(a) to allow HDPE pipe.
2. Z202005 – Hastillo Properties, LLC, owner/ TYMAC Holdings, LLC, applicant, request for a Special Permit pursuant to Section 7.9 – Rear Lot Requirements for two rear lots to construct single family homes associated with a seventeen (17) lot resubdivision of 61.56 acres on west side of Tripp Road, APN 023-001-0000, in a RAR (Rural Agricultural/Residential) Zone.

**TIME:** 7:04 PM

**SEATED:** HOFFMAN, HOGAN, KELLY, HIRTH, FRANCIS, SWANSON, AND SANDBERG

Mark Peterson, Gardner & Peterson Associates, LLC, 178 Hartford Turnpike, Tolland, CT; Mike Leaska, Leaska Construction Company, 22 Bittersweet Hill, Somers, CT; and Attorney David Sherwood, Moriarty, Paetzold & Sherwood, 2230 Main Street, Glastonbury, CT were present to represent the application.

The proposal was last reviewed in May. Mr. Peterson recapped details about the subdivision plan and requested waivers. He addressed the Town Engineer's comments and received a favorable report. They consulted with a Traffic Engineer and a report is present. The proposal includes a reduction in road width from 26' to 24' with 1' wide mountable cape-cod curbs. He referred to a positive

report from the Fire Marshal. A landscape buffer plan is present proposing a visual buffer for the existing homes on the west side of Tripp Road.

Commission Kelly referred to the Plan of Conservation and Development (POCD) and asked if the plans provide any affordable units. Attorney Sherwood explained affordable housing appeals and economics associated with conventional subdivisions and affordable housing developments. He noted local regulations do not require affordable units.

In response to Commissioner Kelly, Mr. Peterson explained narrower roads help reduce speeds, reduce runoff, lessen maintenance and is supported by the Department of Public Works.

Vice Chairman Hogan questioned the validity of the project density comparisons Mr. Peterson listed in his report and the statements made by FA Hesketh in the traffic report. He felt the proposed landscaped buffer is deficient. He does not agree the parcel has unusual shape or topography and sees no basis to approve the rear lots. He does not feel precedent is set for granting longer cul-de-sacs, noting only two examples are present from the early 2000s. He noted his membership on the commission in the 80s and 90s and explained the commission's actions in the past do not represent how the current board conducts business. Chairman Hoffman and Commissioner Sandberg agreed. Commissioner Francis does not support a reduction in road width or increasing the length of cul-de-sac.

Alternates Duro and Moser had no comments. Chairman Hoffman opened the public hearing.

Gordon Fish of 97 Tripp Road, Richard and Corissa Dubord of 104 Tripp Road, Richard and Mary Lusso of 108 Tripp Road, Russ and Amy Grace of 90 Tripp Road, Sal Laudano, 26 Standish Road, Neil Malkin of 102 Tripp Road, and Ralph Olivieri of 101 Tripp Road opposed the proposed development, requested waivers, and rear lots. Members of the public reiterated concerns raised at the meeting on May 18, 2020. Chairman Hoffman mentioned an email from Kim Martin of 106 Tripp Road opposing the development.

Ms. Houlihan explained her role is to provide the commission with technical and procedural guidance. She reviewed the content of her memo dated August 18, 2020, and explained her position has not changed as a result of the comments heard tonight.

Attorney Sherwood stated the re-subdivision plan complies with the zoning and subdivision regulations with the exception of the three waivers. The land is zoned residentially, the plan conforms to the POCD, and residential development is anticipated for the area. He cited Section 1.1.2 of the Subdivision Regulations and explained the commission is not acting irresponsibly by granting waivers. The reason for the 1000' length and width requirement relate to concerns for access by emergency service vehicles, noting plan provisions allow emergency vehicles to get in and out of the subdivision without a problem. If there was no public water there would be a valid concern, however they are installing two hydrants. He added that adequate turnaround provisions have been built into the design of the cul-de-sac. He explained that technical staff supports the waivers and referred to memoranda from the Town Engineer, Department of Public Works, Town Planner, and Fire Marshal. He reiterated the applicant's willingness to construct a 26' wide road, noting the plans provide an equivalent provision. He asked what specific concerns the commission has with the requested waivers, and stated it's improper to use the length of cul-de-sac to limit density. The parcel can support 17 lots and there's no reasonable technical concern. If the commission wants larger lots, the zoning regulations should require larger lot sizes. He asked the commission to explain what concerns they have so the applicant can address them.

Mr. Peterson explained the change in elevation from the proposed new road to the home sites for the rear lots change between 20 and 30 feet. He referred to staff's request to increase the planted buffer to require plantings every 25' on center and the developer's agreement to increase plantings.

Vice Chairman Hogan disagreed with Mr. Peterson and Ms. Houlihan regarding change in elevation for the rear lots stating he doesn't see how the topography is unusual. He is opposed to the rear lots. Ms. Houlihan cited Section 7.9 of the Ellington Zoning Regulations and Section 4.02 of the Subdivision Regulations. She explained the number of proposed rear lots meets the allowed ratio, lot sizes exceed minimum requirements, and driveways meet standards capable of supporting emergency service vehicles (Zoning Regulations Section 2.1.3). The regulations recommend rear lots be avoided except where topography determines the best use of land is a rear lot. Both rear lots are proposed on the west side of the new street and are between 22' to 31' lower than the proposed new road.

Ms. Houlihan reviewed the requested waivers again for the commission.

Vice Chairman Hogan stated many aspects of the proposal are clearly in compliance with the regulations and the land is residentially zoned. He noted citizens are objecting to rear lots or any lots in their back yard, however that's not a valid reason for the commission to deny the proposal. He finds the requested waivers and rear lots troublesome. Mr. Hogan noted if the commission denies the current applications, new ones can be submitted with changes reflecting comments from the commission for possible approval. He inquired about the rear lots and the depressed topography, and asked what the difference is between a lower topography and higher. He doesn't understand why the change in topography is being presented as a justification for rear lots.

Attorney Sherwood described topography characteristics, difference in grade and the unique shape of the road given the only access point is located at the south end of the parcel. He asked if the purpose of the 1000' limit is intended to limit density why refer the plan to professional staff for comment, noting staff recommends approval. He explained the plans were developed to meet the regulations and provisions for waivers and the applicant can only operate according to guidance in the regulations.

Chairman Hoffman asked Attorney Sherwood if he had any other comments and explained that once the hearing is closed the commission cannot take any further comments from the applicant or the public.

**MOVED (KELLY) SECONDED (SWANSON) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR S202003** – Hastillo Properties, LLC, owner/ TYMAC Holdings, LLC, applicant, request for a re-subdivision for seventeen (17) lots for 61.56 acres on west side of Tripp Road, APN 023-001-0000, in a RAR Zone (Rural Agricultural/Residential), and request to waive Section 4.06(iii) to allow permanent cul-de-sac of 1,350', Section 4.07 to allow 24' street width, and Appendix C 3.13(a) to allow HDPE pipe.

**MOVED (KELLY) SECONDED (HOGAN) AND PASSED UNANIMOUSLY TO APPROVE WAIVER OF APPENDIX C 3.13(A) TO ALLOW HDPE PIPE FINDING THE CHANGE IN MATERIAL CONSISTENT WITH SOUND CONSTRUCTION PRACTICES AND SUPPORTED BY PERTINENT TOWN DEPARTMENTS INCLUDING THE DEPARTMENT OF PUBLIC WORKS AND TOWN ENGINEERING.**

Vice Chairman Hogan explained the use of plastic pipe is common.

**MOVED (KELLY) SECONDED (SWANSON) AND FAILED TO PASS (YEA – HOGAN AND HIRTH, NAY - HOFFMAN, KELLY, FRANCIS, SWANSON, AND SANDBERG) TO APPROVE WAIVER OF SECTION 4.07 FINDING THE PLANS PROVIDE A 26' WIDE CONTIGUOUS PAVED SURFACE SUITABLE FOR EMERGENCY SERVICE VEHICLES AND SUPPORTED BY PERTINENT TOWN DEPARTMENTS INCLUDING THE DEPARTMENT OF PUBLIC WORKS, TOWN ENGINEERING AND THE FIRE MARSHAL'S OFFICE. MOREOVER, GRANTING THE**

**WAIVER WILL NOT IMPEDE CIRCULATION REQUIREMENTS OF THE PLAN OF CONSERVATION AND DEVELOPMENT, WILL NOT CAUSE UNDUE CONCENTRATION OF TRAFFIC, AND WILL NOT BE PREJUDICIAL TO THE NEEDS OF PUBLIC HEALTH AND SAFETY BY UNDULY DELAYING OR INHIBITING ACCESS TO LOTS.**

Commissioner Kelly explained he'd rather see a 26' wide road, but he's okay with 24' and cape-cod curbing. Chairman Hoffman is opposed to the waiver and Commissioner Swanson agreed. Vice Chairman Hogan referred to the third factor listed in the Fire Marshal's memo and expressed concern for access because of on-site parking. Ms. Houlihan noted the plans propose to install no parking signs on one side of the street.

Commissioner Kelly stated he doesn't recall motions in the past referring to staff approvals. Ms. Houlihan explained the motions are in draft format and the commission may change them however they'd like.

Chairman Hoffman stated to the commission as a reminder that Ms. Houlihan, with no disregard, is the best Town Planner they have ever had. The Town Attorney, Fire Marshal and all other staff are advisory to the commission to help us make a better decision. He noted the authority lies within the commission.

**MOVED (KELLY) SECONDED (SWANSON) AND FAILED TO PASS (YEA - HIRTH, NAY - HOFFMAN, HOGAN, KELLY, FRANCIS, SWANSON, AND SANDBERG) TO APPROVE WAIVER OF SECTION 4.06(III) TO ALLOW A PERMANENT CUL-DE-SAC TO EXTEND FROM 1000' TO 1,350' FINDING THE PROPERTY UNIQUELY AFFECTED BECAUSE THERE'S ONLY ONE POINT OF ACCESS.**

**MOVED (KELLY) SECONDED (SWANSON) AND FAILED TO PASS UNANIMOUSLY TO APPROVE S202003** – Hastillo Properties, LLC, owner/ TYMAC Holdings, LLC, applicant, request for a re-subdivision for seventeen (17) lots for 61.56 acres on west side of Tripp Road, APN 023-001-0000, in a RAR Zone (Rural Agricultural/Residential).

Chairman Hoffman referred to Gardner & Peterson's letter dated August 13, 2020, page 2 item b. He feels the subdivision will have an adverse impact on the neighbors and felt the length of cul-de-sac was waived in the past because the land being divided was raw land and no other homes were in the area. He explained the property owners created their own issue when they cut off the frontage lots with no regard to the rear land. He stated his opinion has no reflection on Gardner & Peterson's work or Mr. Leaska.

Vice Chairman Hogan disagreed with the traffic report. He noted the regulations set the length of cul-de-sac at 1,000' and waiver should not be given if the plan is not what the commission supports.

Commissioner Francis doesn't think the regulations should be amended, stating the maximum length of cul-de-sac should remain 1,000'. Commission Sandberg agreed with Chairman Hoffman and Vice Chairman Hogan.

**MOVED (KELLY) SECONDED (HOGAN) AND PASSED UNANIMOUSLY TO CLOSE PUBLIC HEARING FOR Z202005** – Hastillo Properties, LLC, owner/ TYMAC Holdings, LLC, applicant, request for a Special Permit pursuant to Section 7.9 – Rear Lot Requirements for two rear lots to construct single family homes associated with a seventeen (17) lot resubdivision of 61.56 acres on west side of Tripp Road, APN 023-001-0000, in a RAR (Rural Agricultural/Residential) Zone.

**MOVED (KELLY) SECONDED (SWANSON) AND FAILED TO PASS UNANIMOUSLY TO APPROVE FOR Z202005** – Hastillo Properties, LLC, owner/ TYMAC Holdings, LLC, applicant, request for a Special Permit pursuant to Section 7.9 – Rear Lot Requirements for two rear lots to

construct single family homes associated with a seventeen (17) lot resubdivision of 61.56 acres on west side of Tripp Road, APN 023-001-0000, in a RAR (Rural Agricultural/Residential) Zone.

#### **IV. OLD BUSINESS:**

By consensus, election of officers was taken out of order and placed before adjournment.

1. Election of 2020 PZC Officers.

#### **V. NEW BUSINESS:**

1. Request for thirty day extension for filing of mylars for S202002 – Chilson Realty Company, owner/applicant, for re-subdivision of four parcels, Windermere Avenue and West Road, APN's 019-005-0000, 019-005-0003, 019-005-0004 and 019-005-0005, Commercial (C) Zone and IP (Industrial Park) Zone, originally approved April 27, 2020.

**MOVED (KELLY) SECONDED (SWANSON) AND PASSED UNANIMOUSLY TO GRANT** Request for thirty day extension for filing of mylars for S202002 – Chilson Realty Company, owner/applicant, for re-subdivision of four parcels, Windermere Avenue and West Road, APN's 019-005-0000, 019-005-0003, 019-005-0004 and 019-005-0005, Commercial (C) Zone and IP (Industrial Park) Zone, originally approved April 27, 2020.

2. **BY CONSENSUS, RECEIVED AND SCHEDULED A PUBLIC HEARING FOR SEPTEMBER 28, 2020, 7:00 PM, VIA ZOOM OR PHYSICAL LOCATION AT 57 MAIN STREET, ELLINGTON, CT, WHICHEVER IS APPLICABLE AND IN ACCORDANCE WITH STATE EXECUTIVE ORDERS AND LOCAL RECOMMENDATIONS RELATING TO COVID-19 FOR Z202010** – Todd McCann and Alicia Neville, owner/applicant, Request for Special Permit pursuant to Section 3.1.3 (3) of the Ellington Zoning Regulations for more than 3 cars for a detached garage at 118 Sandy Beach Road, APN 150-041-0000, in a RAR (Rural Agricultural Residential) Zone.
3. **BY CONSENSUS, RECEIVED AND SCHEDULED A PUBLIC HEARING FOR SEPTEMBER 28, 2020, 7:00 PM, VIA ZOOM OR PHYSICAL LOCATION AT 57 MAIN STREET, ELLINGTON, CT, WHICHEVER IS APPLICABLE AND IN ACCORDANCE WITH STATE EXECUTIVE ORDERS AND LOCAL RECOMMENDATIONS RELATING TO COVID-19 FOR Z202011** – Nick Sackandy, owner/applicant, Request for Special Permit pursuant to Section 3.1.3 (3) of the Ellington Zoning Regulations for more than 3 cars for a detached garage at 63 Crane Road, APN 078-003-0004, in a RAR (Rural Agricultural Residential) Zone.
4. **BY CONSENSUS, RECEIVED AND SCHEDULED A PUBLIC HEARING FOR SEPTEMBER 28, 2020, 7:00 PM, VIA ZOOM OR PHYSICAL LOCATION AT 57 MAIN STREET, ELLINGTON, CT, WHICHEVER IS APPLICABLE AND IN ACCORDANCE WITH STATE EXECUTIVE ORDERS AND LOCAL RECOMMENDATIONS RELATING TO COVID-19 FOR Z202012** – Brent Walder, owner/applicant, Request for Special Permit pursuant to Section 3.1.3 (3) of the Ellington Zoning Regulations for more than 3 cars for a detached garage at 50 Kibbe Road, APN 122-014-0000, in a RAR (Rural Agricultural Residential) Zone
5. **BY CONSENSUS, RECEIVED AND SCHEDULED A PUBLIC HEARING FOR SEPTEMBER 28, 2020, 7:00 PM, VIA ZOOM OR PHYSICAL LOCATION AT 57 MAIN STREET, ELLINGTON, CT, WHICHEVER IS APPLICABLE AND IN ACCORDANCE WITH STATE EXECUTIVE ORDERS AND LOCAL RECOMMENDATIONS RELATING TO COVID-19 FOR Z202013** – Laura Gottier, owner/applicant, Request for Special Permit pursuant to Section 3.1.3 (3) of the Ellington Zoning Regulations for more than 3 cars for a detached garage and pursuant to Section 7.7 request for a Special Permit for a Home Occupation at 101 Webster Road, APN 145-006-0001, in a RAR (Rural Agricultural Residential) Zone.

**VI. ADMINISTRATIVE BUSINESS:**

1. Approval of July 27, 2020 Regular Meeting Minutes  
**MOVED (FRANCIS) SECONDED (KELLY) AND PASSED UNANIMOUSLY TO APPROVE JULY 27, 2020 REGULAR MEETING MINUTES AS WRITTEN.**

2. Correspondence:

a. Pursuant to CGS Section 16-15j-40(a), Letter from Pullman & Comley, dated August 5, 2020, pertaining to East Windsor Solar One, LLC petition of Declaratory Ruling for solar project on East Road in East Windsor south of Middle Road and west of Tripp Road.

If the commission wants to provide comment they have through September 9, 2020 to do so. No comment was made.

b. Draft – Revised List of Appraisers

The commission approved the deletion of R.F. Hagearty & Associates from their list of approved appraisers.

c. Ellington Personnel Rules & Regulations – Use of Social Media

d. Review of proposed minor site improvements on town-owned land, Batz property, 97 Shenipsit Street, APN 030-005-0000, Residential (R) Zone.

The commission granted staff the authority to review the proposed improvements as minor site plan modifications.

**IV. OLD BUSINESS:**

1. Election of 2020 PZC Officers

A. Chairman

**MOVED (FRANCIS) SECONDED (KELLY) AND PASSED UNANIMOUSLY TO ELECT COMMISSIONER HOFFMAN FOR CHAIRMAN OF THE PLANNING & ZONING COMMISSION FOR THE YEAR OF 2020.**

B. Secretary

**MOVED (FRANCIS) SECONDED (SWANSON) AND PASSED UNANIMOUSLY TO ELECT COMMISSIONER SANDBERG FOR SECRETARY OF THE PLANNING & ZONING COMMISSION FOR THE YEAR OF 2020.**

C. Vice-Chairman

**BY ROLL CALL VOTE COMMISSIONER KELLY WAS ELECTED FOR VICE CHAIRMAN OF THE PLANNING & ZONING COMMISSION FOR THE YEAR OF 2020 (HOFFMAN, SANDBERG, KELLY, HIRTH, SWANSON AND MOSER FOR KELLY) (HOGAN, FRANCIS AND DURAO FOR HOGAN).**

**VII. ADJOURNMENT:**

**MOVED (FRANCIS) SECONDED (SWANSON) AND PASSED UNANIMOUSLY TO ADJOURN THE PLANNING & ZONING COMMISSION REGULAR MEETING AT 9:08 PM.**

Respectfully submitted,

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Barbra Galovich, Recording Clerk