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By Darlene Brady at 9:11 am, Nov 16, 2022

TOWN OF KENT
PLANNING AND ZONING COMMISSION
41 Kent Green Boulevard, P.O. Box 678, Kent, CT 06757

Regular Meeting Minutes
Planning and Zoning Commission

The Planning and Zoning Commission held a regular meeting on Thursday, November 10, 2022, via zoom beginning at 7:00 p.m.

1. CALL TO ORDER

Chair Wyrick called the meeting to order at 7:00 p.m.

2. ROLL CALL AND APPOINTMENT OF ALTERNATES IF REQUIRED

Commissioners Present: Wes Wyrick, Chairman; David Birnbaum, Karen Casey, Darrell Cherniske, Alice Hicks, Anne McAndrew, Matthew Winter, Adam Manes

Staff Present: Tai Kern, LUA

Matthew Winter was elevated to voting status.

3. READING AND APPROVAL OF MINUTES:

3.A. Regular Meeting Minutes of October 13, 2022.

Mr. Manes moved to approve the Regular Meeting Minutes of October 13, 2022, as presented. Mr. Cherniske seconded and the motion carried unanimously.

4. PUBLIC COMMUNICATIONS (ORAL):

No action taken.

5. OLD BUSINESS:

5.A. PUBLIC HEARINGS (Possibility of closure, discussion and decision on the following):

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5.B. DISCUSSION AND POSSIBLE DECISION

5.B.1. Update on writing of new regulation for Club/Resort, update of Subdivision Regulations, etc.

Chairman Wyrick reported that Glenn Chalder of Planimetrics has come forward with a proposal for the Regulation update requests put forward by the Commission. He noted that Mr. Chalder has been a solid professional for the Town of Kent and the Commission has budgeted for these updates.

Mr. Manes moved to engage with Glenn Chalder of Planimetrics for the proposed Regulation updates. Mr. Birnbaum seconded.

Discussion: Wes Wyrick recommended to add the possibility of wedding venues as part of the discussion regarding the Club/Resort regulation draft. It was agreed that this fits within the normal course of business.

The motion carried unanimously.

6. NEW BUSINESS:

6.A. PUBLIC HEARINGS: (Possibility of closure, discussion and decision on the following):

6.A.1. Formal adoption of the 2022 – 2032 Plan of Conservation and Development.

Chairman Wyrick opened the public hearing. Consultant Glenn Chalder of Planimetrics and POCD Subcommittee Chair Matthew Winter came forward with their presentation of the proposed POCD. Glenn Chalder reviewed a Power Point presentation of the proposed POCD for this public hearing. Mr. Chalder reviewed the statutory requirements for the adoption of the POCD. He noted that the Commission did receive some public comments with regard to the draft POCD and he prepared options for the Commission to address these comments.

Mr. Chalder explained that the proposed changes to the draft addressed the community facilities with regard to social services and senior services. There was a correction to the map, comments about the physical capacity of the facilities and the growing senior population. As well as providing transit for the senior population.

Matthew Winter opened the public hearing to comments from the public:

Diann Kite came forward as the property owner of 390 Kent Cornwall Road noting that she was shocked to see her private home listed as one of the historic sites in Kent in the POCD. She noted that government agencies do not have the authority publicize her private home online or in print. She stated that this was a violation the Constitution and her God given right. She noted that her private property is not the Susan North Homestead and that she has cleared sole ownership at 390 Kent Cornwall Road. She does not want her property included in the POCD.

Glenn Chalder thanked Ms. Kite for participating and noted that the letter from Ms. Kite was received on Monday. He stated that it was not the intention of the Plan to attract or direct anybody particularly to a

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property. He reported that in 2014 this property was added to the State Register of Historic Places and it is only one of ten properties in Kent that received that special designation. He noted that this designation was in place when Ms. Kite purchased this property. He explained that the intent was to simply report what exists in public records.

Mr. Chalder reported that in response to the letter received on 11/7/22 he prepared a document stating several options to address this concern. He stated that the Commission could choose to leave the POCD as written in this respect as the POCD is simply reporting information from the State Register of Historic Places and the Historic Barns of CT where this property is part of their database. The sidebar language could be adjusted from historic destination to historic places because this address is on the State Register of Historic Places. He also reviewed options such as separating out the private properties and noting them as such. He stated that the Commission could choose to remove this one property; however, it would create an incomplete listing.

Mr. Chalder reiterated that this was site has been in the public registry since 2014 and the mention in the POCD was intended to identify and celebrate these places in Kent so people could understand the historic significance as part of the overall landscape of the community. He understands that Ms. Kite might have been surprised that it was in the plan, but the property has been designated since 2014.

Ms. Kite stated that she was not aware that her property was on the listings mentioned, but she noted that this does not mean it has to be included in the POCD. She noted that there are a lot of houses that are old and there is no reason to list hers at all. She does not want her property in the POCD and that is the only course of action for her.

Glenn Chalder also suggested that the addresses could simply be removed from the Plan. Mr. Winter noted that the decision regarding this matter will be determined upon the close of the public hearing.

Jean Speck came forward and noted that there is something implied when the word resource is used and she stated, in her opinion, that she does not see someone's private residence as a public resource.

There were no further comments from the public.

Mr. Birnbaum moved to close the public hearing for the Formal adoption of the 2022 – 2032 Plan of Conservation and Development. Mr. Manes seconded and the motion carried unanimously.

- 6.A.2** Application #s 102-22C and 103-22SP, Emery Wisell, Jr., 7 Pheasant Run Rd. Map 9, Block 22, Lot 76, storage and processing of logs for the sale of firewood as a Major Home Occupation.

Chairman Wyrick opened the public hearing. LUA Tai Kern reported that this matter came to her attention through a complaint. Upon investigation it was found that a firewood processing business has been conducted over the past five years on the property at 7 Pheasant Run Rd. without a permit for a Major Home Occupation. The applicant has stated that he has been processing wood and then selling and delivering it to his clients. He does not have members from the public coming to the residence. Per the Zoning Regulations this activity fits the definition of a Major Home Occupation because it takes place outside the dwelling. Major Home Enterprises are permitted by Special Permit; therefore, this application is before the Commission in an effort by the applicant to come into with the Zoning Regulations.

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Mr. Wisell came forward and explained that he is cutting up firewood on his property for the residents of Kent, his clients, as well as for himself. He noted that he provided a statement of use to the Commission as part of this application describing the nature of the business and a narrative of his operations.

The floor was opened to the members of the public for comment:

Vincent Woloszczuk of 23 Studio Hill Road came forward noting that his is the property adjoining Pheasant Hill. He noted that he had approached Emery Wisell regarding a log pile that he felt was on his property and another pile preventing access to his fence. He also advised to Emery Wisell that he should not be running a commercial operation. Mr. Wisell told him he could do what he wants on his property. Mr. Woloszczuk advised that he contacted Zoning 3 1/2 years ago to report this illegal business and unfortunately nothing was done. He noted that he is not able to enjoy the peace and quiet on his property and is at times forced to work and make phone calls inside his home. Mr. Woloszczuk attempted to share an audio recording of Mr. Wisell's activities; however, no sound was heard by the group. He objects to the noise and dump trucks carrying logs. He asked the Commission to keep Kent a beautiful rural area and deny this application.

David Bain questioned LUA Tai Kern whether this conformed with the Regulations for Home Occupation. LUA Tai Kern explained that the Commission can make that decision as Major Home Occupation can be allowed by Special Permit. She reviewed the Staff Report provided to the Commissioners indicating the criteria the Commissioners would have to examine in order to make their decision. Section 10440 would be reviewed by the Commission to determine if this is a suitable location and additionally Section 10450 allows the Commission to dictate certain conditions; such as hours of operation, if it is determined that what is being proposed is suitable for the area.

Adam Manes elaborated on the Home Occupation process. Debbie Bain came forward in opposition of approving this special permit application noting that this would devalue the homes in the area and change the entire neighborhood facade.

It was confirmed that the notice of public hearing sign and legal notice was posted in compliance with the requirements. The applicant confirmed for Mr. Winter that there was not harvesting of trees occurring on this property. Additionally, it was confirmed that there is no homeowners association associated with this property. The applicant advised for Mr. Birnbaum that he has two Ford 550 dump trucks and one larger 6 wheel that are utilized for hauling the wood. It was confirmed no wood chips are processed on this site.

Christina Woodward came forward and identified herself as the closest neighbor to this property as she shares the driveway with the applicant. She referenced the letter on file she sent in support of this application. She noted that the applicant does not cut wood all the time and there is not traffic coming in and out of the property on a regular basis. She reported that she works everyday from home and this activity is not disturbing. She also confirmed that there is no Association with regard to this property.

Mr. Manes moved to close the public hearing for Application #s 102-22C and 103-22SP, Emery Wisell, Jr., 7 Pheasant Run Rd. Map 9, Block 22, Lot 76, storage and processing of logs for the sale of firewood as a Major Home Occupation. Mr. Birnbaum seconded and the motion carried unanimously.

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6.B. DISCUSSION AND POSSIBLE DECISION

6.B.1. Formal adoption of the 2022 – 2032 Plan of Conservation and Development.

Mr. Winter directed the groups attention to the comment based revisions, a four page supplement provided by Glenn Chalder on file addressing the comments for change by this Commission and Ms. Bachrach.

Glenn Chalder clarified with regard to 390 Kent Cornwall Road that the recognition of cultural resources are traditionally shared as a part of the POCD pulled from the State and Natural Registers. He advised this is a significant process to become part of the Register. It alerts the Town that these properties should receive extra consideration so that these resources are not impacted in an adverse way.

Mr. Winter clarified that this property is already in the public record and probably received some benefit for being listed in that way and the POCD is only regurgitating that information; however, the property clearly does not want the mention in the POCD and it should be removed. He noted that he would not want her decision to dictate the recognition of others who are proud of their recognition by the State and National Registers.

Glenn Chalder suggested a modification noting that these are “some” of the historic resources and the removal of the addresses and map locating the properties. The listing #7 known as 390 Kent Cornwall Road will be deleted in its entirety. The group agreed with this suggestion and an official effective date of the amended POCD of December 31, 2022,

Mr. Birnbaum moved to adopt the 2022 – 2032 Plan of Conservation and Development as amended with the inclusion of the comment based revision document, the removal of 390 Kent Cornwall Road from the list of historic resources, the removal of addresses of other historic resources and associated mapping with an effective date of December 31, 2022. Mr. Manes seconded and the motion carried unanimously.

6.B.2. Application #s 102-22C and 103-22SP, Emery Wisell, Jr., 7 Pheasant Run Rd. Map 9, Block 22, Lot 76, storage and processing of logs for the sale of firewood as a Major Home Occupation.

It was agreed that the members were not prepared to make a decision regarding this matter and they would need to further review the criteria with regard to Special Permits.

Karen Casey noted that noise seems to be the main issue with regard to this request. She stated that this goes on in Kent in a number of places not far from this site. She explained that this opens a big problem with policing such matters if the Commission tries to regulate this. She does not see this as a huge commercial venture. The guy is out in his yard splitting and selling wood and in some way she views this as an agricultural use and only because he is selling it to someone else this has come forward. This is part of country living, just like the chickens, and if it is part of someone’s income it should be addressed expeditiously.

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Mr. Winter moved to table Application #s 102-22C and 103-22SP, Emery Wisell, Jr., 7 Pheasant Run Rd. Map 9, Block 22, Lot 76, storage and processing of logs for the sale of firewood as a Major Home Occupation. Mr. Birnbaum seconded and the motion carried unanimously.

- 6.B.3.** Application #101-22C, Paul Szymanski for John & Mary Cesarz, 324 Kent Hollow Road, Map 17 Block 32 Lot 1, construction of single-family home with portion of pool, pool house, patio, septic and retaining walls located in HorizonLine Conservation District.

Paul Szymanski came forward as agent/engineer for this project. He reviewed the plan to demo the existing dwelling which is within 85 percent of the HorizonLine and replace it with a single family home outside of the HorizonLine. The only activities proposed within the HorizonLine are the leaching fields, septic, retaining walls, patio, small portion of pool and a small pool house in place of an existing shed.

LUA Tai Kern reported that this property was previously before this Commission and received an approval for a similar plan that never came to fruition. This modified plan was created for the new property owners.

Mr. Szymanski reported that no trees will be removed for the construction and noted that the area is all relatively open. Mr. Cherniske noted that this is a great example of a site plan for such a site with relation to the HorizonLine. He reported that he has been on this property and it is mostly meadow.

Mr. Szymanski reported that lighting will be full cut-off in accordance with the Regulations. There may be pool lights within the pool itself.

Mr. Birnbaum moved to approve Application #101-22C, Paul Szymanski for John & Mary Cesarz, 324 Kent Hollow Road, Map 17 Block 32 Lot 1, construction of single-family home with portion of pool, pool house, patio, septic and retaining walls located in HorizonLine Conservation District. Mr. Cherniske seconded and the motion carried unanimously.

7. STAFF REPORT:

LUA Tai Kern reported that a recommendation to fill the open position will be referred to the BOS for their meeting on November 17, 2022. She noted that the Bulls Bridge Golf Club monitoring report for 2021 was received and is available for review by the Commissioners in the Lan Use Office.

It was reported that most of the land use layers have been added to the GIS mapping on qpublic, the Land Use Office has been exploring online permitting options and the hybrid meeting room is expected to be ready in January, which will allow for an in-person meeting option.

8. REPORT OF OFFICERS AND COMMITTEES:

8.A. POCD Subcommittee: Disbandment

Mr. Manes moved to disband the Affordable Housing Subcommittee. Mr. Birnbaum seconded and the motion carried unanimously.

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9. OTHER COMMUNICATIONS AND CORRESPONDENCE:

9.A. Administrative Permits and Certificates of Compliance: October 11- November 7

Confirmed received and reviewed.

9.B. 2023 Regular Meeting Calendar Approval

Mr. Manes moved to accept the 2023 Regular Meeting Calendar. Mr. Birnbaum seconded and the motion carried unanimously.

9.C. Resignation of Member Marc Weingarten

9.C.1. Acceptance of Resignation

Mr. Manes moved accept Marc Weingarten's resignation from the P&Z Commission. Mr. Birnbaum seconded and the motion carried unanimously.

9.C.2. Elevation of Alternate to Regular Member to fulfill the balance of vacant term

Mr. Manes moved to elevate Alternate Matthew Winter to a Regular Member to fulfill the balance of the vacant term created by the resignation of Marc Weingarten. Mr. Cherniske seconded and the motion carried unanimously.

9.C.3. Recommendation for Alternate appointment to the BOS.

Mr. Manes moved table the recommendation for P&Z Alternate appointment to the BOS. Mr. Cherniske seconded and the motion carried unanimously.

9.D. Election of Officers for 2023

Mr. Birnbaum moved to table the Election of Officers. Ms. Casey seconded and the motion carried unanimously.

- 10. EXECUTIVE SESSION: Pending Litigation: The Roberti Family, LLC v Town of Kent, Connecticut and Planning & Zoning Commission of the Town of Kent, Connecticut in the United States District Court for the District of Connecticut filed April 24, 2020. Discussion of strategy and negotiations with legal counsel.**
- 11. EXECUTIVE SESSION: Pending Litigation: Committee to Protect Rural Kent, LLC, Yewer, Dorothy and Yewer, David vs Town of Kent Planning and Zoning Commission, et al in Superior Court, Judicial District of Litchfield at Torrington dated December 21, 2021.**
- 12. EXEUCTIVE SESSION: Pending Litigation: CT Judicial Branch Supreme/Appellate Case, Docket #: AC220015, High Watch Recovery Center, Inc. v. Town of Kent Planning and Zoning Commission.**

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Mr. Manes moved to enter into Executive Session for agenda items 10, 11 and 12 at 9:06 p.m. Mr. Birnbaum seconded and the motion carried unanimously.

The Commission came out of Executive Session at 9:12 p.m.

13. Open session involving discussion and possible action on Pending Litigation: The Roberti Family, LLC v Town of Kent, Connecticut and Planning & Zoning Commission of the Town of Kent, Connecticut in the United States District Court for the District of Connecticut filed April 24, 2020.
14. Open session involving discussion and possible action on Pending Litigation: Committee to Protect Rural Kent, LLC, Yewer, Dorothy and Yewer, David vs Town of Kent Planning and Zoning Commission, et al in Superior Court, Judicial District of Litchfield at Torrington dated December 21, 2021.
15. Open session involving discussion and possible action on Pending Litigation: CT Judicial Branch Supreme/Appellate Case, Docket #: AC220015, High Watch Recovery Center, Inc. v. Town of Kent Planning and Zoning Commission.

Mr. Birnbaum moved to follow the recommendations of the Attorney with regard to the three items of litigation with the Commission. Mr. Manes seconded and the motion carried unanimously.

16. **ADJOURNMENT**

Mr. Birnbaum moved to adjourn at 9:12 p.m. Mr. Winter seconded and the motion carried unanimously.

Respectfully submitted,

Tai Kern

Tai Kern
Land Use Administrator

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