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By Darlene Brady at 12:28 pm, Dec 12, 2022

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

REGULAR MEETING MINUTES

The Planning and Zoning Commission held a regular meeting on Thursday, December 8, 2022, via zoom beginning at 7:00 p.m.

1. CALL TO ORDER

Mr. Wyrick called the meeting to order at 7:01 p.m.

2. ROLL CALL AND APPOINTMENT OF ALTERNATES IF REQUIRED

Commissioners Present: Wes Wyrick, Chairman, David Birnbaum, Karen Casey, Alice Hicks, Adam Manes, Matt Winter

Staff Present: Tai Kern, LUA
Donna Hayes, ALUA

3. READING AND APPROVAL OF MINUTES:

3.A. Regular Meeting Minutes of November 10, 2022.

Mr. Manes moved to approve the Regular Meeting Minutes of November 10, 2022, as presented. Mr. Winter 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):

No action taken.

5.B. DISCUSSION AND POSSIBLE DECISION

5.B.1. 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.

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Mr. Wyrick began the discussion by saying that if the subject property was on a lot of 20 acres well off the road, he would have a different opinion. He continued that he understands people need to make a living and asked for other feedback from the Commission. Mr. Winter expressed concerns about whether or not this fit within the major home occupation designation and after some thought, he does agree that the Commission should consider it. He would also like to explore the definition of agricultural and see if it fits. Mr. Birnbaum said that he did not think so because there is no production on the land and, therefore, believes that it does fall under the home occupation. Mr. Manes agreed and said that he feels it's an industrial use and falls within the home occupation definition.

Mr. Wyrick said that there were a lot of conditions to look at such as the impact to the neighborhood. Due to the size of the lots and the configuration of the neighborhood, he believes that the noise from the cutting of the lumber could be a detriment. Mr. Winter agreed with Mr. Wyrick and also agreed that it does not fit under "agriculture" and should be considered a special permit under sections 10400 and 10300 and decide whether or not the application fits within the criteria. Mr. Birnbaum said that he believes that it is an intensive activity over a few hours here and there. He wished that the lot was larger and suggested that conditions be applied to a limited size and hours of operation. Mr. Birnbaum said that he thought it might be a good idea to consider future regulations.

Mr. Winter referred the Commission to Section 10300, and supplemental conditions at 10300.5. He continued that he believes that it does fit within the POCD; the emergency services requirement; there will be no outdoor lighting; no outdoor storage facilities but maybe there should be; there are no signs and there should not be any; traffic was addressed by the applicant and it does not seem to be an issue; silt fencing was not present; no screening was present; and there was no noise control.

Ms. Casey said that her original concerns are how to manage all the other dozen or so people in town who are doing this. The other concern is all about noise. Ms. Casey said that this is a rural activity that is normal for this area and would hate to see this activity go away. Ms. Casey suggested that permission be granted with limited hours of operation. Mr. Winter suggested that the applications be approved with conditions like noise, hours of operations, screening and erosion control. Mr. Wyrick agreed that this is a rural type of use and there is a large demand and that limiting the hours, limiting noise or time duration is somewhat of a compromise.

Ms. Casey suggested the installation of screening behind the log piles, which would deflect the noise heard by the neighbor. Mr. Birnbaum suggested a 6' solid wood fence screening from the road and neighbor. Mr. Winter suggested allowing the running of the processor from 8 to 5, Tuesday, Wednesday and Thursday and that the dropping off of logs could be done whenever. During discussion it was decided that there should be a visual barrier; fencing/screening to mitigate the noise and the impact to the neighbor. There should be fencing on the road side and the property line to the south along with visual screening where the log pile is. Mr. Wyrick said that it was important to establish setbacks on the site plan along the rear and sides of the property. Mr. Birnbaum asked that the language not call out the "processor", but rather ongoing noise and major impact of loud work. Mr. Winter suggested that a physical barrier, not higher than 6', be installed along the south/southeast and north/northwest to screen the stockpiles. Mr. Birnbaum and Mr. Wyrick agreed.

At the end of the discussion, it was decided that Ms. Kern create a Resolution of Approval containing all the conditions noted by the Commission for review at the next regular meeting.

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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 to the next regular meeting. Mr. Manes seconded and the motion carried unanimously.

6. NEW BUSINESS:

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

6.A.1. EV Charging Regulation.

Mr. Wyrick read the legal notice into the record and the public hearing was opened at 8:25 p.m.

Mr. Wyrick asked for comments from the public and Mr. Woloszczuk questioned the definition of an electrical vehicle. A golf cart and a hybrid can fall within this definition. Mr. Wyrick said that it is not the intent to include golf carts. Mr. Manes said that golf carts cannot be driven on public roads and Mr. Birnbaum said that it does say “motor vehicle”.

Mr. Robertson said that it is very important that the Town take action on this item since there is funding that is available and feels that it is very important to the Town in general.

Mr. Wyrick said that the Commission has gone through this regulation on multiple occasions and with no further comments from the public, asked for a motion to close the public hearing.

Mr. Birnbaum moved to close the public hearing at 8:29 p.m. Mr. Manes seconded and the motion carried unanimously.

6.B. DISCUSSION AND POSSIBLE DECISION

6.B.1. Adoption of EV Charging Regulation.

Mr. Wyrick said that he was concerned about Item #2 but he feels that it does define it and is fine with the wording. Mr. Winter agreed with Mr. Wyrick. He continued that he would have liked to have seen “installed” but this was what the Commission had asked of Mr. Chalder.

Mr. Manes moved to accept the new Kent Zoning Regulation #8280, Electric Vehicle Charging dated October 20, 2022. Mr. Birnbaum seconded and the motion carried unanimously.

6.B.2 Recommendation for Alternate appointment to the BOS.

Mr. Wyrick said that Mr. Manes had suggested Mr. Christopher Harrington as a possible candidate for the open alternate position. Mr. Manes said that Mr. Harrington owns South 7 Electric and has lived in the Town for many years. Mr. Manes said that Mr. Harrington has agreed to serve as an alternate if the Commission so moved.

Ms. Hicks said that she believes that the Commission is stronger when it has more diversity and suggested that they look for people with differing backgrounds and different beliefs. Mr. Wyrick said that this is something to bring up at another meeting because there might be another opening. Mr. Manes stressed the

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point that the Commission needs alternates that come to the meetings and he agreed with Ms. Hicks. Ms. Casey agreed with Ms. Hicks and said that she would like to take some time to think about other nominations. Mr. Winter agreed that diversity is really important. He continued that Mr. Harrington would be an asset since he is deliberative.

It was decided that the Commission members think about other recommendations to be presented at the next meeting.

Mr. Manes moved to table recommendation for alternate appointments to the BOS until the next month. Mr. Winter seconded and the motion carried unanimously.

6.B.3. Election of Officers for 2023

Mr. Wyrick said that he enjoyed his tenure as Chairman and feels that it has energized him as a Commissioner, but would like to pass the position back to Mr. Winter. He continued that he would like to remain as Vice Chair at the will of the Commission.

Mr. Wyrick nominated Mr. Winter as Chairman. Mr. Manes seconded.

Mr. Winter said that he thinks he can do a good job because he understands the regulations, Robert's Rules and can run a good meeting. He continued that he is not sure he is the right person for the Chairmanship because he has a tendency to reach a conclusion and has strong opinions.

Mr. Manes nominated Mr. Wyrick as Vice Chair. Mr. Birnbaum seconded.

It was noted that the recent resignation of Mr. Weingarten left the Commission without a Secretary/Treasurer. Mr. Manes said that he would be happy to do it again.

Mr. Wyrick nominated Mr. Manes as Treasurer/Secretary. Mr. Birnbaum seconded.

Mr. Manes moved to elect the slate as presented. Mr. Birnbaum seconded and the motion carried unanimously.

6.B.4. By Laws – Annual Review and Approval

Mr. Wyrick said that he did not think there was any need to change the existing By-Laws. Mr. Birnbaum asked if this is where language about an alternate's non-attendance should be included and suggested that the Commission think about it over the coming year.

Mr. Birnbaum moved to accept the current By-Laws as written. Mr. Manes seconded and the motion carried unanimously

7. STAFF REPORT

Ms. Kern reported that the office has not been very active due to the upcoming holidays and the recent changes to the economy. She informed the Commission that the final version of POCD is on the Town's website with the links and that while it is on the website, it is not effective until 12/31/2022. She asked the

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Commission to check it out and get back to her with any questions/concerns. Ms. Kern said that she plans on printing only 25 copies in order to keep the cost down.

8. REPORT OF OFFICERS AND COMMITTEES

There was no report from the Officers and there currently are no committees.

9. OTHER COMMUNICATIONS AND CORRESPONDENCE:

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

The document was received by the Commission and there were no comments.

9.B. CT Federation of P& Z Quarterly Newsletter Fall 2022

The document was received by the Commission and there were no comments.

9.C. Budget July – October 2022

The document was received and there were no comments.

9.D. POCD - Implementation Tables

Mr. Winter said that he thinks that it is a great roadmap to keep the Commission, as well as the rest of the Town, on task.

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. EXECUTIVE SESSION: Pending Litigation: CT Judicial Branch Supreme/Appellate Case, Docket #: AC220015, High Watch Recovery Center, Inc. v. Town of Kent Planning and Zoning Commission.

Ms. Kern reported that there was nothing new to discuss so the Commission did not enter into Executive Session for agenda items 10, 11 and 12.

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

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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.

Since the Commission did not enter into Executive Session, there was no open session discussions on agenda items 13, 14 and 15.

Mr. Birnbaum informed the Commission that he was moving out of state and would no longer be able to be a member of the Commission. He said that he learned an enormous amount during his tenure and has always been impressed by the dedication the Commission members have given to each application and topic that comes before them. Mr. Wyrick thanked him for his dedication to the Commission.

16. **ADJOURNMENT**

Mr. Manes moved to adjourn at 9:02 p.m. Mr. Birnbaum seconded the motion carried unanimously.

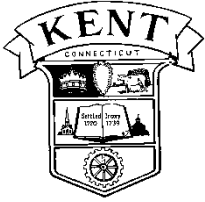
Respectfully submitted,

Donna M. Hayes

Donna M. Hayes, CZEO
Assistant Land Use Administrator

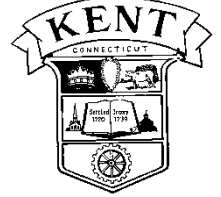
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**41 Kent Green Boulevard
P.O. Box 678
Kent, CT 06757
Phone (860)927-4625 Fax (860)927-4541**



BY LAWS KENT PLANNING AND ZONING COMMISSION

ARTICLE I Authority

These Bylaws have been adopted in accordance with the powers vested in the Planning and Zoning Commission of the Town of Kent by the Connecticut General Statutes, including but not limited to Chapters 124 (Zoning) and 126 (Planning), and by Section 11-1 of the Code of the Ordinances of the Town of Kent, Connecticut.

ARTICLE II Name

The Commission shall be known as the Kent Planning and Zoning Commission.

ARTICLE III Office of the Agency

The office of the Kent Planning and Zoning Commission shall be at Town Hall where all Commission records will be kept. Copies of all official documents, records, maps, etc., will be filed or recorded in the Town Hall.

ARTICLE IV Membership

The membership and terms of office shall be as specified in Section 11-1 of the Code of the Ordinances of the Town of Kent, Connecticut, as it may be amended, or as may otherwise be required by the Connecticut General Statutes.

ARTICLE V Officers and Their Duties

Section 1. The officers of the Commission shall consist of a Chairperson, Vice-Chairperson, a Secretary and a Treasurer. The Chairperson and Vice-Chairperson must both be regular members of the Commission. The Secretary and Treasurer may be regular or alternate members of the Commission, provided that an alternate member's service as Secretary or Treasurer shall not entitle such alternate to vote at any meeting unless such alternate has been properly seated in place of a regular member.

Section 2. The Chairperson shall preside at all meetings and hearings of the Commission and shall have duties normally conferred by parliamentary usage in such offices. The Chairperson can delegate those responsibilities to a seated member or alternate. The Chairperson shall have the authority to assume the enforcement powers of the Zoning Enforcement Officer (“ZEO”) in the event the ZEO is ill, on vacation, away from the office, or otherwise unable to act, or if the office of ZEO is vacant. The Chairperson shall have the authority to certify expenditures of funds of up to \$100.00, or of up to \$300.00 for public notices, without prior approval of the Commission. The Chairperson shall also have the authority to call special meetings, appoint committees, and generally perform other duties as may be prescribed in these bylaws. The Chairperson shall have the privilege of discussing all matters before the Commission and of voting thereon.

Section 3. The Vice-Chairperson shall have the authority to act in place of the Chairperson when the latter is ill, on vacation, away from the town, or otherwise unable to act, or when the office of Chairperson is vacant.

Section 4. The Secretary shall have the official duty of taking the minutes of Commission meetings, maintaining the minutes and records of the Commission, and such other duties as may be prescribed in these Bylaws. The Commission may also retain a Clerk or other administrative staff to handle some or all of these duties. The Commission must review and approve all official minutes of the Commission. Such review and approval shall ordinarily take place at the next regular or special Commission meeting following the meeting at which such minutes were taken.

Section 5. The Treasurer shall annually propose a budget for the Commission to submit to the Board of Selectmen as part of the Town’s annual budget process each year. The Treasurer shall also receive and present all bills to the Commission, and shall keep records of the available and expended funds and report on same to the Commission. The Commission may delegate some or all of these responsibilities to the ZEO or other administrative staff.

Section 6. A Commission member may serve simultaneously as Secretary and Treasurer of the Commission.

ARTICLE VI **Election of Officers**

Section 1. An annual organizational meeting shall be held on the second Thursday of December or at the next regularly scheduled meeting of the Commission following a general Town election, whichever occurs later, at which time officers will be elected and bylaws reviewed and made a part of the minutes of the annual meeting. At least 5 members or alternates must be present before election of officers can take place.

Section 2. Nominations shall be made from the floor at the annual organizational meetings and elections of the officers specified in Section 1 of Article V shall follow immediately thereafter.

Section 3. A candidate receiving at least four votes from members or properly seated alternates shall be declared elected and shall serve for one year or until a successor shall take office.

Section 4. If any office becomes vacant through death or resignation before the term of that office was scheduled to expire under Article VI, Section 3, the Commission shall elect another regular or alternate

member, as may be allowed under Article V, to fill that vacancy at the next regular meeting of the Commission following the occurrence of such vacancy.

Section 5. Resignations from the Commission shall be in written form and transmitted to the Chairperson, who will then forward same to the First Selectman.

ARTICLE VII

Meetings

Section 1. A regular Planning and Zoning meeting will be held on the second Thursday of each month at 7:00 p.m. at the Town Hall or via Zoom. In the event of conflict with a holiday, the meeting will be advanced to the next business day unless an alternative date is chosen by a vote of at least four regular members or properly seated alternates. The Commission may change the date of or cancel any regular meeting by a vote of at least four regular members or properly seated alternates, provided that notice of such change or cancellation is provided in accordance with applicable provisions of state law. The Commission may schedule special meetings upon the vote of a majority of a quorum of members or alternates present at any meeting. The Chairperson shall also be authorized to schedule special meetings when he or she determines that any matter requires the Commission's attention and possible vote prior to the next scheduled Commission meeting. The Secretary shall notify the membership of any special meetings no less than 48 hours in advance of such meeting. For purposes of this section, a rescheduled regular meeting shall be deemed to be, and shall be handled as, a special meeting.

Section 2. In the event that the Chairperson and Vice-Chairperson are both ill, away from the town, or otherwise unable to fulfill the duties of their respective offices, or if both offices are vacant, a special meeting of the Commission may be called by any three of the remaining regular members. In the event that both the Chairperson and the Vice-Chairperson are absent from any regular or special meeting of the Commission, but a quorum is otherwise present, the remaining members and properly seated alternates may choose any other member or properly seated alternate to act as presiding officer at such meeting. If the Chairperson or Vice-Chairperson arrives at such meeting at a later time, he or she shall assume the powers and duties of the presiding officer only upon the conclusion of the particular item of business that was under discussion at the time of his or her arrival.

Section 3. The presence of any four regular or alternate members at any meeting shall constitute a quorum, and a minimum of four votes shall necessary to transact business, unless a greater number is required by these Bylaws, by any lawful regulation adopted by the Commission, or by any applicable state law.

Section 4. All Commission meetings shall be open to the public except when the Commission votes to enter an executive session in accordance with the applicable provisions of state law.

Section 5. Unless otherwise specified, the Commission shall transact business in accordance with Robert's Rules of Order.

ARTICLE VIII

Order of Business at Meetings

Section 1. The order of business at regular meetings shall be:

1. Call to order.
2. Roll call and appointment of alternates if required.
3. Reading and approval of minutes of previous meetings and/or hearings.

4. Public communications from those in attendance not related to old or new business.
5. Old business.
6. New business.
 - a. Applications requiring Commission action.
 - b. Subdivisions, site plans, etc.
 - c. Other new business.
 - d. Review of administrative permits issued.
7. Reports of Officers and Committees.
8. Other communications and correspondence.
9. Adjournment

Section 2. At any regular meeting, the Commission may, by majority vote of a quorum, change the order of business as otherwise specified in Article VIII, Section 1, or eliminate any item of business specified in that section.

ARTICLE IX

Hearings

Section 1. The Commission may hold public hearings, in addition to required hearings, when it decides that such hearings will be in the public interest, provided that no nonrequired public hearing shall change any deadline for making any decision as may be specified by state law.

Section 2. All public hearings required by state law shall be held in accordance with the procedures and timetables established thereunder.

Section 3. When a matter requiring the Commission's decision is presented at any public hearing, the presiding officer shall begin the hearing by offering a summary of the nature of the matter, or by calling upon another member, a staff person, or a representative of the person seeking such decision (e.g., an applicant for a permit or approval), to provide such a summary.

Section 4. The Commission's Secretary or Clerk shall take notes and the evidence shall be recorded by a sound recording device at each hearing before the Commission in which the right to appeal lies to Superior Court. Proceedings of the hearing shall be incorporated into the official minutes of the Commission.

Section 5. All questions and comments must be directed through the presiding officer. Persons shall be allowed to speak only after being properly recognized by the presiding officer.

Section 6. All persons recognized shall approach the hearing table in order to facilitate proper recording of comments where necessary. Before commenting on the matter before the hearing each person shall be asked to give his name and address.

Section 7. The presiding officer shall assure an orderly hearing and shall take necessary steps to maintain the order and decorum of the hearing at all times. The presiding officer shall reserve the right to terminate the hearing in the event the discussion becomes unruly and unmanageable.

Section 8. A show of hands by those persons attending any public hearing present shall not be allowed on any question presented. The hearing shall be conducted only for the purpose of taking evidence to be considered by the Commission in deciding upon any matter presented. The Commission shall decide all

matters in accordance with the standards and criteria established for such matter under state law and the Commission's applicable regulations.

ARTICLE X **Employees**

Section 1. Within the limits of the funds available for its use, the Commission may employ such staff personnel and/or consultants as it sees fit to aid the Commission in its work. Appointments shall be made by a majority vote of the entire membership. The Chairperson may be authorized to sign contracts for employing personnel and contracting for planning services as might be approved by the Commission.

Section 2. The Secretary or Clerk shall take the minutes of all regular and special meetings and shall mail copies of such to all members in time to be received by the next meeting. The Secretary or Clerk shall file copies of the minutes with the Town Clerk in accordance with state law. In the event any Clerk appointed by the Commission is not available, a temporary clerk may be appointed by the Chairperson to fill in.

Section 3. The Land Use Office shall prepare the agenda of regular and special meetings and provide notice to the Town Clerk 48 hours in advance of regular meeting or 24 hours for special meetings. The Land Use Office shall arrange proper and legal notice of hearings, attend to correspondence of the Commission and such other duties as are normally carried out by a Land Use Office.

ARTICLE XI **Committees**

Section 1. Standing or special committees may be appointed by the Chairperson for purposes and terms which the Commission approves.

ARTICLE XII **Freedom of Information**

Section 1. The Commission shall comply with all applicable provisions of the Freedom of Information Act, Connecticut General Statutes Chapter 14, as it may be amended.

ARTICLE XIII **Amendments**

These Bylaws may be amended by a vote of no fewer than five voting members or properly seated alternates, only after the proposed change has been read and discussed at a previous regular meeting, except that the Bylaws may be changed at any meeting by the unanimous vote of the entire voting membership of the Commission (e.g., seven regular members or properly seated alternates).

APPROVED DECEMBER 8, 2022