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**TOWN OF EAST HAVEN
PLANNING AND ZONING COMMISSION
MINUTES OF THE REGULAR MEETING
HELD ON WEDNESDAY, NOVEMBER 3, 2021
AT EAST HAVEN SENIOR CENTER, 91 TAYLOR AVENUE**

PLEASE NOTE: The minutes contained herein have not been approved or accepted by the subject agency and are not intended to be a full transcript of the agency's proceedings. Therefore, the minutes may contain errors or omissions as to form or substance. Subsequent filed minutes of the agency should be reviewed to confirm the agency's approval/acceptance of the content of these minutes. A recording of the agency's proceedings may also be available for review.

Chairman William DeMayo called the regular meeting to order at 7:06 p.m.

The Pledge of Allegiance.

I. Roll Call

Sotonye Otunba-Payne, Clerk, called the roll for the Commission as follows:

John Tarducci - Present

Marlene Asid - Present

William DeMayo - Present

Robert Cubelotti - Present

Louis Fusco - Alternate - Present and sitting.

There was a quorum.

The following were in attendance:

Mr. Jonathan Bodwell - Town Engineer

Joseph Budrow – Planning and Zoning Administrator and Zoning Enforcement Officer

Attorney Jennifer Coppola - Counsel to the Commission

Mr. DeMayo stated that the applications would be called as they had been posted. All will be given an opportunity to speak. However, should the remarks become repetitive, the Commission reserves the right to time limits.

II. Review and Action on Prior Meeting Minutes

1. Minutes of the October 6, 2021 Regular Meeting

Mr. DeMayo indicated the Commission had just received the minutes and would like to defer approval until the Commission's next meeting.

Ms. Asid motioned to defer approval of the October 6, 2021 Regular Meeting Minutes to the December Meeting. Said motion was seconded by Mr. Cubelotti. The motion passed unanimously.

III. Public Hearings

No public hearings were scheduled.

IV. Discussion of and Action on 2022 Schedule of Meetings

There were discussions about having hybrid meetings in the future and during inclement weather. Attorney Coppola indicated that if the Town is shut down, the meetings should be canceled. The notice of cancellation would be posted on the Town's website.

Attorney Coppola indicated that future public hearings need not necessarily be in the high school auditorium. They could look for a smaller space with better acoustics.

Attorney Coppola indicated that the Freedom of Information Act was changed with the last legislative session. And the Commission members can always attend remotely. So, the Legislature did incorporate that into the law. The same is not true of the public. If it is an in-person meeting, the public have to attend in person. The public does not have a remote option for an in-person meeting.

Mr. Tarducci motioned to accept the Meetings Schedule for 2022 as written. Said motion was seconded by Ms. Asid. The motion passed unanimously.

V. Executive Session

1. Discussion the status for the pending litigation of Autumn View, LLC, et al. v. Town of East Haven Planning and Zoning Commission (Docket No. NNH-CV16-6061972-S), and possible action relating to same.
2. Consider whether to convene in executive session to discuss the status of the pending litigation of Autumn View, LLC, et al. v. Town of East Haven Planning and Zoning Commission (Docket No. NNH-CV16-6061972-S).

Ms. Asid motioned to go into executive session for the Autumn View Items 1 and 2 with the Commission, Attorney Coppola, Mr. Bodwell, and Mr. Budrow. Said motion was seconded by Mr. Tarducci. The motion passed unanimously.

The Commission entered Executive Session at 7:31 p.m.

Mr. Cubellotti motioned to go out of the Executive Session. Mr. Tarducci seconded. The motion passed unanimously.

The Commission exited Executive Session and returned to public session at 7:48 p.m.

VI. New Applications

1. **Application No. 21-15** - on behalf of the East Haven Planning and Zoning Commission. A Petition for a text amendment to the East Haven Zoning Regulations to add a six-month Moratorium for receiving any land use applications related to all Connecticut-licensed uses involving cannabis.

Attorney Coppola indicated that the Commission had a draft of the moratorium regarding cannabis which is long. The question of where to put it in the East Haven Regulations is an issue. There are no meetings scheduled for December. She asked if the commission would like to have a special meeting in December to address the issue of the moratorium in addition to 133 Commerce Street which would be before the Inland Wetlands Commission on November 10, 2021. The Commission had indicated to the applicant that it would accommodate them once they got approval from the Inland Wetlands Commission.

There were discussions about what the start and end dates for the moratorium would be as the moratorium would last for six months.

Attorney Coppola indicated that public hearing regarding the proposed cannabis moratorium is necessary.

Attorney Coppola suggested that the language regarding the moratorium should be put right at the start of the Zoning Regulations in the General Provisions called "Moratoria." So, Section 5 called Moratoria. The Commission indicated that they were fine with the Attorney Coppola's suggestion.

Attorney Coppola asked if the Commission would like to hear from anyone in the business during the course or process because there have been offers made by a couple of the folks. They could be invited on a particular night to speak about this.

Mr. Budrow indicated that the Town had heard from a retailer, a grower, and a palliative distribution person.

Attorney Coppola indicated that it could be part of the education of the Commission and public on cannabis.

Mr. Fusco motioned that a special meeting be scheduled on December 1, 2021. Said motioned was seconded by Mr. Cubelotti. The motion passed unanimously.

Ms. Asid motioned to schedule a public hearing on Application No. 21-15, a petition for a text amendment to the East Haven Zoning Regulations to add a six-month Moratorium regarding cannabis use in East Haven, for the Commission's December 1, 2021 special meeting. Said motion was seconded by Mr. Fusco. The motioned carried unanimously.

2. **Application No. 21-16 - on behalf of 198 Commerce Street Association, LLC, c/o Thomas Hennessey, 198 Commerce Street, East Haven.** An application for a Site Plan Review to add a 12,800 square foot addition to an existing commercial building with accessory improvements.

Mr. Jim Pretti, Criscuolo Engineering in Branford, indicated that the applicant wants to expand the facility in order to store more field trucks indoors. The field trucks cannot be kept outside. The Town Engineer, Mr. Bodwell, was satisfied with the plan. He also indicated that in response to the ZEO/Mr. Budrow's comments, they had addressed erosion controls, etc.

Mr. DeMayo asked about traffic. Mr. Pretti responded by saying that the trucks would be leaving in the mornings. Traffic would not be an all-day event from the location.

Mr. DeMayo asked about the number of added trucks as a result of the planned expansion. Mr. Pretti indicated he was not sure but about a dozen additional trucks could fit in the space.

Ms. Asid asked Mr. Bodwell and Mr. Budrow if they were satisfied. They both indicated yes.

Mr. Tarducci asked about the wetlands. Mr. Bodwell stated it was not necessary. He indicated he is the enforcement officer for the Inland Wetlands Commission.

Mr. Fusco asked if the fields trucks would be loaded. Mr. Pretti responded by saying that the trucks are generally empty. Mr. DeMayo asked where the trucks would be filled up. Mr. Pretti responded by saying that the trucks go to a terminal to fill up.

Mr. Budrow asked Mr. Pretti if there were any impacts on coastal resources. Mr. Pretti responded by saying there are no impacts on coastal resources, and this has no proximity to any coastal resources.

3. **Application No. 21-17** – on behalf of 198 Commerce Street Association LLC, c/o Thomas Hennessey, 198 Commerce Street, East Haven. An application for a Coastal Area Management Site Plan Review to add a 12,800 square foot addition to an existing commercial building with accessory improvements.

The Commission would note what Mr. Budrow had asked and said previously regarding coastal resources not being impacted.

4. **Application No. 21-18** – on behalf of Richard Rose, 529 Main Street, East Haven. An application for a Site Plan Review to open a restaurant called “Radcliff’s Sports Bar and Grille.”

Mr. Richard Rose indicated that he resided at 174 Homeside Avenue, West Haven, 06516.

Mr. DeMayo indicated that Mr. Rose should present his application relating to the use of the space, the hours, etc.

Mr. Rose indicated that they would like to open a restaurant. They would be hiring people to work at the restaurant. They plan to give back to the community they work in. The hours of operation would be from 11 a.m. to 1:00 a.m. on Mondays to Saturdays and 11 a.m. to 11 p.m. on Sundays. They expect to have between 6 to 10 employees. As the business grows, they may hire more people. They want a waiver to not require an A-2 survey because they feel that the change of use is very minor from a café to a restaurant with a new kitchen.

Mr. DeMayo asked about the seating capacity. Mr. Rose responded by saying up to 150 people. They only intend to seat about 50 to 60 people.

Mr. Budrow indicated that there is a difference between what Mr. Rose envisions and the Fire Code. They are two different things. So, he’s indicating 50 to 60 seats which would include prior seats.

Attorney Coppola indicated that the floor plan showed 58 seats.

Mr. DeMayo asked if they were planning on having entertainment. Mr. Rose indicated that they would have TVs for sporting events and the like.

Mr. DeMayo asked if there would be live entertainment. Mr. Rose indicated the live entertainment would be things like karaoke.

Mr. Fusco asked which liquor license Mr. Rose had applied for as there are series of different licenses depending on whether there is live entertainment or not. Mr. Rose responded that it would only be karaoke. Mr. Rose indicated that his partner would be applying for the liquor license. Mr. Budrow indicated that he believed it's called an on-premises liquor license.

Mr. Fusco indicated that the liquor license indicated by Mr. Budrow would not allow live entertainment.

Mr. Budrow indicated that he would have to sign the permit as well and would look at the license.

Mr. Rose indicated that the restaurant will be family friendly. It is not for adults only.

Mr. DeMayo asked about the food. Mr. Rose would call it fast food.

Mr. Fusco indicated calling it a restaurant does not indicate what it is. It could be a bar or a club, tavern. Mr. Rose indicated that he did not want to call it a bar. The menu is dictated by the kitchen they have. Mr. Rose hopes folks could come and watch sports games.

Mr. Budrow indicated that restaurant is a broad term. Within the umbrella of restaurant, there could be a bar, tavern, bar and grille. The menu does explain the character that they are going for.

Mr. Rose was asked if he had been in the business before. Mr. Rose indicated that he had not. This is one of his first ventures in this business. He indicated he does home improvements for a living. He indicated two of his partners had been in the business previously. There are four of them hoping to open this restaurant.

Mr. Cubellotti asked about the number of parking spaces given there would be about 6 to 10 employees. Mr. Rose indicated he did not know.

Mr. Budrow indicated that there was between 12 and 15 spaces right against the east wall. This property has no file in the Zoning Department. They know it was a café going to this use, a very minor change. They could work a parking agreement with their neighbors. Given 58 seats, is it enough to have 15 spaces? He is not saying the 15 spaces are what this premises has.

Mr. Cubelotti indicated that since they do not have enough information about the parking spaces, he was of the thinking that an A-2 survey is necessary in order to obviate any problems later on, and for safety reasons.

Mr. Budrow suggested that the A-2 survey could be done later.

Mr. Cubelotti indicated that the café that was there had traffic going in and out. This sounds more upscale than what was there before. We need protection for all.

Attorney Coppola indicated that this could be continued to next month so Mr. Rose could be given the opportunity to figure out what his parking plan is. What was conveyed by Mr. Rose was 6 to 10 employees and 58 seats. Given the nature of the establishment there would be pool tables, throwing darts, etc. Mr. Rose has to ensure that there is a suitable parking plan. The applicants have a bit of work to do. The application is not complete without the parking plan knowing what the Commission has done regarding such other applications in the past. She and the Town staff will offer guidance to the applicant.

Mr. Rose asked what the timeframe would be for the Commission's approval as that they had already signed a lease. The landlady had given them until December to open up the place. Rent would be due and owing.

Mr. Cubelotti indicated that he would like something from the Fire Marshal regarding the capacity of the space.

Ms. Asid asked for the number of parking spaces required, given the capacity of 58 seats, for the proposed new establishment. Attorney Coppola indicated that for restaurants and bars it is two spaces per 75 square feet of patron floor area.

Mr. Budrow indicated that it looked like the floor area for patrons is about 1100 square feet which equals 15 spaces per East Haven Zoning Regulations. Mr. Budrow indicated he's close. Twenty spaces are ideal.

It was indicated that there is no street parking.

Mr. DeMayo indicated that the Commission needed a more detailed plan. The plan is ambitious. They need more details.

Ms. Asid called for comments from Mr. Bodwell. Mr. Bodwell indicated that an A-2 survey was not necessary. Mr. Rose could get the plan to show Mr. Budrow and himself what they have for parking.

After further discussions, Mr. Budrow indicated to Mr. Rose return at the December meeting with a better drawing to scale and he and Mr. Bodwell would look at it.

Attorney Coppola read Zoning Regulations 42.2, **PARKING SPACE STANDARDS**: Off-street parking standards shall be provided in accordance with the following *minimum standards*: 42.2.1, Parking spaces *must* be located on the same lot as the use it serves unless the Commission approves parking on another lot as part of a **site plan** and/or **special exception** approval.

Ms. Asid indicated they do not want to discourage Mr. Rose, but all should do their due diligence. They would like to work with him.

Mr. DeMayo suggested Mr. Rose work with Mr. Budrow. Mr. Rose indicated he would.

VII. Other Business

1. **Application No. 21-13 - on behalf of A & G Developments, LLC, 133 Commerce Street.** An application for a modification to Site Plan Application No. 21-12 to allow for the expansion of an existing commercial building and other on-site improvements such as paving and drainage improvements.

Mr. Bodwell indicated that this would be heard before the Inland Wetlands Commission on November 10, 2021.

Ms. Asid motioned that this application be continued to the December 1, 2021, special meeting. Said motion was seconded by Mr. Fusco. The motion passed unanimously.

VIII. Deliberations Session

1. Discussion and possible vote on **Application No. 21-07 - Autumn View, LLC, Vicki Imperato and Statewide Construction, LLC, Applicant.**

Attorney Coppola indicated this matter had commenced at the June 2, 2021 meeting during which Mr. Cubelotti and Mr. Fusco were not present. She asked Mr. Cubelotti if he had reviewed the June 2, 2021 records including the recording. Mr. Cubelotti indicated that he had. Attorney Coppola indicated that he could sit in during deliberations, but Mr. Fusco could not.

Attorney Coppola stated the history of this application.

Mr. Budrow indicated all knew history of the application. The applicant has indicated that should this be approved, at some point everything in the past will be off the table and no longer be in existence. So, in the end it would be a development with 69 homes on a single parcel.

Mr. DeMayo indicated that they had spent a lot of time on this application. The Commission has had no communication with them. They do not even show up to come to meetings. The Commission is dealing with this on a blind basis.

Ms. Asid indicated that the applicant wants approval on an application where their input is lacking and have not, therefore, afforded the Commission the ability to have public hearings and public comments.

Attorney Coppola indicated that the Commission was talking about the proposed stipulated judgment which is not before the Commission to be decided at this time. What is before the Commission for decision is the text amendment. It was received at the May 5, 2021 meeting at the High School. It was scheduled for the June 2, 2021 meeting for a public hearing because it is a text amendment. They did proceed on June 2nd. There were members of the public who offered comments both in person and on Zoom. The continuation of the public hearing occurred a couple of times. The applicant and counsel were not present at the Commission's September meeting. The Commission closed the public hearing on the text amendment that was accepted by the Commission and scheduled for public hearing at the Commission's May meeting. What concerns the Commission tonight is the text amendment as proposed without any proposed changes that were made on the Commission's behalf. That's not in issue. What's in issue is the text amendment as proposed.

Mr. DeMayo asked if the Commission asked for any modifications of the text amendment. Mr. Budrow responded by saying the Commission definitely did.

Attorney Coppola indicated that the Commission cannot go into the substance of settlement discussions. It is not appropriate. The Commission should act on the application as it was originally proposed. The Commission should look at the text amendment which has eligibility requirements. It has a specific process. It has a site plan process as opposed to a process that is similar to the other planned developments that are in the Zoning Regulations.

Mr. Tarducci indicated that the density of the project is overwhelming for the neighborhood. There would be lots of traffic. The health and safety of the area is going to be in question.

Ms. Asid indicated that in accordance with public safety and the Plan of Conservation, the POCD section for that area, the Commission does not feel that this request for a text amendment would conform to the POCD section as mentioned for that area.

Mr. Budrow added the text amendment and map change.

Ms. Asid indicated that another point is the change of the -- the text amendment after the Court ruled. This has always been a concern of hers. After they were told they had to approve something, the applicant changed the plan after that.

Attorney Coppola indicated that what was received in May was only a text amendment. There is not a map amendment.

Mr. Budrow indicated they wanted it to be a PUD on the property on Strong Street, up to 17 acres. So, there's the map PUD. And then there's the text change.

Attorney Coppola indicated that there was a concept plan that was submitted. She did not believe there was a map change. She thought the applicant had only submitted a text amendment.

Mr. Budrow indicated that the cover does say Zoning Regulation Text Amendment. He withdrew his question about the map change.

Attorney Coppola wanted to go back and double check. She confirmed this is only about the text amendment. They did not submit a map amendment.

Ms. Asid motioned to deny the application for the text amendment as presented based on the incompatibility with the town's Plan of Conservation Development Section 12.5.2 which talks about density in the area and with regards to the concerns for public health and safety in that area. Said motion was seconded by Mr. Cubelotti.

Mr. Tarducci - Yes, for a denial

Ms. Asid - Yes, denied

Mr. DeMayo - Denial, yes

Mr. Cubelotti - Yes, for denial

The motion carried.

2. **Application No. 21-16** - on behalf of 198 Commerce Street Association, LLC, c/o Thomas Hennessey.

Mr. DeMayo indicated that he was satisfied that all requirements had been met. Ms. Asid added that Mr. Budrow and Mr. Bodwell were also satisfied with this application.

Ms. Asid motioned to approve Applications No. 21-16. Said motion was seconded by Mr. Cubelotti. The motion passed unanimously.

3. **Application No. 21-17** - on behalf of 198 Commerce Street Association LLC, c/o Thomas Hennessey.

It was indicated that no water resources would be impacted.

Mr. Cubelotti motioned to approve Application No. 21-17 on behalf of 198 Commerce Street Associates, LLC based on the fact that no water resources would be impacted. Said motion was seconded by Mr. DeMayo. The motion passed unanimously.

4. Discussion and possible vote on **Application No. 21-18** - on behalf of Richard Rose, 529 Main Street.

Ms. Asid motioned to continue this application to the December 1, 2021 special meeting. Said motion was seconded by Mr. Fusco. The motion passed unanimously.

IX. Adjournment

Mr. Tarducci motioned to adjourn. Said motion was seconded by Ms. Asid. The motion passed unanimously.

The next scheduled special meeting is on December 1, 2021.

The Commission adjourned at 9:10 p.m.

Respectfully Submitted,

Sotonye Otunba-Payne