

RECEIVED FOR FILING
DATE 12/30/2021 TIME 8:54 A.M.
TOWN CLERK'S OFFICE
EAST HAVEN, CT
Stacy Gravino, CCTC
TOWN CLERK

**TOWN OF EAST HAVEN
PLANNING AND ZONING COMMISSION
MINUTES OF THE SPECIAL MEETING
HELD ON WEDNESDAY, DECEMBER 1, 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 special 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:

Marlene Asid - Present

William DeMayo - Present

John Tarducci - Present

Robert Cubellotti - 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 Michael Luzzi - Town Attorney

Attorney Coppola - Assistant Town Attorney appeared via Zoom

Mr. DeMayo stated that the applications would be called as they had been posted. Applicants or applicants' representatives will approach the table and state your name and address clearly. All will be given an opportunity to speak. However, should the remarks become repetitive, the Commission reserves the right to impose time limits.

II. Review and Action on Prior Meeting Minutes

1. Minutes of the October 6, 2021 Regular Meeting

2. Minutes of the November 3, 2021 Regular Meeting

Mr. DeMayo indicated the Commission had the October 6, 2021 Minutes and not the November 3, 2021 Minutes.

Ms. Asid motioned to approve the October 6, 2021 Regular Meeting Minutes. Said motion was seconded by Mr. Cubellotti. The motion passed unanimously.

III. Public Hearings

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 Connecticut-licensed uses involving cannabis.

Mr. DeMayo indicated that the Attorney Luzzi would be presenting the proposed language related the moratorium regarding cannabis.

Attorney Luzzi indicated that the proposed language had been addressed in a prior meeting of the Commission. Attorney Luzzi stated:

As reflected in the language of the proposed text amendment, what is before the Commission tonight is only consideration and action on a text amendment which consists of a moratorium. Any public comment should be limited to the proposed moratorium language which language prohibits acceptance, consideration, or approval of any applications or the issuance of any zoning permits for any cannabis establishment use in any zoning district in the Town. We are not -- the Commission is not considering or taking any action on any potential cannabis establishment uses this evening at this meeting.

Over the course of the moratorium period, it is going to be a discovery process, the Commission will endeavor to gather information from a variety of sources, including individuals, experts ... organizations with specialized knowledge within and outside of the Town, on the legal, planning, and public safety issues that require consideration. Some of these individuals and organizations will be invited to address the Commission in the meeting setting so not only the Commission members but also the public may ask questions. On the recommendation of myself along with Attorney Jennifer Coppola, there will also be a joint meeting, we expect in February, between the Town Council and this Commission to review the cannabis legislation and for the Commission to receive Council input and vice versa. We don't want you to be on an island without the appropriate expertise and information After the information is received, discussed and analyzed, the Commission will determine whether or not it wishes to have a regulation drafted by Staff and of course counsel, to permit any cannabis establishment uses in Town. If it decides in the affirmative, a text

amendment or amendments will be drafted and a public hearing held. The process will be appropriate, thorough and deliberate if the Commission decides to move forward and when the Commission decides to move forward.

Attorney Luzzi further commented that this is not a dead period where nothing will take place. This is an information-gathering period. The Commission will hear from a great number of people. We are not alone in this. There are number of communities along the shoreline that are doing it and, quite frankly, across the state. Some have already implemented a cannabis moratorium. There is a discovery process as well. So, we want you to have all of the necessary information, generate as many questions as you want, and do so in an educated fashion. He strongly suggests the meeting between the Council and this Commission. Attorney Luzzi anticipated this meeting would occur between late January and February. The goal is to do it before the budget process kicks in. Some proposed dates would be given to the Commission in the coming weeks.

Ms. Asid asked if there would be public comments during the process of discovery or if the public hearing for comments would be after the process of discovery.

Mr. Luzzi indicated that it was a very good question. He replied that it would be both. They would seek input during that period of time whether it's in writing or in-person remarks. There would be the necessary public hearing(s) for public comment as well.

Ms. Asid asked if the Council's input would be from their districts. And asked if the Council would rule on it or the Commission is ruling on this. Attorney Luzzi indicated that the Commission would be ruling on this. Attorney Luzzi indicated that he would like to think the Council's input would be coming from their districts. By statute, the Commission makes this decision.

Attorney Luzzi indicated that the goal is for the Commission to make informed decisions. They would invite the public safety people such as the Police Department, the Fire Department. Public safety is going to be a significant part of what is presented to the Commission. There is an expectation that the Youth Services Commission members may have input. The goal is to have broad input to help the Commission make its decision.

Attorney Luzzi indicated that the proposed moratorium language had previously been read. There would be specific start and end dates.

Attorney Luzzi read the moratorium language as follows:

WHEREAS, Public Act No. 21-01 entitled "An Act Concerning Responsible and Equitable Regulation of Adult-Use Cannabis" which legalizes the cultivation, processing, distribution, possession, and use of cannabis (marijuana) for

recreational purposes was signed into law on June 22, 2021 and became effective on July 1, 2021; and

WHEREAS, the law is lengthy and complex and raises novel legal, planning, and public safety issues, and requires that the East Haven Planning and Zoning Commission study and assess the potential impacts of the law on the Town of East Haven and the need for potential regulation of Cannabis Establishments as defined by the Public Act in a thoughtful and responsible manner and to undertake a planning process to consider amending the Zoning Regulations regarding regulation of such establishments; and

WHEREAS, a moratorium will allow the Planning and Zoning Commission sufficient time to undertake the required assessment and planning process, including the receipt and analysis of input from Town officials, residents and property owners, and others;

NOW THEREFORE, BE IT RESOLVED, that the East Haven Planning and Zoning Commission shall not accept, consider, or approve any applications, and hereby prohibits the issuance of any zoning permits, to permit the use of a Cannabis Establishments in any zoning district in the Town of East Haven for a period of six months... This is where he would be asking for specific beginning and end dates.

Mr. DeMayo asked for comments regarding the moratorium language. There were none.

Mr. DeMayo asked if the dates should come after the Commission's meeting with the Town Council. Attorney Luzzi indicated that the Commission would act on it that evening.

Mr. Luzzi indicated that the moratorium needs to be effective as soon as possible to protect the Town. If need be, this time could be extended.

There were discussions about the dates.

Mr. DeMayo suggested the moratorium be effect on December 6, 2021.

Mr. Budrow indicated that the Zoning Regulations do not address this issue. The time period between the approval and the effective date of the Moratorium need not be of concern if the Commission choose January 1, 2022 as the effective date.

Attorney Luzzi indicated that this be effective as soon as possible.

The Commission discussed that the Moratorium would begin on December 6, 2021 to May 6, 2021.

Attorney Coppola pointed out that the end date should be June 6, 2021, as that would be six months.

Ms. Asid motioned to approve the proposed Cannabis Moratorium text amendment in the Town of East Haven for a six-month period beginning December 6, 2021 to June 6, 2022. Said motion was seconded by Mr. Tarducci. The motion passed unanimously.

Ms. Asid motioned to close the hearing on the application for the Moratorium, Application 21-15. Said motion was seconded by Mr. Fusco. The motion passed unanimously.

IV. Site Plan Review

1. **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. DeMayo called for the applicants to present. There was no response.

Mr. DeMayo commented that since Mr. Rose was not present, he would comment. The application is incomplete. There is no parking, lease or anything set on that. He thought the capacity is not sufficient. The applicant's numbers do not coincide the Fire Code as such.

In addition, the testimony Mr. Rose gave on November 3, 2021 regarding the hours of operation and number of employees without any written documentation about the parking and his understanding that Mr. Rose had not approached anyone to get a leased parking agreement.

Mr. Budrow indicated about a week after the last meeting in November he asked Mr. Rose's partner to come in. Mr. Rose's partner had a slightly more accurate site plan than the Commission was given showing the restaurant, the parking near and the parking layout between the site and Subway. The Commission had been given that map and the address of the owners in Virginia. He told them to put it in a letter and make a request.

Mr. Budrow indicated that the parking is not complete. The Fire Marshal did say the occupancy is actually 49. This site is not sprinklered. If it was sprinklered, they could get over a 100.

Mr. DeMayo asked if they received the plan for the proposed kitchen. Mr. Budrow replied that they had not.

Mr. DeMayo indicated that this application was incomplete.

Mr. Budrow indicated with regard to the liquor license, there is a question about entertainment and live music. There is a box for karaoke.

Mr. Dan McCann indicated he would like to comment. Mr. DeMayo allowed Mr. Dan McCann to comment.

Mr. Dan McCann, 137 Mansfield Grove Road, East Haven, indicated he was opposed to this application for several reasons. One, parking which he heard. The other reason is the amount of activity on that side of town right now. There have been shootings. There have been multiple issues with Rumba and the other locations down on the west end of town. He did not know if the public safety has the infrastructure at the moment to handle additional clubs and venues of this type. He thought it would be prudent to advise the applicant with an incomplete application it really doesn't look very promising for that business to even survive with no sprinkler system in there. It boils down to what other kinds of revenues would be used to sustain that business. So, it's a big question mark. It's a public safety issue. What is best for the citizens in the town is important. There are plenty of places where you can go to have a bite to eat.

Mr. Tarducci concurred with Mr. DeMayo's comments earlier. The applicant indicated that he wanted to establish a type of restaurant. Then it came to light not enough parking as mentioned by Mr. DeMayo and Mr. Budrow. The specific requests that this Commission made have not been satisfied such as the kitchen and parking. If there is an alternative parking solution, the applicant, at some point, needs to come forward with a written agreement identifying those areas. In addition, the presentation was made that this would be a family sports bar. Opening up at 11:00 a.m. in the morning to 1:00 a.m. six out of the seven days a week does not give the impression that it is a family sports bar. Based on these reasons, he would not be in favor of this application.

Ms. Asid commented that the fact that the applicant was not present at the meeting spoke volumes.

Attorney Luzzi indicated that this was not down for public hearing. However, the Commission had allowed public comment. This would be voted on during deliberations.

Mr. Luzzi indicated that the vote earlier on the Moratorium should not have occurred when it did (and because the Commission closed the public hearing after the vote). It would be voted during deliberations.

The Clerk asked if that meant that the previous vote on the language of the Moratorium was vacated. Attorney Luzzi indicated that the previous vote was vacated.

2. **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. Robert Mangino indicated that he is an architect licensed in the State of Connecticut representing the A & G Development. They had been here before. They have an existing building. They are expanding it to take care of their uses. They had a change of use approval by this Commission. This past Monday they were before the Wetlands Commission addressing the four issues they had. They needed the Wetlands Commission approval. They have approved their application with conditions to allow them to come before this Commission. The Commission has the Site Plan. However, they meet the requirements for the setbacks, for the lot coverage, for the particular use there. They have provided the Wetlands Commission's conditions with a conservation easement granted. They have provided the drainage system that they needed. They are here before this Commission for approval because they thought it was a good use for the property. They have been here before and are happy to answer any questions. The building has the character they need. They would like to relocate from Branford to East Haven.

Mr. DeMayo indicated that they certainly agree that it's a good use and would be a good addition to East Haven.

Mr. Budrow indicated that the applicant did appear before the Inland Wetlands Commission this past Monday at a special meeting. It was approved. The Site Plan in the Commission's package was the Site Plan before the Inland Wetlands Commission. Mr. Jonathan Bodwell, the Wetlands Commission's agent, upon seeing the Site Plan had 10 comments such as revise location of drainage easement, etc. Mr. Bodwell's 10 comments are not on the plan before the Commission. So, the plan has to be updated. It would make him uncomfortable to see the Commission approve this site plan before seeing the improvements.

Mr. Budrow further added that they have a regulation that keeps the Commission from being able to approve it tonight based on two points. If a special exception/or a site plan application involves an activity regulated by the Town's Inland Wetlands and Watercourses Commission, the Commission shall not render its decision until said Inland Wetlands and Watercourses Commission has submitted a report with its final decision, nor shall it condition any approval on any approval of said Inland Wetlands and

Watercourses Commission. And this is important because Mr. Bodwell's memo requires 10 changes to the Site Plan.

Mr. DeMayo indicated that the Commission is restricted on giving the applicant an approval pending the change. The change has to be made and then the Commission could approve it.

Mr. Mangino said in light of the Wetlands Commission approval with conditions, this Commission could approve this with the conditions because if the applicant does not adhere to the conditions, they are part of the approval.

Mr. DeMayo suggested that the changes be made on the Site Plan. He would call a special meeting to act on this application.

Attorney Luzzi indicated that the comments made by Mr. Bodwell reflect deficiencies with the revised Site Plan. So, the applicant has an incomplete Site Plan. The applicant is bound by what Mr. Budrow had indicated. The Commission has an interest in moving this forward at the appropriate time and as efficiently as possible. The Chairman is correct. Mr. Budrow's representation is appropriate as well.

Mr. DeMayo said the applicant should get it done. They will have a vote once a special meeting is called. So, it is in the applicant's park now.

Mr. Tarducci indicated they would all love to see this company in town. The engineer had some time between the approval on Monday and tonight's meeting to make the adjustments.

Mr. Mangino indicated he had not time to review this.

Mr. DeMayo indicated that the applicant do as was suggested in order to get this approved at a special meeting.

Mr. Anthony Bianco of A & G Development indicated that this would be done.

Attorney Luzzi indicated that this should be sent to Mr. Bodwell and Mr. Budrow so that they can make comments and get this to the Commission as soon as possible.

Mr. Budrow indicated that the proposal would put the building over 20,000 square feet. They would need an engineer to write up a drainage analysis of where the water from the roof would be directed and where the water would end up.

Mr. Budrow also added that the regulations indicate that since the Wetlands Commission had to hear this while the application was before this Commission, the timeline was extended. The Commission has 35 days to vote. So, the Commission is good with the statutory timeline.

V. New Applications

No new applications.

VI. Other Business

VII. Deliberation Session

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

Ms. Asid indicated that this plan was incomplete in several regards such as safety to do with the sprinkler system, the kitchen and the parking, and the occupancy based on the sprinkler system.

Mr. DeMayo indicated he would like to see from the Fire Department what is absolutely necessary in that building to change it to a restaurant with a kitchen. The applicant needs a parking plan.

Ms. Asid indicated they needed more in writing regarding the definition for his business plan which was roughly but not thoroughly defined.

Mr. Tarducci motioned regarding Application No. 21-18, that this application be denied based on multiple areas of concern and lack of performance on the applicant's part in providing the requested information. The concerns were occupancy, no parking, Fire Marshal's opinion of the number of people, and lack of submitting the kitchen plan which was requested months ago. Said motion was seconded by Mr. Cubellotti.

Ms. Asid - No. If it's an application to deny, then yes

Attorney Luzzi indicated the motion on the table is to deny.

Ms. Asid - Yes

Mr. Tarducci - Yes, to deny

Mr. DeMayo - Yes, to deny

Mr. Cubelloitti - Yes, to deny.

Mr. Fusco - Yes, to deny.

The motioned carried.

2. Discussion and possible vote on **Application No.21-13** - on behalf of A&G Developments, LLC, 133 Commerce Street.

Mr. Cubellotti motioned to continue this application. Said motion was seconded by Ms. Asid. The motion passed unanimously.

Attorney Coppola indicated that this had to be continued to a specific date and the Commission should set a deadline for the required submissions.

Attorney Luzzi suggested a day to give the updates to staff next week, give staff a week to evaluate it. There are a number of conditions here that have to be updated.

Ms. Asid motioned to continue this application to a special meeting to be held on December 14, 2021 with the understanding that the applicant would have their submissions to Mr. Budrow by December 9, 2021. Said motion was seconded by Mr. Fusco. The motion passed unanimously.

3. Discussion and possible vote on **Application No. 21-15** - on behalf of the East Haven Planning and Zoning Commission

Ms. Asid motioned to approve the proposed Cannabis Moratorium text amendment for the Town of East Haven for a period of six months from December 6, 2021 to June 6, 2022. Said motion was seconded by Mr. Tarducci. The motioned passed unanimously.

VIII. 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).

Attorney Luzzi indicated that the Commission would be taking no action in Executive Session obviously, and it would adjourn following the Executive Session.

Ms. Asid motioned to enter executive session to discuss Items 1 and 2 for Autumn View, et al. v. East Haven, and that the Commission be joined in executive session by staff Mr. Budrow and Mr. Bodwell, and counsel, Attorney Luzzi and Attorney Coppola. Said motion was seconded by Mr. Cubellotti. The Motion passed unanimously.

The Commission entered Executive Session at 7:58 p.m.

Ms. Asid motioned to exit Executive Session. Said motion was seconded by Mr. Cubellotti. The motioned passed unanimously.

The Commission exited Executive Session at 8:30 p.m.

IX. Adjournment

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

The next scheduled special meeting is on December 14, 2021.

The Commission adjourned at 8:30 p. m.

Respectfully Submitted,

Sotonye Otunba-Payne