

**TOWN OF EAST HAVEN  
PLANNING AND ZONING COMMISSION  
MINUTES OF THE REGULAR MEETING  
HELD ON WEDNESDAY, NOVEMBER 2, 2022 AT 7:00 PM  
IN PERSON AT EAST HAVEN SENIOR CENTER, 91 TAYLOR AVENUE**

Chairman William DeMayo called the regular meeting to order at 7:07 p.m.

**I. Roll Call and Pledge of Allegiance**

The Pledge of Allegiance was recited.

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

Marlene Asid - Present  
William DeMayo - Present  
Louis Fusco - Alternate, Present  
Robert Cubellotti - Present

Attorney Coppola indicated that Mr. Tarducci did communicate with her. He is absent and excused due to illness.

There was a quorum.

The following were in attendance:

Joseph Budrow - Zoning Enforcement Officer  
Attorney Jennifer Coppola - Counsel to the Commission

**II. Review and Action on Prior Meeting Minutes**

1. Minutes of July 27, 2022 Special Meeting
2. Minutes of August 29, 2022 Special Meeting
3. Minutes of October 3, 2022 Special Meeting
4. Minutes of October 12, 2022 Regular Meeting

Mr. Budrow indicated that the Commission had all three.

Ms. Asid indicated that at the last meeting they approved August 3<sup>rd</sup>, 2022. However, they did not have July 27<sup>th</sup> minutes or August 29<sup>th</sup> minutes.

Mr. Budrow indicated there was acknowledgement that these minutes were received.

Ms. Asid apologized. She indicated she looked on the website and did not see them.

Mr. Budrow indicated they would recirculate the minutes.

Ms. Asid indicated that they had the October 3<sup>rd</sup> minutes. She had a problem with the whole cannabis discussion. She was 99 percent sure after discussions, the Commission came to the conclusion that they would have two establishments. In addition, the Commission said they could be either retail or hybrid. She did not see that was definite in the minutes.

Attorney Coppola stated that Ms. Asid is proposing that that be added to the minutes.

Ms. Asid replied in the affirmative. There was a lot of discussion about distribution and cultivators and other stuff. That is all in here, but she wanted the minutes to be more defined regarding the Commission's conclusion and would go from there.

Mr. DeMayo indicated that they would like the minutes rewritten and recirculated.

Mr. Fusco indicated he remembered that discussion quite well.

Ms. Asid indicated the minutes would be voted on the next time. She apologized and said she would look for them.

Ms. Asid wondered if they were sent via e-mail and they are not posted on the website.

Mr. DeMayo said action on these minutes would be tabled. They could be presented at the next meeting.

### **III. Review and Action on 2023 Meeting Schedule**

Attorney Coppola indicated that there was a typo. It indicates January 4<sup>th</sup>, 2022 instead of 2023. That will be corrected. She typically adds to the bottom of the schedule the date on which it is approved.

Mr. DeMayo asked if it was necessary to have it revised and presented or can the Commission approve the schedule with the amendment.

Attorney Coppola indicated that it should be acted on with the amendment.

Ms. Asid stated she thought there was something about holidays. She noticed that the July 5<sup>th</sup>, 2023 meeting is the day after July 4<sup>th</sup>, 2023. She was questioning that.

Attorney Coppola indicated that that could be changed at the Commission's pleasure. It is fine to do that if it's the Commission's preference to do that. We all have to be conscious of the Jewish holidays in the fall, Yom Kippur and Rosh Hashanah. She did check those dates to make sure that the Commission's meeting dates did not conflict with either of those holidays. The July meeting date could be changed.

Ms. Asid stated that this could be addressed in June. Mr. DeMayo replied, certainly, and that could be easily rectified.

Attorney Coppola indicated that it would not be a regular meeting if the Commission decided to cancel it at that time. The meeting cannot be the following Wednesday because the Inland Wetlands Commission's meeting is scheduled for that day.

Mr. DeMayo stated that the Commission could approve the schedule for 2023 with the caveat that the date will be revised from 2022 to 2023, and the possibility of a reschedule for the July meeting.

**Ms. Asid motioned to that effect. Said motion was seconded by Mr. Fusco. The motion passed unanimously (4-0).**

#### **IV. Discussion and Selection of December Special Meeting Date**

Attorney Coppola indicated the reason why this agenda item is here is because the Commission would necessarily have to do some business in December. Accessory apartments need to be done with the public hearing. Before January 1<sup>st</sup>, 2023 the opt-out needs to be published in the newspaper. She had spoken to Town Attorney Luzzi. There is a new date for the joint meeting with the Town Council to talk about cannabis and accessory apartments. That date is Wednesday, November 16, 2022. Ms. Asid is available on that date.

Mr. DeMayo asked if that could be scheduled before the November 16<sup>th</sup> date.

Ms. Asid stated she would be gone from the 13<sup>th</sup>. Ms. Asid asked if the meeting with the Town Council was necessary.

Attorney Coppola said the 16<sup>th</sup> was cleared as potentially a good date to do it. The Commission had said they would meet with the Town Council to work on accessory apartments and cannabis. They would notice the November 16<sup>th</sup>, 2022 meeting this week and then the packet will go out to everybody via e-mail. She would send it via Share File.

The Bluffs' application has been scheduled. She did speak with Attorney Pellegrino, Mr. Bodwell, and Mr. Overton about December the 14<sup>th</sup> as a potential public hearing date. She just wanted to put this out there and see if this is something the Commission could potentially do.

Mr. Fusco asked what role the Council plays in the decision regarding cannabis. Attorney Coppola replied by saying that the Commission would be deciding on regulations. The meeting is so that the Council can give the Commission input.

Mr. Fusco said they had a meeting with the Council. Attorney Coppola replied by saying that the Commission had had two meetings with the Council. Mr. Fusco said they had beat this horse left and right. They know all the angles and everything that had been discussed. The Commission is close to a decision. Mr. Fusco, asked, what is stopping us from making that decision.

Mr. DeMayo commented that that was going to be his question. He asked, why can't the Commission have a motion to bring this to a vote? Let the Commission do it's bit. The Commission is the voting body on this. The Commission will then be open for any discussion or any input. The Commission is saying, we've got to keep moving this stuff. We are backing everything up. We are kicking it all down the road. And down the road will come to bite us.

Attorney Coppola indicated that the other option is if the Commission cannot make it on the 16<sup>th</sup>, she and Mr. Budrow could attend the meeting and present what the Commission's work reflects on both matters at this point. They will get any input the Council has and come back to the Commission with that. She got input from the Council in that they wondered if they could attend the public hearings. However, if a quorum of the Council is present, it is a meeting of the Council and it would have to be noticed. They will do this without running afoul of the rules.

Ms. Asid indicated that the Commission had been trying to do this. Now, it is crunch time and holiday time. There are many other things to be done.

Mr. Fusco asked if the Commission needs the Council to make its decision.

Attorney Coppola replied by saying it is this Commission's authority to direct staff or counsel to file the text amendment and notice the public hearing on the text amendment.

Ms. Asid asked if the Council was in need of the ADUs. Attorney Coppola replied by saying yes.

Mr. Fusco indicated his concern was that they were going to attend the meeting and spend the whole meeting on one of these two subject and not get to the other one. And, now, the Commission will be back in the same position they were before. He does not think they will get any input that would change the direction that the Commission is heading now.

Mr. Budrow indicated that the text amendment will be a public hearing.

Attorney Coppola indicated it was difficult because the Council has 15 members. A quorum means eight members have to be present. They have their business that they are doing.

Attorney Coppola indicated that all public hearings have to be noticed. The question is when to schedule the public hearing. Her thought is to schedule it for December 14, 2022. The Commission is not tied to that date. Another date could be chosen.

Mr. DeMayo indicated this is knocking the Commission out of the whole thing. Ms. Asid cannot attend. He is not going to be there either. They have spent hours on these issues trying to formulate some type of approach.

Ms. Asid said The Bluffs could wait until January. There are all these other issues. The Commission is under a time constraint with those issues. To throw The Bluffs in the mix is a lot.

Attorney Coppola said that this matter should be passed for now.

**Ms. Asid motioned to move Items Nos. 4 and 5 to later during this meeting and move to Item No. 6. Said motion was seconded by Mr. Fusco. The motion passed unanimously (4-0).**

## **V. Public Hearing**

1. **Application No. 22-07 - on behalf of the East Haven Planning and Zoning Commission.** A Petition for a Text Amendment to the East Haven Zoning Regulations to complete the draft revision from 2019, proposing some changes, and proposing a new format.

Mr. Budrow would present later in the meeting.

## **VI. New Applications**

1. **Application No. 22-15 - Gurukrupa Investments, LLC, 85 Hemingway Avenue.** An application for a Site Plan Modification to approve the existing conditions at the property.

Attorney Timothy Lee, Fasano Ippolito Lee & Florentine, indicating that he was representing Gurukrupa Investment, LLC. He represented them when this got approved initially many years ago. He had not been involved much since. However, he did not receive a call from the town staff and his client several months ago about amending the site plan in order to help bring the property to zoning compliance. He met up with the town staff and had come up with some revisions of the site plan which would bring the building into compliance.

They commissioned the engineers to draw the plans. They actually came out with a plan that we think works. They had intended to present that plan tonight. However, through consultation with the town attorney and the town planner, they decided since the application originally got submitted as a special permit application, that it should be heard by the Commission as a special permit application and not as a site plan application which requires notification and sending out letters. That prevents them from going forward on the site plan application. They are happy to return whenever the Commission's next meeting is going to be to present the application.

The amended site plan called for some asphalt to be laid at the property. The asphalt plants close in the next couple of weeks. They are anxious to try to get the asphalt laid before they hopefully get the final approval from the Commission at its next meeting.

Attorney Lee requested that the Commissions authorize the town planner to administratively sign off on the asphalt portion of the project so they can get that done in the next few weeks. It presents a health and safety issue for the tenants.

Mr. DeMayo asked where the asphalt would be. Attorney Lee proceeded to explain with the help of the plans where the asphalt would be laid. Mr. DeMayo said on the left hand quad. Attorney Lee replied, correct. Mr. DeMayo asked if the asphalt would be laid all the way to the road. Mr. Lee replied, yes.

Mr. DeMayo asked why. Attorney Lee responded by saying that it would help with emergency access of emergency vehicles and tenant access. They are afraid if it is not done this winter, there would be issues with potholes and the like.

Attorney Lee said they would come back with the full site plan but in the interim they were hoping the Commission would give Mr. Budrow the authority to administratively approve just the paving aspect of the project.

Mr. Budrow commented by saying that the Commission could approve it. There would be a public hearing as an amendment to the original special exception to vote on the as-built conditions. If approved, they will get their final CO. They knew any future development comes back fresh as a special exception.

Ms. Asid asked if this should be voted for a public hearing at the Commission's next meeting.

Mr. Budrow indicated that the Commission would motion to schedule a public hearing at the next meeting to be determined later on in the meeting.

Since there are no meetings scheduled for December, the Commission has not decided when it would meet in December.

Mr. DeMayo asked what the violations were. Attorney Lee responded by saying that they were no violations of any codes. The building official allowed the temporary provisional COs to allow the building to be occupied. But the project got approved, it got approved with the apartment buildings and a commercial building.

Mr. DeMayo indicated this came back about ten times before for approval. Attorney Lee replied in the affirmative.

Attorney Lee said the commercial building didn't have a tenant for it. So, they go for the commercial building. So, the planning officer is saying we can't give you final zoning compliance because you do not have the commercial building and the commercial building was showing on the plans. The building official said, I can give you a temporary CO but I can't give you the permanent CO because you can't get this through zoning compliance because you do not have the commercial building.

So, the plan is to take away the commercial building temporarily so they would be in zoning compliance with the plans. Mr. Budrow could take that to Mr. Bassett who could issue the full building permit and CO.

Mr. DeMayo asked, and then later on come back again? Ms. Asid asked, for the commercial building? Attorney Lee replied, yes.

Mr. DeMayo asked if they were trying to market it as a commercial building. Attorney Lee replied that they had not had much success.

Ms. Asid reiterated what was being sought. One, to approve the asphalt for part of the property's right of way. Two, the Commission would motion for a public hearing at its next meeting. These would be done during deliberations.

Attorney Lee asked that he be excused as he had another meeting to attend.

Mr. Budrow indicated that there was nothing to deliberate about.

**Ms. Asid motioned that Application No. 22-15, Gurukrupa Investments LLC at 85 Hemingway Avenue would be set for a public hearing for the January 4<sup>th</sup>, 2023 regular meeting; and in the interim, approval as a condition for the asphalt application.**

Mr. Budrow added that this would be laid out as proposed on the plans to the fire marshal. Mr. Budrow indicate he will get this in the minutes.

**Said motion was seconded by Mr. Cubellotti. The motion passed unanimously (4-0).**

2. **Application No. 22-16 - The Bluffs, LLC, Mark DiLungo, 31 and 100 Sperry Lane, 161 Foxon Road.** An application for a Site Plan Review for multi-family elderly housing/assisted living facilities. To be scheduled for a public hearing. (For receipt of application and scheduling of public hearing only. No presentation will be made by the applicant and no public comment will be received.)

Attorney Coppola stated that she did call Attorney Pellegrino who is counsel to the applicants. Attorney Pellegrino confirmed the scheduling of the public hearing for January 4<sup>th</sup> of 2023, the Commission's next regular meeting, is fine.

**Ms. Asid motioned that for Application No. 22-16, The Bluffs LLC, Mark DiLungo, 31 and 100 Sperry Lane, 161 Foxon Road, a public hearing be scheduled for this application at the next regular meeting on January 4, 2023. Said motion was seconded by Mr. Fusco. The motion passed unanimously (4-0).**

Attorney Coppola asked whether the Commission would want the meeting fully remote or hybrid during the winter months because there is the ability to do that through the statutes. She further stated that if meeting was going to be hybrid, she would not recommend this room due to the acoustics. She recommended the room in the High School which works very well for hybrid meetings.

Attorney Coppola indicated that notice to the public is important. Her understanding from the Commission is that the staff could exercise some discretion. Mr. DeMayo added that this is to accommodate more participation by the public.

3. **Application No. 22-17 - Lori Roberts, 36 Thompson Street.** An application for a Site plan Review proposing a dog grooming facility.

Mr. Budrow indicated that Ms. Saar was approved for a hair salon for the same space, but it never happened. Ms. Roberts is here for the same space. This use is allowed in the CD District.

Ms. Lori Roberts, 72 Strong Street Extension, indicated that she is a business owner in town already at 7 Foxon Boulevard. She is looking to relocate the business she has already into the new building space.

Mr. DeMayo and Ms. Asid asked her to describe the business for them.



Ms. Roberts indicated that the business encompasses grooming dogs, dog washing, cutting, brushing. These are all done within the same room of the building. So, it includes a bathtub, dog grooming tables which are very similar to regular tables that go up and down.

Mr. DeMayo asked about the square footage. Ms. Roberts said about a 1,000 sq. ft.

Ms. Asid asked how much square footage she had in her current building. Ms. Robert said, 1,400, and that she did not need all the space.

Ms. Asid asked if she had other employees. Ms. Roberts indicated she had no employees. She has one subcontractor with her.

Mr. DeMayo asked if there was plenty of parking at the new building. Ms. Roberts said, yes, which is one of the reasons she was moving.

Mr. Fusco indicated he lived right around the corner from there. It is a great location.

Mr. Budrow indicated that this application came in through his assistant. The only thing he would request had he spoken to Ms. Robert is a floor plan. He can easily get that at the zoning permit stage. Ms. Robert indicated she had it in the car. Ms. Roberts was asked to get it.

(Ms. Roberts exited the meeting room to get the floor plan.)

Mr. Roberts returned and shared the floor plan with Mr. Budrow. Mr. Budrow indicated he would have accepted the floor plan at the time of her application. The Commission viewed the floor plan and were impressed.

## **VII. Deliberation Session.**

1. Discussion and possible decision on **Application No. 22-15 - Gurukrupa Investments, LLC, 85 Hemingway Avenue.**
2. Discussion and possible decision on **Application No. 22-17 Lori Roberts, 36 Thompson Street.**

**Ms. Asid motioned to approve Application No. 11-17 Lori Roberts. 36 Thompson Street. Said motion was seconded by Mr. Cubellotti. The motion passed unanimously (4-0).**

## **VIII. Other Business**

1. Discussion of Public Act No. 21-1 “An act Concerning Responsible and Equitable Regulation of Adult-Use Cannabis” (codified at Connecticut General Statutes Section 21a-420, *et seq.*) and as subsequently amended.
2. Discussion of provisions of Public Act No. 21-29 “An Act Concerning the Zoning Enabling Act, Accessory Apartment, Training for Certain Land Use Officials, Municipal Affordable Housing Plans and A Commission on Connecticut’s Development and Future” (codified at Connecticut General Statutes Section 8-2o) pertaining to accessory apartments or accessory dwelling units.
3. Discussion of provisions of Public Act No. 21-29 “An Act Concerning the Zoning Enabling Act, Accessory Apartment, Training for Certain Land Use Officials, Municipal Affordable Housing Plans and A Commission on Connecticut’s Development and Future” (codified at Connecticut General Statutes Section 8-2(d)(9) and 8-2p) pertaining to dwelling units parking limitations.

Attorney Coppola indicated that these three line items had to be scheduled for a public hearing.

There were discussions about November 28<sup>th</sup>, 2022 or November 29<sup>th</sup>, 2022.

Mr. DeMayo wondered if everything could be accomplished in one meeting.

Mr. Fusco indicated that the public would have the information beforehand.

Ms. Asid asked about when to vote on opting out.

Attorney Coppola indicated that the purpose of the public hearing was to get input before deciding on what action to take. And the action will be taken that night.

Ms. Asid said there needs to be more discussion about cannabis. There are a few more things to iron out based on the discussions the last time.

Attorney Coppola indicated that Mr. Budrow had a presentation.

Mr. Budrow stated that the commission members would have to move in order to see the screen.

Ms. Otunba-Payne read the following into the record:

4. **Application No. 22-07 - On behalf of the East Haven Planning and Zoning Commission.** A petition for a Text Amendment to the East Haven

Zoning Regulations to complete the draft revision from 2019, proposing some changes, and proposing a new format.

Mr. Budrow began by saying that they had already discussed the draft that had been pending since 2019. Last month there were discussions about the existing regulations and where to insert new proposed, reformatted regulations. His goal was to finish the reformatting before the new book was proposed.

Mr. Budrow indicated that Article I was done the last time. Article II, Zoning District began the revision of the Zoning Regulations. Article III, Townwide Standards.

They will begin with Article IV which is where he lumped all of the permit types such as site plans, special exceptions come to the Commission. There were some uses that need special exceptions that have extra standards. They will scroll through that. No changes coming to either of those sections. Temporary special exceptions are only related to gravel activity or excavation. The way he read the regulations, these are activities that come before a development. They have a certain timeline. And then construction has to commence.

Then Section 32 Coastal Area Management site plans. This Commission usually never sees these because there's always variances attached to the mother applications. And the Zoning Board of Appeals almost always gets these. However, permit type matters should be together.

Mr. DeMayo asked whether there were limitations on how long they can store gravel or whether it is open-ended. If you give the permit to them, when does it stop? Mr. Budrow responded by saying that he believed there is a two-year limit on a temporary special exception. When it comes to where to store stockpiles of gravel and sand, that's always conditioned in an approval.

Article IV and Article V, Townwide requirements. There are special regulations connected to these.

Finally, Administration and Enforcement.

Ms. Asid asked about Alcohol and Beverages. Mr. Budrow responded by saying that would be under "townwide requirements." This is a floating zone. So, it is a good question. He indicated where it would be. Where the cannabis district would be is not set in stone yet.

He moved on to the table of contents.

Article IV, Section 33 will become Section 30. There are no proposed changes this year. They will read this more carefully and perhaps there will be minor changes in 2023, but nothing to write home about. It's a very long section.

Mr. Budrow indicated that someone spoke to him today about this section. It did conjure up a thought he had months ago. So, many towns separate site plan reviews from special exceptions. To avoid any confusion regarding Section 33, he said it would be a great idea to separate special exceptions from site plan reviews. It is, obviously, not proposed here. He might want to make it as one of his first requests for 2023 to propose separate items for+- each application type.

Mr. Budrow showed additional uses. Mr. Budrow indicated that there are some uses that are allowed that have added conditional regulations. Those would be found here. This will be the one section he will jump out to another proposal because he has an idea for adding something here, "special standards." There is a major numbering gap in their regulations in this section. This will be cleaned up. Group daycare homes are one of those uses that have added regulations, golf, tennis, swimming are similar clubs. Restaurants are here. A lot of this has to do with outdoor dining.

There are no changes at this time to motor vehicle service stations and repair garages. Elderly dwelling units called in CA1 and CV Districts. This will remain. As of now that is the end of the current section.

Mr. Budrow further commented that if they were to look at the use table right now, they would see room and boarding houses. That's allowed in every single zone with at least ten standards. Since they are allowed as a special exception, and have many standards, why don't we put it in this section as a "use." So, he is renumbering the section that has the big gap in it. He also proposed the addition "Room and Boarding Houses" into this section with all of the existing conditions needed to open one. So, these are the only major changes for the evening.

Mr. Budrow went on to show where topsoil and gravel, temporary special exceptions would be. It's in italics. There are no changes here at this time. He will ask the town engineer if there are any changes they should have in 2023.

Mr. DeMayo asked about quarrying.

Attorney Coppola asked if Mr. DeMayo was asking for quarrying to be specifically prohibited. Mr. DeMayo said he wanted to know what is present.

Attorney Coppola stated that the Commission should remember that zoning regulations are permissive in nature meaning that if a particular use is not specifically permitted in the zoning regulations, it is prohibited. Attorney Coppola indicated that the Commission could not possibly come up with an exhaustive, comprehensive list of prohibited uses.

Mr. DeMayo asked if the Town did not have a large lawsuit still pending regarding quarrying. Attorney Coppola replied that it was in federal court. Attorney Luzzi has been handling this matter along with special counsel for the Town.

Mr. Budrow stated that the way he reads the regulations, it says, “on any lot, there shall be no excavation, grading or removal of topsoil, clay, sand, gravel stone or other natural material; or slashing of trees, filling of land by blasting, or by use of power assisted machinery ...”

Section 31.3 is a short list of exceptions. One of them was granted errantly in his opinion on a couple of occasions. “Necessary operations involving the filling or removal of earth materials, not exceeding 250 cubic yards in any one calendar year ...

Mr. DeMayo asked about The Bluffs. Attorney Coppola indicated that there are specific provisions within the stipulated judgment. The Bluffs will, to every extent possible, make sure any material from any blasting that takes place, any excavation will be reused on site. There is a limitation on the amount of material that can be removed. That is within the stipulation.

Mr. Budrow said another permit type is when an applicant is proposing a development of qualifying status within so many feet of a coastal resource, DEEP has to get involved with a review of the plans. This is called a Coastal Area Management Site Plan Review. Often, these go to the ZBA because so many of these are on our shoreline. They will look for statutory compliance to make sure everything is up to snuff there.

This gets us to Article V, Various Regulations of Various Use Types. He had provided the Commission an upgrade regarding off-street parking and loading, and to have the use table and have parking calculations match. For example, if there is a bowling alley, there should be a calculation for bowling alley, etc.

There are no changes in the next section, Signage. This section could use a lot of work to make it easier. This could be done in the summer or fall of 2023.

Sediment and Erosion Control is very standard stuff about how to protect properties from having their land drift away.

He will have the town engineer look at Storm Water Management to make sure it is statutorily correct and if it needs updating.

It will be great to have LID requirements at least alluded to in our regulations. Every town has regulations regarding telecommunications. The Town of East Haven has quite a lengthy regulation here. They will review that at some point.

Open Space development plans is like saying something like a cluster development or a high density development. This could probably be retitled. They will read it and see if it needs any updates. Many towns have these regulations.

This leads us to Adult-Oriented Business and Entertainment Establishments. If the Commissions look at the Zoning Map, this is in three to four places in town. There is one such business we know of and a couple drifting in that direction. He did ask the Commission if it would ever consider disallowing it anymore. They will talk about this way into the year in 2023.

No changes coming for the foreseeable future to administration regarding what he does. However, there is a little more about zoning permits and how they are processed. Referrals to review as they often need expert advice.

This leads to Administrative Policies and Procedures. These are very basic items here. Penalties are also here.

There will be recommendations by the springtime to add fees and changes to some fees. This is the end of the existing regs and reformatted with a lot of major changes.

Attorney Coppola indicated that they had spoken the previous night about establishing a housing trust fund. For the open-space subdivisions, is there any opportunity currently in the regulations. Mr. Budrow indicated he had never seen that in a regulation. Attorney Coppola indicated that they must not lose sight that it is a possible way to draw some funds for that housing trust fund.

Mr. Budrow said all subdivisions have to have open space either as a playground or open space. If someone wants to opt-out of that due to lack of room, there's a fee-in-lieu calculation. Attorney Coppola said, so, it's in the subdivision regulations. Mr. Budrow indicated he had not seen that term in the town's zoning regulations.

Mr. DeMayo asked where in the regulations this was.

Attorney Coppola responded by saying it is in Section 7.16 of the subdivision regulations and states as follows: Payment in lieu of open space land pursuant to Section 8-25b of the Connecticut General Statutes ... -- so, that's the subdivision statute -- ... The developer of any residential subdivision or re-subdivision may propose to the Commission to substitute a fee of ten (10) percent of the fair market value of the area of the land to be subdivided to the town in lieu of the creation and dedication of open space within said subdivision and/or resubdivision. In the event the Planning and Zoning Commission opts to accept a fee in lieu ... -- so the Commission has to accept it -- ... of the creation of the open space, said fee shall be placed into a separate fund created by the Town of East Haven to be used solely for the purpose of preserving open space and/or for the acquisition of additional land for open space and/or recreational and/or agricultural purposes.

So, the question is whether the language is based in a statutory restriction. Sometimes these fees are substantial. This could be a way to grow the housing trust fund. Attorney Coppola again reiterated that they should not lose sight of this being a potential path of growing the housing trust fund.

Attorney Coppola asked about adult-oriented establishments. She asked if Mr. Budrow was advocating for the elimination of these establishments.

Mr. Cubellotti asked if there were two zones for these types of establishments. Mr. Budrow said there was one district for these establishment, but that that district was in three or four places in town, like little pods. Romantics is within the zoning district. They are allowed. One is somewhere in the Hemingway/Cove area. He could not remember the other two. There is a long list of what they fall under in the regulations.

Mr. Budrow also stated that they have a consultant who proposed a "residential enterprise zone." It's the only one ever discussed in town.

Ms. Whitehead rose to spoke. Ms. Otunba-Payne indicated she could not hear. The Commission asked her to speak louder. Ms. Whitehead indicated she could not give all the details. Attorney Coppola indicated she could not understand what was being said.

Ms. Whitehead explained about the funds. The fund allows one to take money and use where needed. All calculations are done in the budget by the Town Council. The funds do not have to be spent down every year. It rolls over every year and keeps its line. It has a negative value of about \$75,000.

Mr. DeMayo asked if they overspent. Ms. Whitehead said it means it is owed money from somewhere else. She has tried to no avail to trace it. It is possible that money is allocated from it to somewhere else with the intent to put it back. To her, it is extraordinary. A professional accountant is needed

to determine what happened. Ms. Whitehead further commented there were two things to look at. How did it end up in a negative balance? And the second question to look at which is a research thing which is follow all of the propositions that were made to do a fee in lieu of and see what actually happened.

Attorney Coppola said to see if the fee in lieu of was paid. This would be the place to begin. Ms. Whitehead stated that the issue is getting the data so the research could be done.

Ms. Bowery asked about whether FOI request could be made to ask for the data related to the negative number. The town is being audited every year. She is sure it has to show up in the audit report, and it has to be identified.

This was discussed at the Affordable Housing meeting the night before, creating form documents. Form affordability plan, for example., and a form deed restriction to deed restrict properties as affordable. So, many towns have conservation easement forms. There is going to be significant conservation easement with The Bluffs property. There is a draft that has been submitted. The town can develop forms to address things. It's a deficit in many towns that there are no forms. There is a deficit too that there are not necessarily record of actions that you might think that there would be. Even the simplest thing such as acceptances of rules, different towns do different things. There is no standard operating procedure. This is something she and Mr. Budrow had talked about at length. This is one of the next level things that is on their list that they want to do. Mr. Budrow had introduced text to the regulations that is absolutely necessary. There are some ordinances in town that are great, but there is always more to do in these areas. Mr. Budrow is working on it.

Attorney Coppola says she keeps saying this at every meeting. When we talk about the Regulations, we propose to fix that use table which is something that she absolutely supports and recommends. It's very, very difficult for a property owner to pick up the town regulations and have to search through a table to find out whether or not a particular use that they want to engage in on their property is permitted by the Town of East Haven's Zoning Regulations. Attorney Coppola expressed gratitude to Mr. Budrow for undertaking this. The Commission thanked Mr. Budrow.

Ms. Bowery spoke about affordable housing metric and deed restrictions. Attorney Coppola said there was a member of the Affordable Housing Committee in the room. It is important to continue conversations about Affordable Housing because it's very likely that there will be further changes to the law. It is important to understand these concepts. So, when we say deed restrict, it's deed restricted in compliance with statutes. The statutes requires a 40-year restriction as affordable. And what is affordable under



our law is rental rate or sale price that the property owner/renter earning 80 percent or less of the area median income is not expending more than 30 percent of their income on housing. We are using area median income because New Haven, Meriden area which is the HUD area is less than the state median income. The state median income is higher. So, we use the lesser of the two per 8-30g. It's important to keep all these things in mind about what is affordable.

Attorney Coppola indicated that if the town does not opt-out of the accessory dwelling units, as contained in the statutes in terms of the regulatory requirements, the Planning and Zoning Commission is going to have to adopt a regulation that complies with that statutes. But one of the things that they did is that they said you cannot require the ADUs to be affordable, but we are going to give you credit -- 8-30g(k) which is the subsection that defines affordable housing -- for apartments/units that are deed restricted for 10 years at prices such that renters are not spending more than 30 percent of their income. She hopes to get public comments and questions on the affordable housing plan. She hopes it is supported by the public. As a strategy, how do we increase those deed restricted units because there is a real benefit? For the ones with the 40-year deed restriction, how do we go about incentivizing to make them last in perpetuity? This is in order to preserve and maintain existing affordable housing, to make sure the town's number does not continue to drop. There are a number of reasons for drop-offs of this number.

Ms. Asid asked if the public hearing should be closed.

Mr. Budrow indicated the information will be on the website the following day. The Commissions will then decide in January, 2023. The final format will be given to the Commission in December.

There were discussions again about the correction of the minutes to indicate the Commission's decision that there would be two types of cannabis establishments in East Haven.

Attorney Coppola indicated that Mr. Budrow got an inquiry about a dispensary. Mr. Budrow indicated he responded the previous day, but the inquiry came in the week prior. Attorney Coppola indicated that the inquiry was about dispensary under palliative use, medicinal use. The inquirer may have been using the wrong terminology. Two transporter licenses have been issued by the state to the same entity for different communities perhaps. She had not seen anything about dispensaries. Attorney Coppola thought they should follow-up with the inquirer.

Attorney Coppola asked if the Commission was interested in medicinal dispensaries in addition to the two other possibilities.

Mr. Fusco asked why anyone would deal with a dispensary when there can be a hybrid facility. Attorney Coppola indicated that there are different regulatory requirements. Mr. DeMayo said we'll stick with two. Mr. Fusco said it could be two. They could say one of three hybrid or medicinal.

There were discussions about the pro and cons of hybrid, retail, and medicinal establishments.

Mr. DeMayo indicated that potential existed for change in the law regarding cannabis every year. He said he thought they ought to crawl first.

Attorney Coppola asked what Mr. DeMayo meant.

There were further discussions about preferences.

It was decided that a text amendment regarding dispensaries could be done later on in the future.

Attorney Coppola said just in terms of hours of operation for the retail and hybrid establishments she did 9:00 a.m. to 9:00 p.m. Monday through Saturday, then 9:00 a.m. to 6:00 p.m. on Sunday. We are starting to get to some of the nitty-gritty stuff.

Ms. Asid asked if these hours would be optional. They would have to stay within those guidelines. Mr. Fusco, indicated that would be the maximum.

Mr. DeMayo asked if other states had these establishments opening for seven days. Attorney Coppola replied that some had nothing with regard to hours. Some of the regulations are very, very minimal.

The Commission opted to have set hours. Attorney Coppola indicated that this was giving consideration to the Police Chief's concern regarding the inclusion of the hours of operation.

Ms. Asid asked about cultivators. Mr. Fusco said that the Commission had said no cultivators at this point. Mr. DeMayo said yes. Mr. DeMayo further stated that the discussion was that they were going to eliminate it right now and get back to it.

Attorney Coppola asked about separation/distance. She did not recall alcohol and beverages rules. She mentioned it the last time. She did 750 feet. Mr. DeMayo indicated that he liked 1500 feet. Mr. Budrow thought they wanted 500 feet. Attorney Coppola indicated that 750 feet is the recommendation. Mr. Fusco indicated that 750 feet was fine.

Ms. Asid said so 750 feet. She is hearing stuff now about the percentage of THC and regulations on that. She wondered if that was something that the Commission should address. Attorney Coppola replied that it was an interesting question.

She said her next comments are not in any way being made to dissuade the Commission from going down the path it has chosen. There have been incidents of children getting a hold of gummies, having to be hospitalized which is the result of the amount of THC in the edibles. When the Commission asked the question, do we think that this is it?. Is this the law that we will have with us for a period of time? This is one area that she wonders about. There are things that are going on. There were a number of articles indicating that children are attending school who are high and concerns about the THC levels and so on and so forth, and whether they are equipped to deal with it in the schools. Many of the schools now have Narcan.

Ms. Asid asked if this was something the Commission will regulate with the stores that come to the town. She asked if we can tell these establishments about the percentage of THC their products could have. Attorney Coppola stated that it was not something she had seen. This is an area where they may see further regulations. Mr. Fusco replied by saying that he believed it's a call for the state to make. Having different amounts of THC for each town would be confusing. Attorney Coppola said this is outside the expertise of zoning.

Ms. Asid asked about delivery. Attorney Coppola indicated that the Commission could not prohibit delivery. Mr. Fusco said transport could be regulated. Attorney Coppola said the Commission cannot prohibit a consumer from having it delivered to their home. Mr. Fusco commented that the Commission could say it does not want transportation. Ms. Asid asked how the establishments would get the merchandize. Mr. Fusco said there will be no cultivators in East Haven. It will come from wherever they come from.

Mr. Budrow asked about street lights. Attorney Coppola said she had included that.

Mr. Fusco asked about signage. Attorney Coppola responded by saying that there were limitations in terms of the type of signage. That is squarely within the Commissions authority. Mr. Fusco asked about whether the Commission could prohibit cannabis-related billboards on the highway. Mr. Budrow said if it is an existing billboard, he does not know how it could be regulated. Mr. Budrow further indicated that there were billboards on state properties.

Ms. Asid asked for a traffic study. The Commission agreed that this should be included.

Attorney Coppola spoke about safety. The lighting plan also becomes important. It is part of security certainly.

Ms. Bowery spoke about these places being cash houses. Mr. Fusco indicated that was no longer true that the business is an all cash business. An ATM system could be utilized. Ms. Asid indicated debit cards are being used now. There is a reason why there are no credit cards allowed yet for these establishments. Mr. Fusco indicated this has to be through federal regulations.

Ms. Asid stated they are just making sure they get all the details.

Attorney Coppola indicated there was one more thing she wanted to add. Enfield does have a map (in the event more uses are allowed in East Haven) of where the uses are allowed, the various cannabis establishment uses. She hadn't see this. She thought that this was a good endeavor as well. If the Commission should go the cultivation route, it would be great to have a map. Mr. Fusco added that this is something that could be addressed somewhere down the road.

Attorney Coppola said she thought there was one other thing but she could not recall. She and Mr. Budrow would meet to go through these.

Ms. Asid indicated that November 30<sup>th</sup>, 2022 would be a date for cannabis, and ADUs and parking opt outs.

## **IX. Adjournment**

Mr. Fusco motioned to adjourn. Said motion was seconded by Mr. Cubellotti. The motion passed unanimously (4-0).

The next special meeting is on November 30, 2022.

The meeting adjourned at 9:30 p.m.

Respectfully submitted,

Sotonye Otunba-Payne