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**Town of East Haven
Planning and Zoning Commission**

**Minutes of Special Meeting
Held Monday, October 3, 2022
At East Haven High School Library Media Center
35 Wheelbarrow Lane**

I. Roll Call and Pledge of Allegiance

Members in attendance: William DeMayo, Chair; Marlene Asid, Vice-Chair; John Tarducci; and Louis Fusco. Member Robert Cubellotti was excused.

Also in attendance: Joseph Budrow, Planning and Zoning Administrator/ZEO and Jennifer Coppola, Assistant Town Attorney.

Meeting began at 7:05pm. Ms. Asid introduced the Board members present. The Pledge of Allegiance was recited.

II. Review and Action on Prior Meeting Minutes

Action on the three sets of meeting minutes shown on the agenda was postponed to the October 12, 2022 regular meeting.

III. Public Hearing

Mr. Budrow requested that the Commission hear and deliberate on the two Applications prior to proceeding with the Public Hearing.

MOTION: Mr. Fusco made a motion to amend the agenda to move the Public Hearing for Application No. 22-07 to follow the two Applications

on the agenda. Mr. Tarducci seconded the motion. **All were in favor.**
Motion carried 4-0.

IV. New Applications

Application 22-13 – 30 Frontage Road, Darbar, LLC. An application for a Site Plan Modification to allow changes to a previously approved Application 20-01-S that allowed for the demolition for an existing hotel and replacement with a larger hotel.

Justin Packard, a civil engineer with Hallisey, Pearson and Cassidy, out of Cromwell, presented the application. He introduced Gary Desai of Darbar, LLC. He started off by describing the property and the surroundings.

In January 2020, there was an approval for a 107-room hotel for Home2 Suites. The pandemic slowed down progress and now there is a request for a Site Plan Modification due to a new prototype for the building. The design now calls for 103 rooms. An approved swimming pool is proposed more to the south, and central, of the hotel, farther from Route 1 and the road noise. The building is now proposed to be 40 feet farther west, further from neighboring residential homes. The parking layout is changed. Also, there were green engineering measures added for stormwater management. A rain garden is proposed to collect roof runoff. A bioretention swale is also proposed for the east side of the property to catch sheet flow from the parking lot. Water will go to an outlet structure and to a catch basin. The west side of the property is like the previous plan, catch basins leading to a Stormceptor structure as stormwater goes to the existing drainage system. This plan will not add more stormwater to the drainage system than the previous plan.

Three electric vehicle chargers are proposed for the east side of the building. Sidewalks are proposed for the entire perimeter of the building. There is a 3.4% reduction in impervious coverage from the last proposal. The landscaping plan also sees an increase in plantings at the perimeter of the property particularly shielding residential properties.

A major component of this plan is a request to waive the requirement of 107 parking spaces, to allow 103 parking spaces as proposed. Mr. Packard stated it is required to show the Commission where the missing parking spaces could go.

Also, it is required that the applicant submit an agreement stating that the missing parking spaces will be installed should the Commission feel the spaces are needed. Mr. Packard said the agreement will be drafted and submitted to the Town Attorney to look at.

Mr. Tarducci asked what would be the trigger to require the three spaces to be installed. Mr. Packard did not believe they will ever need to be installed. He stated if the hotel was ever at 100% occupancy there really will never be one car per room present due to car-pooling.

Mr. DeMayo asked for a description of the exit and entrance into the property. Mr. Packard answered saying there was a drive aisle to the west, between the property and Dollar Tree. There are two curb cuts, one at the SW corner and one at the NW corner. He described drive aisles within the property. He pointed at a dumpster location.

Mr. DeMayo asked, if approved, what the timeline would be. Mr. Desai answered saying they would like to start in 2023. Mr. DeMayo asked how long it would take. Mr. Desai answered that two months would be needed for demolition and about one year to construct.

Mr. Budrow answered Mr. Tarducci's question about what would trigger the requirement for adding the three parking spaces. He said that if there was excess parking then he would probably get phone calls. The site will be monitored from time to time. Mr. Tarducci stated that Kimberley Avenue gets crowded.

Mr. Budrow stated that if the applicant proposed 100 rooms, then there would be enough parking spaces. He asked if there was an economic reason for wanting 103 rooms. Mr. Desai answered "Yes." Overall, there is a reduction in spaces from the last proposal.

Ms. Asid asked about a business space. There will be a meeting room that can accommodate 50 people.

Mr. Budrow asked why there was soil and erosion control measures only at the north end of the site. Mr. Packard explained that the hotel sits at a lower grade than the neighboring properties.

Mr. Budrow noted that this site plan, and the previous plan in 2019, did not show a loading space. He said the Commission should not get hung up on this. He asked where deliveries would be taken.

Mr. Budrow mentioned there were no cross-sections of the rain garden or bioretention swale. He asked if plantings can be installed. Mr. Packard said the plan was for a grassy seed mix. Some growth will look like shrubs. The rain garden will look like a depressed lawn.

Mr. Packard concluded the presentation.

Application 22-14 – 99 Hemingway Avenue, 99 Hemingway Avenue, LP. An application for a Site Plan Review to locate fourteen electric vehicle charging stations throughout the apartment facility.

Mr. Bret Bowin presented. He said there are 120 units at the facility with 140 existing parking spaces. There will be seven pedestal units throughout the facility, each with two chargers.

Mr. DeMayo asked if the units will be open to the public. Mr. Eli Ohayon said “No.”

Ms. Asid asked if there will be an infringement on the existing parking spaces. Mr. Bowin said the facility has more parking spaces than are required.

Mr. DeMayo asked what if a Lexus and a Honda pulled in. Is the EV connection good for both? Mr. Ohayon said the manufacturer supplies a universal unit. Mr. Ohayon said the residents sign up for the LOOP app and pay as they go. He said the apartment facility will own the equipment. People will not be able to drive up and use the chargers.

Ms. Asid asked how many electric vehicles are currently in the complex.

V. Deliberation Session

Application 22-13 – 30 Frontage Road, Darbar, LLC

Ms. Asid led the Commission into the deliberation. Mr. DeMayo felt they enhanced the site with a lot more green (space). Ms. Asid said they followed the requests of the Town Engineer. The lack of a loading space was not an issue and the rain garden and bioretention swale design was adequate. Mr. Tarducci said the Town Attorney will look things over and we are in a good spot.

Mr. Budrow said a condition should be stated that the applicant will adhere to Zoning Regulation 42.8.3 by filing a parking agreement that states that the three parking spaces will be installed if ordered.

MOTION: Ms. Asid made a motion to approve Application No. 22-13 with a condition related to the parking agreement as described by Mr. Budrow. Mr. Tarducci seconded the motion. **All were in favor. Motion carried 4-0.**

Application 22-14 – 99 Hemingway Avenue, 99 Hemingway Avenue, LP.

Ms. Asid led the Commission into deliberation. The applicant was being proactive and there was no issue shared. Mr. DeMayo wondered how they will police the possible usage of the chargers. He wondered if they might come back asking for 20 more units. With no electric vehicles there now, he wondered how they will control potential commercial usage. He wanted his concerns on the record.

Mr. Fusco said the system will not allow for any non-residents to use the chargers.

MOTION: Ms. Asid made a motion to approve Application No. 22-14. Mr. Tarducci seconded the motion. **All were in favor. Motion carried 4-0.**

III. Public Hearing

Application 22-07 – East Haven Planning and Zoning Commission. A Petition for a Text Amendment to the East Haven Zoning Regulations to complete the draft revision of 2019, proposing some changes, and proposing a new format.

Mr. Budrow presented. He shared some documents on the monitor. He described how a consultant had started drafting regulations and that Town Staff appeared to

take over. He wanted to share where things were left off. At a few proposed sections, he wanted to slow down and discuss any thoughts from the Commission.

He showed the Commission an updated list of Commissioners and Town staff. He showed them the section that listed the history of Text Amendments. He stated that this section will be updated by December.

He shared his timeline for the process. At the October 12th meeting, he will present the existing zoning regulations with proposed reformatting and changes. At the November meeting, he will look for ideas and discussion. He hoped the draft and reformatting can be approved in December with follow-up discussion occurring in January and February and text amendments to follow in the Spring.

He showed the existing Table of Contents and stated he would like to change the order, but not the substance. He showed a number of existing Sections where no changes were proposed. He stated that a Section for Certificates of Zoning Compliance should be discussed. Mr. DeMayo favored keeping this section. Section 3 will be dissolved and blended into other sections. He then went on to Section 4, Definitions, and talked about a few proposed definitions.

Section 21 will be blended into other sections. The section on the Zoning Map will need discussion. He shared that he met with staff at New England Geosystems and described their operation and what they do for the Town. He got a quote for the services and was surprised at the low cost. He said the current zoning map, from 1998, does not have parcels on it. We need parcels on a zoning map.

He got to the section where uses are listed and the zones they are allowed in identified. He will show the Commission a new use table format on October 12th.

He mentioned there was a section for a Residential Enterprise District. He did not know what this was aiming for. Possibly an expanded Home Occupation regulation. He displayed the text of the Regulation and read it. Mr. Budrow favors postponing the addition of this section so he can research it more. There is no reference of it in the Plan of Conservation and Development. The Commission agreed.

[Attorney Coppola arrived at the meeting.]

Mr. Budrow showed the Commission the list of Bulk Standards. He reminded the Commission there is a zone that allows for 100-foot buildings. They may want to discuss that in the future.

He told the Commission that the next three Sections will be discussed with a planning consultant during the next phase of the Regulation amendments. The Planned Development District needs more details added. The Flood Plain District is tied to State statutes and will be assessed for accuracy.

He went through more sections that require minor changes. Within the Special Exceptions section there is a proposed Market Analysis and Fiscal Impact requirement. He asked if the Commission would like to keep it. Attorney Coppola stated that it should remain but maybe not a requirement for all applicants but to require in some instances. Mr. DeMayo said it should be discussed in the future. The Commission needs to make sure the requirement is not arbitrary.

In the Section for Additional Standards for Site Plans and Special Exceptions, Mr. Budrow will propose adding more uses here that already have multiple standards applied to them.

He mentioned that Adult Oriented Uses could be considered as uses to be zoned out.

The Affordable Housing Regulation will see amendments when the Affordable Housing Plan is finished. The Blight Regulations will remain.

The rest of the Zoning Regulations, as seen on the screen, will not see many changes. Wording in some Sections will be assessed for compliance with State statutes.

He wrapped up his presentation of the draft regulations as left by the previous staff.

Mr. Jack Tiboni asked if the draft is available online. Attorney Coppola stated that the draft is available on the Planning and Zoning web page. It is red lined and viewable.

Mr. Budrow showed a new format of the Regulations and order of the Sections.

There was a description of how a potential cannabis use could be shown in the Regulations. Some uses have standards.

The Commission returned to their seats and Ms. Asid asked if there were any other comments during the hearing.

MOTION: Ms. Asid made a motion to continue the public hearing for Application No. 22-07 to the October 12, 2022 meeting. Mr. Tarducci seconded the motion. **All were in favor. Motion carried 4-0.**

VI. Other Business

The Commission began further discussion on regulating Recreational and/or Palliative use cannabis. They were reminded that they were given hand-outs in their folders. Mr. DeMayo asked if the Commission wanted to address the Moratorium and he favored that it be removed. Attorney Coppola said that the Commission should direct staff and counsel to draft a text amendment for their review. A public hearing would be held on that text amendment prior to the expiration of the Moratorium. The Town Council will need to discuss this, along with accessory apartments, in the near future. She asked what uses they might consider after all the research was done.

Mr. Fusco felt that he would like to see two recreational dispensaries in town. Mr. Budrow asked if he meant retail stores. It was agreed that was what was meant. Mr. Fusco had concerns about the other use types and felt their descriptions were loose. He favored putting them off for now and perhaps have a Moratorium for them. He thought one store could go up near Foxon and one along Frontage Road. Ms. Asid agreed and mentioned the idea of a hybrid facility also being allowed. Mr. Tarducci asked Attorney Coppola if there could be partial Moratoriums for some uses. She answered that some uses could be regulated by prohibiting them if the Commission chose that route.

Mr. DeMayo complimented Mr. Fusco's opinions. He went on to question how the Commission can control security at these facilities. He would like to keep this moving. Attorney Coppola described that a hybrid facility functions as a retail store and as a medicinal dispensary and read from the statutory definition. Mr. Tarducci clarified that qualifying patients need a prescription.

Mr. DeMayo asked the Commission where they want to go from here. Ms. Asid asked if they were interested in the micro-cultivator use. Attorney Coppola stated that past testimony shared that some cultivation uses could require associated uses, as well. Ms. Asid shared that cultivators would go in a certain area of town. She didn't have a problem with this use and pointed out they heard there is potential crime around them.

Mr. DeMayo said they are not a big community like New Haven is. He was not in favor of expanded uses. Ms. Asid clarified that cultivators could distribute to locations outside of East Haven. Mr. Fusco mentioned that a delivery service in another town can still deliver to East Haven. Ms. Asid asked Mr. DeMayo if he was not in favor of cultivators.

Mr. Tarducci said he favors a prohibition on some uses and favors one facility. Mr. Fusco and Ms. Asid each favored two. There was comment made regarding the information shared by Police Chief Lennon concerning crime statistics.

Mr. DeMayo said East Haven is a small, family town. He wants to go slow and says the door can be open for the future. He is okay with two retail facilities. Mr. Tarducci didn't think that this a big revenue generator. He didn't think area businesses would benefit from the visiting customers. Mr. Fusco said the crime rate is lower when a retail store comes to a town. Attorney Coppola cautioned the Commission about thinking that because there has been contrary information shared. Mr. Fusco thinks the town is in favor of this overall.

Attorney Coppola asked for clarity. They want a retail store. It was asked if they wanted the hybrid facility. There was discussion.

Mr. Budrow asked Attorney Coppola about dispensaries partnering with equity venture groups.

Attorney Coppola wanted to clarify location for the use. Ms. Asid asked why are they limiting to just retail. She would like either/or a retail store or hybrid. She then asked if they allow the retail, should they allow delivery use. Mr. Fusco said delivery services can come from other towns but stated having a service in East Haven is a good thing. There was discussion on the zone to use and it was mentioned that a floating zone could be the way to go.

Attorney Coppola went on to discuss proximity language with regard to a cannabis use from uses such as churches, schools etc. She read a regulation from Ansonia because of its detail. She asked if the Commission was interested in such language.

She said Ansonia has security requirements and regulates hours of operation. She offered to send an email redistributing sample regulations previously provided to the Commission.

Mr. Fusco feels a floating zone is the way to go. Mr. Budrow said that a draft regulation could be shared on October 12th.

Attorney Coppola stated that some zoning regulations cover the approval process for cannabis uses. Special permits are common, as they are public hearings. Some conditions of approval are added. Mr. Tarducci confirmed that discussing outside security would be such a topic.

Attorney Coppola wanted to talk about possible locations to focus on. Retail in a commercial zone may require a buffer from other use types. She asked for thoughts. Mr. Fusco felt the distance requirements should be similar to liquor stores. She asked about residential uses. Mr. DeMayo stated that there are areas with mixed uses where homes are near commercial uses. Mr. Fusco asked if there was a buffer from residential uses. Mr. DeMayo said it would be tough to do with how the Town is set up but the residents need to be protected. Attorney Coppola read the regulations from Section 45 regarding buffer language from liquor stores and the way distances are measured. Mr. Fusco said 500 feet might be the number to go with.

Mr. DeMayo asked if other municipalities are spending as much time on details as this Commission is. The answer was 'Yes.' Attorney Coppola said the Commission gave staff enough direction tonight to begin drafting a proposed regulation. Mr. DeMayo was concerned about needing a buffer from residential uses.

The Commission moved on the discussion on accessory apartments and related parking requirements. Attorney Coppola said that she has drafted a Regulation and will share with the Commission on October 12th. It has all the components as discussed in the past. She said the parking opt-out is a much easier item to handle. The issue with the parking is that the parking calculation is not sufficient. She said they will have to go to the Town Council with this discussion. She hopes to talk about when the Commission would like to have a combined meeting. Ms. Asid said we're running out of time. The Commission asked if Tuesday, October 18, or the 25th, can work. The Commission members agreed to the proposed special meeting dates. Opting out of the State-mandated regulations has to be completed by the end of the year. The Commission can take more time to finalize a Regulation.

VII. Adjournment

Mr. Fusco made a motion to adjourn the meeting at 9:12pm. Mr. Tarducci seconded the motion. **All were in favor. Motion carried 4-0.**