

**ZONING COMMISSION PUBLIC HEARING/MEETING
MONDAY, NOVEMBER 22, 2021
TOWN HALL 7:00 P.M.**

Present: Chairwoman Michelle Rewenko, Secretary Cynthia Kasey, Daniel Thurston, Deborah Kovall, William Ponte, Alternate Member Theodore Root, Alternate Member Dave Foster, Alternate Member Michelle Whitford, Zoning Enforcement Officer Don Truskauskas and Land Use Coordinator Polly Redmond
Also Present: Michael D. Rybak, Sr. and Michael D. Rybak, Jr.

PUBLIC HEARING

1. OPEN HEARING – ESTABLISH QUORUM.

Chairwoman M. Rewenko called the hearing to order at 7:00 p.m. All regular members present are seated.

2. PRESENT PROPOSED ZONING REGULATION AMENDMENT INITIATED BY THE HARWINTON ZONING COMMISSION TO AMEND THE HARWINTON ZONING REGULATIONS, DATED 10/29/2018, FOR A TEMPORARY MORATORIUM ON CANNABIS ESTABLISHMENTS.

Land Use Coordinator P. Redmond acknowledges the following noticing requirements fulfilled:

- 1) LEGAL NOTICE – PUBLISHED IN THE REPUBLICAN AMERICAN ON 11/12/2021 AND 11/19/2021
- 2) OCTOBER 7, 2021 NOTICES SENT TO REGIONAL PLANNING AGENCIES – NORTHWEST HILLS COG & NAUGATUCK VALLEY COG
*NO RESPONSE FROM NORTHWEST HILLS COG
*OCTOBER 18, 2021 - RESPONSE FROM NAUGATUCK VALLEY COG: *FOUND TO BE REGIONALLY INSIGNIFICANT AND HAVE NO MINIMAL INTER-MUNICIPAL IMPACT.*
- 3) OCTOBER 14, 2021 NOTICES SENT TO TOWN CLERKS OF BURLINGTON, LITCHFIELD, TORRINGTON, TERRYVILLE (PLYMOUTH) AND THOMASTON WITH COPIES OF MORATORIUM.
- 4) OCTOBER 15, 2021 NOTICE SENT TO HARWINTON TOWN CLERK WITH COPIES OF MORATORIUM.
- 5) OCTOBER 15, 2021 NOTICE SENT TO HARWINTON BOARD OF SELECTMEN WITH COPIES OF MORATORIUM.
- 6) OCTOBER 15, 2021 NOTICE SENT TO HARWINTON PLANNING COMMISSION WITH COPIES OF MORATORIUM.
- 7) OCTOBER 27, 2021 PLANNING COMMISSION REVIEW WITH FAVORABLE REPORT *AS LONG AS THE ZONING COMMISSION ACTS BY DECEMBER 2022 WITH RECOMMENDATION THAT THE MORATORIUM EXPIRES ON DECEMBER 30, 2022 IN ORDER TO GIVE THE ZONING COMMISSION TIME TO EVALUATE CANNABIS RELATED ZONING REGULATIONS TO BE ADOPTED.*
- 8) NOVEMBER 9, 2021 NOTICE POSTED ON TOWN WEBSITE OF PUBLIC HEARING DATE AND MORATORIUM.

Atty. Michael D. Rybak, Jr. addresses the Commission stating that the Moratorium being presented tonight is based off of the Town of Burlington's Moratorium as a model with definitions included from state law. The Moratorium has blanks at the end for effective dates as shall be determined by this Commission. He explains that most Moratoriums are for the duration of six to twelve months until such time permanent regulations are created.

May 2022 is the first date when retail marijuana businesses would be allowed to open.

Chairwoman Rewenko opens the floor for public comment at this time.

Don Truskauskas, 99 Scoville Hill Road, speaking as a member of the public, questions the process of adopting this temporary regulation and whether it makes sense to make this a permanent regulation at this time. If the Commission decides to prohibit Cannabis Establishments, they will have to go through this same process of holding a public hearing to do so.

Atty. Michael D. Rybak, Sr. replies that the notices sent out refer to a Temporary Moratorium and to switch it out now to a permanent Moratorium and adopt would not be proper. Atty. Michael D. Rybak, Jr. states that it would require editing “on the fly” which is not the best way to adopt a regulation. Michael D. Rybak, Sr. states that this Commission is acting from Public Act 21-1 An Act Concerning Responsible and Equitable Regulation of Adult-Use Cannabis which gives time for towns to adopt regulations on the Cannabis Act. Whatever the timeframe is for the Temporary Moratorium, the Commission will have to go through this same public hearing process to adopt/accept a permanent regulation either to prohibit or allow. T. Root states that he is in agreement with a twelve-month Moratorium. Atty. Michael D. Rybak, Sr. states that the Commission can act sooner on adopting a permanent regulation if it so chooses.

Atty. Michael D. Rybak, Jr. points out that the Temporary Moratorium Regulation fits in as a new Section 4.0.1 because that is where Medical Marijuana Dispensaries and Production Facilities are noted as prohibited in any zone. If the Commission votes to adopt a prohibition of Cannabis Establishments, it would be in this section of the Regulations. Under the law, a “*cannabis establishment*” is a producer, dispensary facility, cultivator, micro-cultivator, retailer, hybrid retailer (i.e., licensed to sell both recreational cannabis and medical marijuana), food and beverage manufacturer, product manufacturer, product packager, delivery service, or transporter. Michael D. Rybak, Sr. states that if the Commission votes to opt out, he suggests using the definitions within the Cannabis Act to be certain of what is being prohibited. For a permanent Zoning Regulation, if permitting, the use should be included under a specific zone where such an establishment would be permitted and followed up by Section 9 as a Special Permit Use.

Chairwoman M. Rewenko states that Commissioners can vote to close the public hearing tonight and have discussions listed on the meeting agendas until it is determined on whether to prohibit or adopt a permanent regulation. C. Kasey **motioned** to have the Moratorium effective upon publication of the decision to the Regulation Amendment for a Temporary Moratorium on Cannabis Establishments. D. Kovall seconded and the motion passed unanimously.

3. CONTINUE OR CLOSE HEARING.

D. Thurston **motioned** to close the public hearing at 7:15 p.m., seconded by C. Kasey. Motion passed unanimously.

REGULAR MEETING

1. OPEN MEETING – ESTABLISH QUORUM.

Chairwoman M. Rewenko called the regular meeting to order at 7:15 p.m. All regular members present are seated.

2. APPROVE MINUTES OF PREVIOUS MEETING: 11/8/2021

D. Kovall **motioned** to approve the minutes of the previous meeting with amendment to page 3, paragraph 2, to read: "Lillian Busse (omitting 'Greg Lucian') notes that the sinkhole..." D. Thurston seconded the motion and it passed unanimously.

3. PUBLIC COMMENT.

Discussion with Town Counsel Michael D. Rybak, Sr. regarding the number of horses kept at 485 Plymouth Road, the letter from LUC Redmond to Pickett Brook Property, LLC (property owner) regarding this matter and their response with Lease Modification Agreements for other land owned by Pickett Brook Property, LLC (Lots 6 and 21) and the owner of 493 Plymouth Road. A Modification of Zoning Permit granted on July 11, 2016 for the 20-stall horse barn at 485 Plymouth Road has been drafted by LUC Redmond and must be signed by Jared Braddock, Supreme Industries/Pickett Brook Property and filed in the land records along with the original Zoning Application No. 6205, the long-term lease agreements and maps. D. Kovall **motioned** to approve the Modification of Zoning Permit No. 6205 with conditions noted above and that Jared Braddock sign as the applicant, seconded by W. Ponte. Motion passed unanimously. Land Use Coordinator P. Redmond will inform Jared Braddock of these requirements by the Zoning Commission.

Michael D. Rybak, Sr. advises the Commission to address these types of uses in the Zoning Regulations or else there will be no way to control such activities. The proposed activities taking place at 485 Plymouth Road is beyond the typical agricultural use and there's no reason this shouldn't have been a Special Permit. He suggests that the Planning Commission receive a copy of the Modification of Zoning Permit in case a lot line revision shows up for Lots 6 and 21 within Equestrian Estates.

In regards to **Affordable Housing** Regulations, Atty. Michael D. Rybak, Sr. states that opting out of preparing a regulation should be a last resort. Discussion on Affordable Housing Regulations will begin to take place in January and shall be placed on each Zoning agenda throughout the year until a regulation is set for public hearing.

4. COMPLAINTS/ENFORCEMENT ACTIONS.

TARGA I, LLC – SUNSET RIDGE – UPDATE FROM ZEO

ZEO D. Truskauskas reports that he received a complaint from 29 Hannah Way property owner that the lawn has not yet been seeded. He reports that the area under the deck at 31 Hannah Way has been taken care of and the slope at that address will be seeded. Chairwoman M. Rewenko questions Len Lopardo (developer) why 29 Hannah Way has not received topsoil and been seeded with Mr. Lopardo stating he is screening topsoil now and that half of the yard at 29 Hannah Way has been done and only the backyard remains to be done. Anthony Mercuriano, 29 Hannah Way addresses the Commission stating that his yard is not really half way done with topsoil and seeding and reports there is not one speck of topsoil. He sent pictures of his yard to the Land Use office that have all been forwarded to Zoning Commissioners. The photos show water pooling at his lower-level back door and no topsoil or seeding. He states that he witnessed topsoil being taken off site by 15-20 trucks and questions why that topsoil couldn't be brought on to his property. Mr. Lopardo explains that the soil was taken off site to have it destabilized. Once that is done it will be brought back to the newly constructed houses and for the Mercuriano yard at 29 Hannah Way. It is noted that the next C.O. to be issued is for 25 Hannah Way and that lot is seeded and strawed but the Mercuriano property at 29 Hannah Way, where they've lived for five months, is not seeded or strawed. D. Foster questions Mr. Lopardo on why this is with Mr. Lopardo stating that a top loader can't get to 29 Hannah Way and that getting certain work done is a part of the construction process and not having equipment readily available makes it difficult to accomplish some things along with bad weather and supply chain issues. Mr. Lopardo states that 29 Hannah Way will be topsoiled and strawed by the end of next week to a week and a half. Mr. Mercuriano verifies and asks if that means it will be done by December 1st with Mr. Lopardo stating, yes.

Lillian Busse, 15 Hannah Way, questions Mr. Lopardo on the Sunset Ridge sign replacement. She questions whether the engineering report on drainage has been received with ZEO D. Truskauskas stating that the engineer is to look at all the drainage within the development but has not yet been received. She points out that between Units 1 and 30, should be grassed and mowing cannot be done unless the ground is leveled out. She tells Mr. Lopardo that the trees that were taken down would look nice if they lined the walking path with them laid down. She questions if the road has been checked for standards with ZEO D. Truskauskas stating that it is not ready for that at this point. Ms. Busse states that the swale at Unit 30 needs to be re-established with ZEO D. Truskauskas stating he will check that area.

5. INFORMAL DISCUSSIONS: ACCESSORY APARTMENTS

Commissioners agree that this will be another matter to address and review present regulations on Accessory Apartments beginning January 2022 along with Affordable Housing Plans in accordance with Public Act 21-29.

6. DISCUSSION/POSSIBLE DECISION – PROPOSED ZONING REGULATION AMENDMENT INITIATED BY THE HARWINTON ZONING COMMISSION TO AMEND THE HARWINTON ZONING REGULATIONS, DATED 10/29/2018, FOR A TEMPORARY MORATORIUM ON CANNABIS ESTABLISHMENTS.

C. Kasey **motioned** to set an effective date for the Moratorium as December 1, 2021 (the date of publication of the legal notice of decision) to expire on December 1, 2022, seconded by D. Thurston. Motion passed unanimously.

7. ANY OTHER BUSINESS.

Zoning Commissioners are made aware of a written complaint to the First Selectman of a sign on Terryville Road that disparages President Biden. First Selectman Michael Criss wrote to the complainant stating that the town cannot regulate content of a sign.

8. INVOICES.

None.

9. ADJOURN.

W. Ponte **motioned** to adjourn the meeting at 8:15 p.m., seconded by D. Thurston. Motion passed unanimously.

Respectfully submitted,

Polly Redmond
Land Use Coordinator

