



TOWN OF RIDGEFIELD

Planning and Zoning Commission

APPROVED/REVISED
MINUTES
PLANNING AND ZONING COMMISSION
Zoom Webinar
Special Meeting

These minutes are a general summary of the meeting and are not a verbatim transcription.

August 16, 2022 Present: Susan Consentino (Arrived: 7:06 p.m.)
Elizabeth DiSalvo
Joseph Dowdell (Vice Chair)
Robert Hendrick (Chair)
John Katz
Ben Nneji
Mariah Okrongly

Absent: Christopher Molyneaux
Joseph Sorena

Also Present: Alice Dew, Director of Planning & Zoning and ZEO
Eileen White, Recording Secretary

1. CALL TO ORDER

Chair Hendrick called the Special Meeting to Order of the Planning and Zoning Commission (“Commission”) via Zoom at 7:01 p.m. A quorum was established.

Mr. Hendrick gave an overview of the Agenda, which included three Public Hearings.

1. CALL TO ORDER

1.1. Distribution of agenda & previous minutes.

1.2. Distribution/acknowledgement of correspondence

- 1.2.1. Letter from Mr. Tartaglia. Re: Cannabis A-22-1(received August 05, 2022)
Ms. Dew stated on record, a new correspondence submitted by Ms. Sementini on August 15, 2022
- 1.2.2. Letter from Ms. Sementini Re: Cannabis A-22-1,A-22-2 (received August 15, 2022)

1.3. Approval of agenda



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2. PUBLIC HEARING

- 2.1. **(Contd.) SP-22-12, 50 Webster Road.** Special Permit Application (RZR 9.2) for construction of detached car garage in the front yard. *Owner: Rosemarie Lusher. Applicant: Luciano Lombardo.*

Mr. Edward Lusher and Ms. Rosemarie Lusher presented the Application, which included that the garage would be a one-story 24 feet by 24 feet structure for two cars.

Commissioner Katz stated that he thought this Application did not warrant approval by the Commission because the proposed garage was not in the front yard.

Chair Hendrick said the proposed garage area was being interpreted as a front yard. It is being calculated as off of Remington Road, rather than Webster Road. Ms. Dew said that, by definition, the property has two front yards.

Commissioners Okrongly and Consentino asked if pictures that the Architectural Advisory Committee (“AAC”) had asked for had been submitted. Mr. Lusher said they should have been submitted by the architect, but they could also be sent to the Planning and Zoning Office.

- 2.2. **A-22-1:** Regulation Amendment Application (per RZR 9.2.B), proposing to prohibit all medical and adult use Cannabis Establishments in all zoning districts in the Town of Ridgefield. *Applicant: Kirk Carr.*

Ms. Alice Dew read the list of Correspondence received regarding this Application:

- a letter from Mr. Tartaglia uploaded on June 13, 2022;
- a letter from the Police Department that was received on July 21, 2022;
- a second letter from Mr. John Tartaglia written on July 19, 2022 and received on August 4, 2022;
- a letter from the Health Department received on August 2, 2022;
- a letter from Ms. Catherine Sementini dated August 12, 2022; and
- a letter from Social Services received on August 15, 2022.

The Chair explained that he had sent the required referral letters to Commissioners and that Ms. Dew had sent the required referral letters to Town of Ridgefield Departments.

Mr. Kirk Carr and Mr. John Tartaglia, Co-Applicants, spoke on the Matter. The other Applicant is Mr. John Noonan, who was not present.



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Due to technical difficulties, Mr. Carr could not present a one-hour video that was the distillation of 10 hours of videos from various sources showing that Cannabis Establishments are not a sustainable business model because of the high taxes on controlled substances as defined in Federal Tax Code 280e.

Mr. Carr furthered that controlled substance businesses cannot take normal business expense tax deductions, except for the cost of goods sold. Mr. Carr said that the one-hour video contained testimony from the Vice President of the California Cannabis Industry Association who said that with the high taxes imposed by Code 280e, California had to bail out legal Cannabis businesses to the tune of \$100 million and that legal Cannabis dealers have to operate in both legal and illegal markets, the latter with much less scruples about selling only to adults.

Mr. Carr also cited the vote the Ridgefield Planning and Zoning Commission (“the Commission”) took in 2015 and that the six reasons the Commission gave then for the vote to ban Cannabis establishments still hold true today.

Mr. Carr stated that the Commission had had the chance to act on the April 2022 request of the Board of Selectmen to prohibit Cannabis establishments, had had a Motion and a Second to prohibit Cannabis Establishments, had Tabled that Motion and then withdrew that Motion. Mr. Carr said that this was the last chance for the Commission to use their authority as elected officials in doing what was right.

Mr. Carr also conveyed that this Application will remain whether the Town Ordinance is passed on September 7, 2022 or not or whether the Moratorium on Cannabis Establishments that expires on September 24, 2022 is extended or not.

Mr. John Tartaglia presented that the Commission had a duty to obey the Board of Selectmen because they are the Superior Board to the Commission. The Chair clarified that, upon discussion with Commission Counsel Beecher, Town Counsel and First Selectman Rudy Marconi, the Board of Selectmen and the Commission are two separate organizations and that State Statute allowed Connecticut Towns to make a decision about Cannabis Establishments through either a Town Ordinance or through a Planning and Zoning Regulation.

Ms. Glori Norwitt, Chair of the Economic and Community Development Commission (“ECDC”) read a statement that said that the ECDC had voted unanimously in a Special Meeting on the morning of August 16, 2022 to allow Cannabis Establishments to promote the economic viability of the Town of Ridgefield. Ms. Norwitt stated that Cannabis easily surpasses tobacco in positive use such as medical treatment for pain, sleep disorders and nausea, Connecticut being one of the top 10 tobacco producing states in the United States.



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Ms. Norwitt continued that the ECDC believes that, if the Town prohibits retail Cannabis businesses, the ECDC would like the Town to consider non-retail Cannabis businesses such as production, packaging and transportation.

Ms. Alice Dew gave the Staff Report that included the fact that the Commission voted on September 24, 2021 to have a Moratorium to allow time for the Commission to create a Regulation or to allow the Board of Selectmen to create an ordinance. She conveyed that the Board of Selectmen have held numerous Public Hearings and there will be a Town vote on September 7, 2022. Ms. Dew said that Mr. Carr's Application was submitted on June 14, 2022 and that referrals were sent to the Health and Police Departments, both of which are in favor of prohibition.

Ms. Dew continued that the ECDC and Social Services responses and that of the Board of Selectmen are attached to the Application. The ECDC has a Video and Minutes. It is Ms. Dew's opinion that the Commission should wait until after the Town Ordinance vote to allow for more public opinion. She added that the Commission can close the Public Hearing tonight or continue it to September 13, 2022, with sixty five days left to make a decision, after the Public Hearing closes.

Commissioner Katz stated that Ms. Dew would know, but that he thought that Counsel had said that the Commission should have a Regulation. Ms. Dew said that she was not sure if Counsel had said this, but that extending the Moratorium allows the Commission to discuss it further.

Commissioner Katz said that a Town Ordinance would take precedence over whatever the Commission decides.

Mr. Carr said that he had not meant to sound disrespectful to Ms. Norwitt and the ECDC, but that an Applicant has a right to a vote on their Application, whether there is a Town Ordinance or not and that the purpose of this Application is to bring Town Regulations into compliance with State Statute, as New Canaan has done.

Commissioner Okrongly said that the entire Town can show their opinion on September 7, 2022.

After further discussion about whether the Board of Selectmen or the Commission should act first on whether or not to prohibit Cannabis Establishments, Commissioner Nneji asked about seeing the one-hour video Mr. Carr had not been able to present. Commissioner Consentino also said that she wanted to see the video.

Ms. Dew stated that the 95-page document that Mr. Carr had sent the Office was attached and uploaded to the Application. Since Mr. Carr's one-hour video would not be available until midnight this evening, it was decided that the Public Hearing would be continued to September 13, 2022 to allow the Commissioners to view the video.



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- 2.3. **A-22-2:** Regulation Amendment Application (per RZR 9.2.B), for extension of the existing moratorium for medical and adult use Cannabis Establishments in all zoning districts in the Town of Ridgefield. *Commission initiated.*

Ms. Dew read the Legal Notice and stated that this Application was formally received on July 26, 2022. The Legal Notices were published in the Ridgefield Press on August 4 and August 11 of 2022. Ms. Dew stated that the Correspondence was the same as the last Matter.

The Chair gave a recap of the procedure regarding the Moratorium. The Chair stated that he and Ms. Dew asked Commission Counsel Beecher about the proper procedure.

Ms. Dew stated that the Staff Report and the Correspondence were the same as the prior Matter and that the Public Hearing starts tonight and has to be closed by September 20, 2022.

Commissioner Okrongly said that she wants to extend the Moratorium to have time for the Commission to draft legislation, consult with Counsel with careful consideration and thought and not to be in a rushed state with this Matter.

3. OLD/CONTINUED BUSINESS

- 3.1. **If Public Hearing is Closed: SP-22-12, 50 Webster Road.** Special Permit Application (RZR 9.2) for construction of detached car garage in the front yard. *Owner: Rosemarie Lusher. Applicant: Luciano Lombardo.*

Ms. DiSalvo motioned, Mr. Katz seconded, to approve. Motion carried 7-0.

- 3.2. **If Public Hearing is Closed: A-22-1:** Regulation Amendment Application (per RZR 9.2.B), proposing to prohibit all medical and adult use Cannabis Establishments in all zoning districts in the Town of Ridgefield. *Applicant: Kirk Carr.*
<https://ridgefieldct.viewpointcloud.com/records/87538>

The Public Hearing was Continued on this Matter until September 13, 2022.

- 3.3. **If Public Hearing is Closed: A-22-2:** Regulation Amendment Application (per RZR 9.2.B), for extension of the existing moratorium for medical and adult use Cannabis Establishments in all zoning districts in the Town of Ridgefield. *Commission initiated.*

Ms. Okrongly motioned, Mr. Katz seconded to Extend the Existing Moratorium to December 16, 2022. Motion carried 7-0.



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- 3.4. (Contd.) RZ-22-1; Ethan Allen Highway (F10-0092, G10-0057, G10-0037, G10-0056 totaling 29.204 acres).** Zone change application per Section 9.2.C of the Town of Ridgefield Zoning Regulations, to change the zone from B-2 to Multi Family Development District (MFDD) for four parcels: Tax Assessor's Lots F10-0092, G10-0057, G10-0037, and a 2.782 acre portion of G10-0056. *Public Hearing closed on June 28, 2022. 65 days to render a decision is September 01, 2022. Owners: Ridgefield Professional Office Complex LLC and Town of Ridgefield. Applicant Agent: Robert R. Jewell.*

Commissioner Katz spoke to his Motion by stating that the Commission, by State Statute, had the charge to lessen congestion and that the Plan of Conservation and Development showed that congestion was one of the chief concerns for Ridgefielders. He continued that once the Commission legislates, it has to act administratively and that approving this Application would force them into an untenable situation in the future, given that the Eureka and Prospect Developments were both approved.

Commissioner Consentino spoke to her Second saying that not knowing what was planned for the property, should there be a zone change, was not adhering to the Commission role as Planners.

Commissioner DiSalvo cited that the Town's need for Affordable Housing would be more likely if the current zoning could remain.

Commissioner Okrongly stated that a zone change could last into perpetuity.

Commissioner Nneji said that he was voting in favor of the zone change because there was nothing preventing the Applicant from putting whatever he wanted on his property.

Commissioner Dowdell said that the Commission had discussed Affordable Housing and this property would be a good place for it and that is why he was voting for the zone change.

Commissioner Hendrick said that he echoed Mr. Nneji's sentiments and that was why he was voting for the zone change.

Mr. Katz motioned, Ms. Consentino seconded, to deny the Application. Mr. Nneji voted Nay. Mr. Hendrick voted Nay. Mr. Dowdell voted Nay. Motion carried 4-3.



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4. NEW BUSINESS

None.

5. ADJOURN

Hearing no further discussion, the Chair adjourned the Special Meeting at: 8:48 p.m.

Respectfully Submitted,

Eileen White

FOOTNOTES:

RZR = Town of Ridgefield Zoning Regulations

CGS = Connecticut General Statutes