

**New Hartford Planning and Zoning Commission  
TOWN OF NEW HARTFORD, CONNECTICUT  
REGULAR MEETING MINUTES  
New Hartford Town Hall, 530 Main Street, 2<sup>nd</sup> Floor – David Sessions Conference Room  
Wednesday, June 22, 2022 at 7:00 PM**

**PRESENT:** Chairman Ted Stoutenberg, Dan LaPlante, Mike Misiorski, Marty Post, and Jim Steadman, Alternates John Burdick and Robert Goodskey; Zoning Enforcement Officer Mike Lucas and Town Attorney Alan Curto.

**ABSENT:** Alternate Jack Casey.

Chairman Ted Stoutenberg called the meeting to order at 7:00PM.

**1. PUBLIC HEARINGS:**

None.

**2. PENDING APPLICATIONS:**

None.

**3. NEW BUSINESS:**

**A. Discussion with Town Attorney, Alan Curto RE: P.A. 21-1: Responsible and Equitable Regulation of Adult-Use Cannabis Act (“RERACA”), as amended by P.A. 22-103.**

Attorney Alan Curto joined the commission to review the options a zoning commission has with respect to cannabis. He noted that he has the most experience within his firm, Halloran & Sage, with cannabis. Attorney Curto reminded the commission that medical marijuana was legalized in 2012 and explained that he had helped one of the first growers of marijuana, otherwise known as a producer, to obtain their licenses. Attorney Curto noted that the legislators recently approved recreational cannabis, explaining that like every other municipality in the state, New Hartford has to determine what they would like to do. Attorney Curto distributed an outline, one modeled after the one prepared by Connecticut Conference of Municipalities (CCM).

Attorney Curto noted that cannabis has a THC content greater than .3%, explaining that a product with less than .3% is considered hemp. Products containing hemp or CBD are less than .3% THC. He reviewed cannabis as defined includes compounds, derivatives, mixtures, or preparations of the plant such as edibles and vapes. He noted that states where cannabis has been legal for a while are faced with challenges because if products, such as baked-in goods consumed by people who do not realize, they can very easily overdose on cannabis. It was one of the big concerns the legislature had when they legalized cannabis so it is something for this commission to be aware of, according to Attorney Curto.

Attorney Curto reported that all of the facilities that can grow, sell, or transport cannabis are called establishments. He noted that with medical marijuana, the growing typically occurred within an industrial zone and the sale occurred in the form of a dispensary which were similar to pharmacies. It was a very tightly regulated system. With medical marijuana, there were four licensed growers and 18 dispensaries, according to Attorney Curto. With the legislation, they can receive a hybrid authority, allowing them to grow and/or sell recreational marijuana. With cannabis, there are nine additional categories of establishments: a cultivator (a grower with at least 15000 square feet of grow space), a microcultivator (a grower with between 2,000 and 10,000 square feet of grow space), a retailer (an establishment that can sell recreational cannabis), a food and beverage manufacturer (can take extracts from cannabis to convert to gummies and candies and cookies and chewing gum), a product manufacturer (creates things like vapes and extracts and non-food and beverage means of ingesting cannabis other than

smoking), product packager (takes cannabis from cultivator or microcultivator and packages it for sale to individuals), delivery service (delivers to customers) and a transporter (transports bulk cannabis from cultivator or micro-cultivator to a retailer). Mr. Post questioned whether each of the aforementioned establishments require a license. Attorney Curto confirmed, noting that the Department of Consumer Protection issues those.

Attorney Curto explained that the Town of New Hartford has four options: to take no action, to permit the uses, to prohibit them, or to issue a moratorium. He reported that a lot of towns and cities have issued moratoriums to allow them more time to study the issue to decide whether they want to permit it or not. The important thing about a moratorium is that it is not disguised as ban, noting that the moratorium should be for six months and no more than twelve months, according to Attorney Curto. He explained that if a town takes no action, it is considered allowed and must be regulated as the most similar use. Many towns use the package store analogy but they can also be regulated similar to a retail or pharmacy, according to Attorney Curto.

Attorney Curto noted that their firm recommends that the Town adopt some regulation that provides options to try to control it and allow it in the most appropriate for the town.

Attorney Curto explained how a referendum is undertaken and how an ordinance might be adopted. He noted that the Secretary of the Office of Policy and Management (OPM) and the Department of Consumer Protection must be notified that either restrictions have been imposed or otherwise regulated, within fourteen days of doing so.

Attorney Curto questioned whether there had been any interest for cannabis establishments in town. Mr. Lucas indicated that there had not been.

Attorney Curto reported that the previous limits included in the legislation have been repealed and noted that there is no limit to the number of establishments that can be permitted in a community. He noted that his firm's interpretation allows for a limit on the number of classifications to be permitted within a given town. A town may choose to allow Microcultivators but not cultivators, according to Attorney Curto. Different establishments can be allowed while others are not, he noted but explained that a cap on the number of establishments cannot be set by a town. He explained that limits, similar to Adult Establishments, can be set in that they are only allowed in one particular zone and must be 2000 feet apart.

Consumption, such as smoking or vaping, can be banned by municipalities in certain areas, including town-owned property, town-controlled property such as sidewalks, parks, beaches, or outdoor dining sections of restaurants.

Attorney Curto noted the limited uses that a municipal tax on recreational cannabis can be utilized, noting that no local tax is permitted on medical marijuana. The Department of Revenue Services tracks the sales as each establishment must report gross sales and the town for which the establishment is located must designate a municipal tax person who will get the tax information to DRS periodically, according to Attorney Curto. The town will have to individually invoice, similar to a regular tax bill, in order to collect the 3%. He discussed the limits to what that revenue can fund.

Attorney Curto noted that recent legislation in Connecticut includes a ban on gifting cannabis and limits on advertisement to only parties with a Connecticut license. Additionally, a target audience must be to people older than aged 21.

Mr. Stoutenberg questioned whether a moratorium is put in place by a Planning and Zoning Commission and whether it was too late to act. Attorney Curt noted that a moratorium would come from the Planning and Zoning Commission and that the race is not due to a deadline but instead with a potential applicant.

Mr. Jerram recommended that the commission not do nothing. There should be some address of cannabis by this commission prior to an application being filed, according to Mr. Jerram. Noting the next regular meeting of the commission was in three weeks, Mr. Lucas agreed that draft language on a moratorium could be introduced then. Mr. Stoutenberg noted that a special meeting could be scheduled for August and a public hearing could take place then.

Attorney Curto then reviewed accessory dwellings. He noted that by not opting out, any maximum imposed or minimum imposed on square footage, would not be enforceable according to Public Act 21-29 if the town chooses to not opt out by January 1, 2023.

Attorney Curto noted that accessory dwelling units cannot be restricted to any additional requirement beyond what is included for a single-family residential unit. He described how communities are able to opt out. He referenced the town of Norwalk as a good example of how to do so including stating on the record the reasons why.

Mr. Stoutenberg noted that this matter can be handled at the special meeting in August, too.

#### **4. OTHER BUSINESS TO COME BEFORE THE COMMISSION:**

##### **A. Phil Doyle, LADA, P.C. Informal discussion of plans to rebuild New Hartford House.**

Phil Doyle of LADA, P.C., accompanied by Dev Patel, the owner, appeared before the commission for an informal discussion on potential plans to rebuild New Hartford House. Mr. Doyle reminded the commission of some of the past New Hartford projects that he has been involved with including the library and the town's master plan for downtown. He explained that Architect John Manners, who had previously worked at Dave Session's CASLE for many years, had been retained to design the replacement building. Some of the challenges are trying to replace a historical building with meeting the current building codes along with rising construction costs for a small family business.

Mr. Patel shared his feelings, experiences, and challenges that he had dealt with, noting the fire had occurred two months after acquiring the building.

Mr. Manners shared the challenges with the design process. Mr. Doyle reviewed the surveys of the sites and the square footage of each building and what the proposed replacements will be. He noted that there would likely be six commercial ground tenants to replace the ones that were there before the fire. Mr. Manners noted that there would be three floors of apartments including four 2-bedroom units and four 1-bedroom units for the second and third floors. Mr. Manners shared the draft elevations. He noted the façade for the first and second floor would be brick similar in color to the neighboring building. Mr. Manners noted that the clock tower form was included in the draft rebuild, too. The cupola was discussed with town historian Anne Hall, noting how the changes evolved over time. Mr. Doyle noted that the aim is to put something in with character connections to the original structure.

Mr. Doyle noted that most of what was on the site was pre-existing non-conforming. Noting that there were some modifications proposed to reduce the non-conformity, Mr. Doyle wondered whether the team should approach the project through the pursuit of variances with the Zoning Board of Appeals or through a regulation change with this commission for the town center zone. He noted that the question of parking is naturally a consideration but that the only relevant

parking to truly be considered should be on the increase, either six or eight. Mr. Doyle noted that he had been taking a lot of parking counts in the downtown area during the morning times, afternoon times, and evening hours. On average, the public parking including the 70 behind town hall, the 27 spots at the library, and the 49 spots at the Church Street lot, there is 236 semi-public parking spots, according to Mr. Doyle. He noted that number did not include the spots behind the barber shop or the Historical Society. According to his analysis, the downtown needs 189 parking spots, he explained.

Mr. Doyle was inclined to suggest a subzone for the downtown buildings. Mr. Jerram explained how the parking had historically been handled.

**5. APPROVAL OF MINUTES: May 11, 2022:**

No action taken.

**6. ZONING OFFICERS REPORT:**

Mr. Lucas reported that Dollar General was now open and that the last of the conditions were satisfied the date of this meeting. Regarding Dan Raymond's event center, Mr. Lucas confirmed that a couple of weeks ago resulted in cars being parked up and down Ramstein Road. He characterized this as a one-off situation. Mr. Misiorski questioned what can be done to ensure this does not happen again. Mr. Lucas noted that he had not yet had a chance to discuss the matter with Mr. Raymond yet. He indicated that it may be handled with NO PARKING signs as a means of regulating it. Mr. Steadman questioned whether there was any progress with the proposed elderly housing on Main Street. Mr. Lucas noted that developer Tim Broboske had his engineering being developed and that it would likely be several more months before that was completed.

**7. CORRESPONDENCE:**

None.

**MOTION:** Mr. Post, Mr. Burdick second, to adjourn; unanimously approved. The meeting adjourned at 9:03PM.

**Respectfully submitted,  
Pamela A. Colombie  
Recording Secretary**