

# MINUTES

## *Newtown Planning and Zoning Commission*

### SUBJECT TO APPROVAL

*Land Use Office  
Council Chamber  
Primrose Street, Newtown, Connecticut*

*Regular Meeting  
June 5, 2014*

Present: Mr. Mulholland, Mr. Porco and Mr. Mitchell. Alternates: Mr. Pozek seated for Mr. Corigliano and Mr. Ruhs seated for Mr. Swift  
Also present: George Benson, Land Use Director  
Clerk: Ms. Wilkin

The meeting was opened at 7.34 p.m. Notice is made that the entire meeting was taped and can be heard in the Planning and Zoning Office, Municipal Building, 3 Primrose Street, Newtown, Connecticut

#### CHAIRMAN'S REVIEW

Mr. Mulholland suggested that the meeting scheduled for July 3, 2014 should be cancelled. The Commission unanimously agreed.

#### MANDATORY REFERRAL

**Mandatory referral from the Borough of Newtown under CGS 8-24 pertaining to a proposed amendment to the Borough of Newtown zoning regulations at Article 4.04.1 "Emergency Suspension of Regulations"**

Mr. Benson and Mr. Mitchell explained the reason for this proposed amendment. Certain applications have been delayed through no fault of the applicant. This amendment would allow them an additional twelve month emergency suspension of regulations. Mr. Mitchell abstained from voting on this matter. The Commission unanimously agreed that Mr. Mulholland should send a letter to the Borough approving the proposed amendment.

**Mandatory referral from the Town of Redding under CGS 8-13 (m-x) pertaining to creation of Incentive Housing Overlay Zones. Mandatory referral from the town of Redding for a proposed amendment to define Medical Marijuana Dispensary and Production Facilities and put in place a temporary moratorium on the acceptance of application for such facilities**

Mr. Benson said that these referrals would have no impact on Newtown. The Commission unanimously agreed that Mr. Mulholland should send a letter to the Borough reflecting such.

Mr. Taylor joined the meeting at 7:48 p.m

**Mandatory referral from the town of Brookfield under CGS 8-24 pertaining to proposed amendments to the Town of Brookfield zoning regulations pertaining to Definition of Structure and Definition of Setback.**

This referral pertained to wordsmithing only and was considered to have no impact on Newtown. The Commission unanimously agreed that Mr. Mulholland should send a letter to the Borough reflecting such.

### **PUBLIC HEARING**

**Application by the Town of Newtown Planning and Zoning Commission for a proposed amendment to the zoning regulations at Article IV, Business Commercial and Professional Uses. Section 2 – Retail Business Zone (B-1) 4.02.200 Permitted Uses pertaining to residential dwellings within a commercial building and above any permitted commercial use.**

The hearing was opened at 7:55 p.m.

Mr. Mitchell read the call for the hearing.

Mr. Benson advised that this amendment would change the way density is calculated. The concept is to have residences in commercial and business zones. Units above commercial uses would share water and septic/sewers. The units would be maximum 1,200 square foot limit two bedroom apartments. Parking would need to be addressed individually.

There were no members of the public present.

The hearing was closed at 8:07 p.m.

### **ACTION**

Mr. Mitchell read the following resolution:

BE IT RESOLVED by the Newtown Planning and Zoning Commission that the application by the Town of Newtown Planning and Zoning Commission for a proposed amendment to the zoning regulations at Article IV, Business Commercial and Professional Uses, Section 2 – Retail Business Zone (B-1), 4.02.200 Permitted Uses pertaining to residential dwellings within a commercial building and above any permitted commercial use.

SHALL BE APPROVED

BE IT FURTHER RESOLVED that the amendment is consistent with the purpose and intent of the town of Newtown Plan of Conservation and Development

BE IT FURTHER RESOLVED that the amendments shall become effective on June 16, 2014.

Mr. Porco made a motion to approve the above resolution. Seconded by Mr. Pozek.

Vote:	Mr. Mulholland	Yes
	Mr. Mitchell	Yes
	Mr. Porco	Yes
	Mr. Pozek	Yes
	Mr. Ruhs	Yes

Motion approved.

### **PUBLIC HEARING (Continued)**

**Application by the Town of Newtown Planning and zoning Commission for a proposed amendment to the zoning regulations at Article VIII, new Section 18 “Moratoriums”**

The Commission briefly discussed the application.

There were no members of the public present.

The hearing was closed at 8:24 p.m.

**ACTION**

Mr. Mitchell read the following resolution:

BE IT RESOLVED by the Newtown Planning and Zoning Commission that the application by the Town of Newtown Planning and Zoning Commission for a proposed amendment to Article VIII of the zoning regulations to provide authority for the Commission to adopt specific zoning moratoria in the future as deemed necessary and reasonable, by adding Section 8.18 to the Zoning Regulations as follows:

**“8.18.100 Moratoriums**

The Newtown Planning and Zoning Commission is authorized to suspend the filing of applications or to suspend construction in the town for limited periods of time in order to allow the Commission to evaluate the needs of the community to evaluate future land use and growth and to pass suitable regulations to implement solutions to specific concerns”

BE IT FURTHER RESOLVED that the amendment is consistent with the purpose and intent of the town of Newtown Plan of Conservation and Development.

BE IT FURTHER RESOLVED that the amendment shall become effective on June 16, 2014.

Mr. Mulholland made a motion to approve the above resolution. Seconded by Mr. Porco.

Vote:	Mr. Mulholland	Yes
	Mr. Mitchell	Yes
	Mr. Porco	Yes
	Mr. Pozek	Yes
	Mr. Ruhs	Yes

Motion approved.

Mr. Mitchell read the following resolution:

BE IT RESOLVED by the Newtown Planning and Zoning Commission for a proposed amendment to Article VIII to the zoning regulations to provide for a one-year moratorium on applications for marijuana production and dispensing facilities, by adding definitions to Article I, General Section 2 and adding Section 8.18.101 to the Zoning Regulations as follows:

“Medical marijuana dispensary facility” means a place of business where marijuana may be dispensed or sold at retail to qualifying patients and primary caregivers, and for which the CT Department of Consumer Protection has issued a dispensary facility permit to an applicant in accordance with Section 21a-408-14 of the Regulations of Connecticut State Agencies.

"Medical marijuana production facility" means a secure, indoor facility where the production of marijuana occurs, and that is operated by a person to whom the CT Department of Consumer Protection has issued a producer license in accordance with Section 21a-408-20 of the Regulations of Connecticut State Agencies.

Add Section 8.18.100 – Purpose and intent

The purpose of the Section is:

To suspend the filing of applications or construction in the Town for a limited time in order to allow the Commission to evaluate the needs of the community, to evaluate future land use and growth, and to pass suitable regulations to implement solutions to specific concerns.

Add Section 18.101 – Uses Subject to Moratorium

A Moratorium on the Acceptance of Applications for Medical Marijuana Dispensary and Production Facilities

The purpose of this Section is:

The Commission acknowledges the adoption by the State on August 28, 2013 of final regulations concerning the "Palliative Use of Marijuana", codified in Sections 21a-408-1 to 21a-408-70 in the Regulations of the State Agencies for the Department of Consumer Protection. As printed from the DCP website, the regulations include 76 pages of regulations for the very tightly controlled administration of the State's Medical Marijuana Program, including requirements for those who seek licenses for the growing and dispensing of medical marijuana.

In order for the Planning and Zoning Commission of the Town of Newtown to properly evaluate these state regulations and to consider the adoption of zoning regulations for local control of these uses, with a goal toward maintaining and protecting the public health, safety, convenience and property values of the residents of the community, a moratorium on the acceptance of any application for facilities for dispensing or growing of medical marijuana is proposed.

The State has indicated that there will be a maximum of ten (10) licenses issued within the State for growers, and only 3-5 licenses issued for dispensaries in the initial stages of the program. In addition, the DCP regulations require that the Agency, when issuing licenses, consider "whether the proximity of the proposed dispensary facility will have a detrimental effect upon any place used primary for religious worship, public or private school, convent, charitable institution, whether supported by private or public funds, hospital or veteran's home or any camp or military establishment". (Sec, 21a-408-14

Clearly, the complexity of the DCP regulations and controls adopted to carefully regulate this use at the State level supports the premise that the use should also be carefully regulated at the local level. The proposed moratorium is therefore justified.

#### A. INTENT AND PURPOSE

The Planning and Zoning Commission has determined that the following uses have the potential to impair the health, safety and welfare of its citizens, and that a temporary, limited moratorium is needed in order to properly develop restrictions and standards for the implementation of these uses.

#### B IDENTIFIED USES SUBJECT TO MORATORIUM

1. Medical marijuana dispensary facility
2. Medical marijuana production facility

**C APPLICATION**

No application for medical marijuana dispensary or protection facility and no installation or creation of a medical marijuana dispensary or production facility shall be permitted in any zone within the Town of Newtown during the effective dates specified in Sec. 8.6.D.1

**D EFFECTIVE DATE and EXPIRATION**

1. The effective date of the added definitions is June 16, 2014
2. The effective date of the moratorium on the application or installation or creation of any medical marijuana dispensary or production facility is the date of adoption of this regulation by the Planning and Zoning Commission together with the filing of the amendment with the Town Clerk (beginning on June 16, 2014), expiring in one calendar year (ending on June 16, 2015)

The same being found consistent with the purpose and intent of the Town of Newtown Plan of Conservation and Development.

Mr. Mulholland made a motion to approve the above resolution. Seconded by Mr. Pozek.

Vote:	Mr. Mulholland	Yes
	Mr. Mitchell	No
	Mr. Porco	Yes
	Mr. Pozek	Yes
	Mr. Ruhs	Yes

Motion approved

**DISCUSSION AND POSSIBLE ACTION**

**Application by Nagy Brothers for renewal of these mining permit on Cold Spring Road.**

This is an application for an annual renewal for a mining permit on Cold Spring Road. The Commission unanimously agreed to the annual renewal.

**Review of approval of Stop and Shop application to amend a special exception to allow outside storage lockers adjacent to the store for pickup of groceries by customers for property located at 228 south Main Street, Newtown, Connecticut**

Mr. Ruhs too photos of the delivery truck dropping off items to be picked up in front of the store. Another time a vehicle picked up food in front of the building. Also, the assigned parking spaces were taken by parked vehicles. It was suggested that the store manager address the Commission at the next meeting to explain these matters.

**COMMUNICATIONS AND CORRESPONDENCE**

**Land Use Director's Comments**

Mr. Benson advised that the plans for lighting, parking and landscaping for the new Sandy Hook School will soon be placed on the Agenda.

**Minutes**

Mr. Pozek made a motion to approve the Minutes of May 15, 2014 as submitted. Seconded by Mr. Porco. The motion was unanimously approved.

### **ADJOURNMENT**

Mr. Pozek made a motion to adjourn. Seconded by Mr. Porco. The motion was unanimously approved.

The meeting adjourned at 9:04 p.m.