

PLANNING & ZONING  
COMMISSION  
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TOWN HALL ANNEX  
238 Danbury Road  
Wilton, Connecticut 06897

## WILTON PLANNING & ZONING COMMISSION MINUTES OCTOBER 27, 2014 REGULAR MEETING

**PRESENT:** Chairman Christopher Hulse, Vice-Chair Sally Poundstone, Secretary Doris Knapp, Commissioners Lori Bufano, John Comiskey, Joe Fiteni, Bas Nabulsi, Peter Shiue, and Franklin Wong

**ABSENT:**

**ALSO**

**PRESENT:** Robert Nerney, Town Planner; Daphne White, Assistant Town Planner; Lorraine Russo, Recording Secretary; members of the press; and interested residents.

### PUBLIC HEARINGS

**1. SP#393, Walter Cromwell, 462 Danbury Road, Request to Modify Site Previously Approved for Adaptive Use**

Mr. Hulse called the Public Hearing to order at 7:15 P.M., seated members Bufano, Comiskey, Fiteni, Hulse, Knapp, Nabulsi, Poundstone, and Shiue, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Mr. Nerney noted that the applicant had requested a continuation of the hearing until November 10, 2014.

Mr. Nabulsi asked for clarification as to whether the subject property falls into the Cannondale overlay district. Mr. Nerney indicated that the Cannondale overlay district does not apply to this parcel.

Mr. Hulse asked if anyone in the audience wished to speak for or against the application.

There being no further comments from the Commission or the public, at 7:16 P.M. the Public Hearing was continued until November 10, 2014.

**2. REG#14346, Medical Marijuana, Amendments to Section 29-2.B, 29-6.B.3.x and 29-7.B.2.s**

Mr. Hulse called the Public Hearing to order at 7:16 P.M., seated members Bufano, Comiskey, Fiteni, Hulse, Knapp, Nabulsi, Poundstone, and Shiue, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Ms. Knapp read the legal notice dated October 10, 2014.

Mr. Wong arrived and was seated at 7:17 P.M.

Ms. Knapp referred for the record to a 2-page “Response by HVCEO” mailed September 23, 2014; a letter dated October 8, 2014 from Betty Brosius, Director of Planning, Town of Ridgefield, to Robert J. Nerney; a letter dated October 20, 2014 from Diane F. Taylor, Chairman, Redding Planning Commission, to Robert J. Nerney; and a 2-page Planning and Zoning Staff Report dated October 22, 2014 with 10 pages of map attachments.

Mr. Nerney provided a brief background/commentary to the Commission, noting that the production and dispensing of marijuana for medicinal purposes became legal in Connecticut in 2012 and, since then, the Department of Consumer Protection has issued a number of such licenses throughout the state. He explained that some Towns have drafted/adopted medical marijuana regulations while others have taken a “hands-off” approach. Referencing the 1-year moratorium on such uses that was enacted by the Town of Wilton effective February 28, 2014, he noted that failure of the Town to adopt specific regulations prior to February 28, 2015 could result in a default (for purposes of permitting) to the broader category of “retail/personal service establishments” for the dispensing of medical marijuana and to the category of “manufacturing establishments” for the production of same, resulting in a greater number of properties in Town where the proposed uses could potentially be allowed.

Referencing the proposed regulations, he noted the following criteria in particular:

1) proposed allowance of the sale of drug paraphernalia at dispensary locations, but with a limitation to items designed to assist in ingesting, inhaling or otherwise introducing lawfully-prescribed marijuana into the body;

2) proposed spatial separation standards from schools, places of worship, playgrounds/parks, child daycare facilities and other licensed dispensaries, essentially parroting the State restrictions in that regard;

3) proposed regulation of dispensaries in the General Business (GB) district and of production facilities in the Design Enterprise (DE-10) district via the Special Permit process.

Mr. Nerney referred to mapping provided in the aforementioned Planning and Zoning Staff Report, noting that retail and Design Enterprise districts tend to follow a linear

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pattern down the Route 7 corridor from Ridgefield to Norwalk, with the exception of the 10/20 Westport Road complex and the Wilton Center (WC) district itself.

He also referenced letters received from the Towns of Ridgefield and Redding in response to notifications mailed by Wilton to both Towns. He noted that the Town of Redding requested that spatial separation standards be applied regardless of community boundaries (i.e. recognition of 1000-foot minimum separations across Town boundaries). The Commission felt that Redding's request made sense.

Mr. Wong questioned the purpose of the proposed regulations and what public good they would serve, noting in particular that the State has already developed regulations that would apply within the Town. He noted further that there was no public outcry nor was there any public representation at the meeting this evening.

Mr. Nerney explained that the State regulations are not all that specific, noting that the drafting of local regulations gives municipalities the chance to be more specific and to establish its own regulations criteria, comparing it in some ways to liquor laws which were adopted several years ago.

Mr. Wong suggested that there are probably more dangerous items than medical marijuana that are sold from behind the CVS counter in Town. He expressed objection to the Town adopting its own regulations, noting that it is not necessary to add another regulatory layer over that which is already provided by State regulations.

Mr. Nerney noted that the regulations as proposed provide a venue for the public to show up and provide comment/input via the Special Permit process which would not be available under State regulations alone. He explained that if the Commission chooses not to draft and adopt its own regulations, then it becomes a ministerial function (i.e. staff will be able to sign/issue zoning permits without the additional oversight that could have been provided via the Special Permit process).

In response to a question from Ms. Knapp, Mr. Nerney explained that the proposed regulations would limit dispensary facilities to the GB district only (excluding Wilton Center and Design Retail Business districts), and production facilities would be limited to the DE-10 district only (excluding the DE-5 district), with both uses being allowed by Special Permit only. He noted that without the proposed regulations, much more area in the community would be open to such uses.

Mr. Nerney stated that he had mapped all GB and DE-10 districts and noted locations outside of the 1000-foot required separating distances that would qualify under the proposed regulations, acknowledging that uses can change over time. He explained that the proposed regulations should not be so onerous as to eliminate any possibility of allowing the subject uses in Town.

Addressing comments/concerns expressed by Mr. Wong, Mr. Hulse felt that the Town should have some framework/order to work within at the current time and if, in the future, an applicant wishes to pursue different locations/districts in Town for these types of uses, then such a request could be dealt with at that time and the regulations modified if deemed appropriate/necessary by a future Commission.

Mr. Shiue felt that the current lack of public interest/discourse could be because there is no specific application on the table right now, noting that it would likely be different if a specific site for such uses were currently in question.

Mr. Wong expressed concern that a potential business might be discouraged from opening up due to the extra layer of regulations imposed by the Town over and above what the State already requires.

Mr. Shiue asked whether establishment of dispensary or production facilities would preclude churches, daycare centers, playgrounds, etc. from locating within 1000 feet after the fact. Mr. Nerney explained that the regulations would not work in reverse (i.e. churches, daycare centers, etc. could locate within 1000 feet of such facilities if they so desired), nor could a previously granted Special Permit approval be rescinded once granted.

Mr. Nabulsi stated that he favors adopting regulations at the Town level in order to be ahead of the curve with respect to such applications going forward. He indicated that he would be willing to discuss not limiting dispensaries to the GB zone only, and to perhaps consider the Wilton Center zone as another permitted location given its commercial nature.

Mr. Nabulsi referenced the proposed definition of “paraphernalia” referring in particular to the last clause indicating that such items would be “sold exclusively at a licensed dispensary facility”. He cited the example of a bong that might be sold in other retail stores, in addition to a medical marijuana dispensary, and would therefore be excluded from sale by virtue of the definition as written. He suggested that the aforementioned clause be excluded from the definition of “paraphernalia”, noting that the definition remains correct without it.

He also referenced Section 29-6.B.3.x (4) which discusses the sale of permissible paraphernalia as accessory to a licensed dispensary and the limitation of such sales to no greater than 10% of gross floor area of the facility. He questioned the use of the word “accessory” and whether it was meant as a reference to an “accessory use” as defined by zoning regulations.

Mr. Nerney cited the premise behind the proposed clause, i.e. that the sale of medical

marijuana from a local dispensary should be the primary function of such a facility and thus the proposal to limit paraphernalia retail space to a maximum of 10% of gross floor area. A discussion ensued during which several issues were raised in connection with the sale of drug paraphernalia, including:

- customers who might wish to purchase drug paraphernalia for recreational purposes as opposed to prescribed medical uses;
- the issue of how to regulate, if at all, such purchases;
- whether customers must be in receipt of a medical marijuana prescription to be able to purchase related drug paraphernalia;
- how to enforce any proposed square footage limitation on such sales;
- whether the purchase of drug paraphernalia for recreational use might cause discomfort to a medical patient in the facility at the time, etc.

Mr. Fiteni observed that customers of CVS are not able to purchase stand-alone syringes unless they have a prescription for a drug that requires such items.

In response to a question from Ms. Knapp, Mr. Nerney acknowledged that State regulations do not impose any limitations pertaining to square footage associated with the sale of drug paraphernalia in dispensaries, as proposed in condition (4) referenced above.

Mr. Nabulsi stated that he would be inclined to strike said condition, noting that he was not sure it would be serving any public purpose. He also noted that the Town regulations as currently proposed do not require compliance with all aspects of the State regulations. He felt that such compliance should be required since lack of such a stipulation in the proposed regulations would essentially result in reliance on State enforcement of those aspects of the regulations.

In that regard, a question arose as to issuance/revocation of State licenses for such facilities. Mr. Nerney noted that the initial intent was to issue such licenses to a finite and very small number of applicants, although he acknowledged that this could change if demand increases and if production becomes more acceptable. Responding to a question from Ms. Poundstone, Mr. Nerney noted that such licenses appear to be issued for, and require renewal after, 1-year's time per Department of Consumer Protection licensing requirements.

Mr. Nabulsi offered some additional grammatical suggestions/corrections pertaining to the draft regulations. He also indicated that he would prefer to hold the hearing open for review of a second draft incorporating the modifications heretofore discussed, and to provide another opportunity for public input.

The Commission was divided on whether to keep the hearing open until the next meeting.

**MOTION** was made by Ms. Poundstone, seconded by Ms. Knapp, and carried (5-4) to close

the hearing. Commissioners Comiskey, Nabulsi, Shiue and Wong opposed, indicating their desire to hold the hearing open.

Mr. Hulse asked if anyone in the audience wished to speak for or against the application.

There being no further comments from the Commission or the public, at approximately 8:20 P.M. the Public Hearing was closed.

## **REGULAR MEETING**

- A.** Mr. Hulse called the Regular Meeting to order at 8:20 P.M., seated members Bufano, Comiskey, Fiteni, Hulse, Knapp, Nabulsi, Poundstone, Shiue, and Wong, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

## **B. APPROVAL OF MINUTES**

### **1. October 14, 2014 – Regular Meeting**

**MOTION** was made by Mr. Fiteni, seconded by Ms. Poundstone, and carried (8-0-1) to approve the minutes of October 14, 2014 as drafted. Mr. Bufano abstained.

## **C. SITE DEVELOPMENT PLAN REVIEW**

## **D. ACCEPTANCE OF NEW APPLICATIONS**

- 1. SP#395, Wilton GSE, LLC, 372 Danbury Road, To reduce the number of parking spaces required on the site per Section 29-8.B.2.c of zoning regulations**

It was the consensus of the Commission to schedule a Public Hearing for the application on November 24, 2014.

## **E. PENDING APPLICATIONS**

- 1. SP#393, Walter Cromwell, 462 Danbury Road, Request to Modify Site Previously Approved for Adaptive Use**

Tabled until November 10, 2014.

**2. REG#14346, Medical Marijuana, Amendments to Section 29-2.B, 29-6.B.3.x and 29-7.B.2.s**

The Commission directed staff to prepare a draft resolution of approval, incorporating the suggestions/modifications proposed earlier, for discussion at the next meeting on November 10, 2014.

**F. COMMUNICATIONS**

**G. REPORT FROM CHAIRMAN**

**H. REPORT FROM PLANNER**

**I. FUTURE AGENDA ITEMS**

**1. SP#394, The Lake Club, Inc., 175-195 Thayer Pond Road, Replacement of lighting on tennis courts 2 and 3 [Public Hearing – Nov. 10, 2014]**

**J. ADJOURNMENT**

**MOTION** was made by Ms. Poundstone, seconded by Mr. Hulse, and carried unanimously (9-0) to adjourn at approximately 8:25 P.M.

Respectfully submitted,

Lorraine Russo  
Recording Secretary