



## **TOWN OF MIDDLEBURY**

*Planning & Zoning Commission*

*1212 Whittemore Road*

*Middlebury, Connecticut 06762*

*(203) 577-4162 ph*

*(203) 598-7640 fx*

**March 3, 2022**

### **REGULAR MEETING**

### **MINUTES**

#### **REGULAR MEMBERS PRESENT**

Terry Smith, Chairman

William Stowell

Erika Carrington

Joseph Drauss

#### **REGULAR MEMBERS ABSENT**

Matthew Robison

#### **ALTERNATE MEMBERS PRESENT**

Paul Anderson

#### **ALTERNATE MEMBERS ABSENT**

Kevin Zupkus

#### **ALSO PRESENT**

John Calabrese, P.E.

Curtis Bosco, Z.E.O.

#### **CALL TO ORDER**

Chairman Smith called the Regular Meeting to order at 7:00 p.m.

#### **ROLL CALL AND DESIGNATION OF ALTERNATES**

Chairman Smith announced Regular Members Smith, Stowell, Carrington & Drauss and Alternate Member Anderson as present. Regular Member Robison and Alternate Member Zupkus were absent.

## **PUBLIC HEARINGS**

1. **New Haven Mortgage Co., LLC/3, 7, 11, 15, 18, 19, 20, 22, 23, 24, 26 & 28 Hunting Ridge Road; 2, 4, 6, 8, 10, 12, 14, 15, 17, 18, & 19 Deer Run Road; Lots 7-02/055, 7-02/055X, 7-02/097 & 7-02/098 Deer Run Road; Lot 6-02/002 Washington Drive & Lot 7-02/128 Triangle Boulevard – Application for a Text Amendment to Section 22.2.1 A of the Regulations (Application #2022-1-1)**
2. **New Haven Mortgage Co., LLC/3, 7, 11, 15, 18, 19, 20, 22, 23, 24, 26 & 28 Hunting Ridge Road; 2, 4, 6, 8, 10, 12, 14, 15, 17, 18, & 19 Deer Run Road; Lots 7-02/055, 7-02/055X, 7-02/097 & 7-02/098 Deer Run Road; Lot 6-02/002 Washington Drive & Lot 7-02/128 Triangle Boulevard – Application for a Zone Change from existing R-40 to R-40/PRD (Application #2022-1-2)**

Chairman Smith called the two (2) Public Hearings to order at 7:01 p.m. and stated that they would run concurrently. He read the Legal Notice published in Voices on 2-16-2022 & 2-23-2022 and the attached letter titled Testimony Opposing from Kevin A. Dillon, A.A.E., Executive Director of Connecticut Airport Authority (CAA) for the record.

Attorney Brian Stone of The Pellegrino Law Firm, 475 Whitney Avenue, New Haven, CT 06511 spoke on behalf of the applicant. They are seeking a zone change to Section 22.2.1 A of the Regulations to add the subject property as an eligible area for an R-40/PRD Zone. In addition, they are also asking for a zoning map amendment to designate said area on the map as an R-40/PRD Zone (see proposed amendments attached). He went on to review the map and pointed out what was known as the Hunting Ridge Estate Subdivision, which was partially developed as the roads were built. The other two (2) parcels are owned by the town and his client has contracted to acquire from the town, which and was brought before this Commission for an 8-24 Review with affirmative recommendation. The last piece, which is also town-owned, was added because it is designated as R-40/PRD and would be land locked but not part of their development. He acknowledged that approval for the zone change would be conditioned upon Section 22.4 of the Regulations of having a preliminary plan. A concept plan has been issued, but is not meant to be a final design. He believes the site is suitable for this type of development and abuts land that has already been zoned for said use, creates flexibility and they plan to include affordable housing units as part of the development under Section 22.7 of the Regulations. The units will be smaller, condensed and allow for more open space. He feels the proposal from the zoning standpoint meets the requirements of the Regulations as it affords an opportunity to redevelop a failed subdivision and create a project with a diversity of housing and affordable housing.

Pat O'Leary of VHB Engineering, Surveying, Landscape Architecture & Geology, P.C. also reviewed the map and stated that an approximate 24-lot subdivision was approved several years ago. He confirmed that the road is in, as well as the utilities. All of the

infrastructure is in place for any proposed development. The concept they are suggesting is for the future and a site plan has not been submitted. He expressed his understanding that 72 houses were purchased by the Connecticut Airport Authority due to noise. However, in the subject region, they are adding in two (2) parcels that are currently off the town's tax roll, and when developing it, they are looking to do a cluster development as opposed to scarring the entire hillside with individual lots. The project will be condominiumized. While it is currently a town road, they would be in a position to take the road back from the town maintenance responsibilities. Instead of having 24-25 individual lots, they plan to create a cluster development in accordance with the PRD Regulations ensuring they meet the criteria for the affordable housing component. He added that a cluster development would reduce the limits of disturbance that were originally proposed for the 24-lot subdivision. They also anticipate in saving an area for passive recreation (walking trails) purposes for the town and/or the proposed condominiumized community and save the ridgeline as well. He confirmed receipt of the letter from Connecticut Airport Authority on this day and he plans to meet with Robert J. Bruno, Director of Planning, Engineering & Environmental Services with Connecticut Airport Authority in the near future. He stated that he does not believe those at Connecticut Airport Authority necessarily understood what is being asked for this evening. He suspects they had a perception that it was more of a site plan application and building units rather than a zone change. He went on to confirm that they plan to propose houses that will be way down below the ridgeline and confirmed his familiarity with the FAA height restrictions within flight paths. There would be no reason to have elevated structures to construct the buildings. They understand the CAA with assistance from the FAA purchased the 72 parcels, however, it wasn't solely due to noise but also because they were in the flight path of approach and departure.

Attorney Brian Stone asserted that their applications are in accordance with the town's POCD and the need for some varied housing types. He also believes it will help this commission in planning for the new requirements. He also questioned why CAA did not take the applicant's land as well when they took the 72 houses if they were so concerned about noise. The development will be in the same location, only in a smaller area of a subdivision that is already approved.

Chairman Smith read the attached NVCOG Staff Referral Report, dated January 24, 2022 for the record.

Linda Sugru of 1180 Christian Road stated that the last 2 owners of the subject property caused her and her late husband a large amount of legal fees. Their driveway was cut in half and a cliff was created. The noise and dust as a result of blasting infringed upon the enjoyment of their home. They were promised a fence so her dogs would not fall, which one did. They were then promised mafia blocks, which did not happen. She ultimately planted \$2,000.00 worth of trees. She indicated that she is not opposed to a development

like the conceptual one being discussed but is leery of having to go through the same experiences. She then requested clarification on the 100 foot requirement.

Pat O'Leary confirmed that she receive the notification because her property is within 100 feet of the zone change. He added that there will be no development in the area adjacent to her property, have a larger buffer and nothing would happen on the south side of the road and will remain in its natural state. They may attempt to clean up the wetlands and eliminate the invasive species.

Attorney Brian Stone stated that he would give his name and phone number so Linda Sugru could contact him should she need to.

William Stowell stated that he wants to hold off until the town discusses the letter from CAA as he feels it's important. He has been concerned about this from day 1 and the town lost 72 units off of the tax rolls because of the noise and now more are going to be jammed in there. He wants to see something from the assessor of what the impacts would be as well as feedback with respect to the letter from CAA.

Chairman Smith confirmed that the hearing would remain open and that they need to hear from the town consultant.

Paul Anderson questioned the where the flight path is in relation to the map.

Pat O'Leary pointed out the area on the map but added that the FAA makes a strict determination on structures within their flight paths. If the subject area was already in the flight path area, they would have taken the property.

Chairman Smith requested that something from CAA that depicts the flight path be brought to the next meeting.

Erika Carrington questioned if weather could cause a change in flight path.

Pat O'Leary confirmed that it's relative to the airport runway but that flight paths change during storms but what doesn't change is the runway.

William Stowell declared that it is a noise issue and believes that the development was approved before the 72 homes were taken by CAA. He also expressed his frustration with Attorney Stone's comments in response to the letter from CAA and feels that he was inferring that it was unimportant.

Attorney Brian Stone replied that it is not the case.

Pat O'Leary agreed that the letter articulated what was of greatest importance to them from a zoning perspective, site plan perspective or otherwise. He believes that it would belong in a site plan element as opposed to a zoning text amendment. It is identified if and when site plans are approved that the HOA prior to the sale of any houses needs to provide written recognition to the prospective homeowner that there is an airport and that there is noise so that when the buyer purchases the house they are purchasing it under the condition that they accept that noise forthcoming. Today, that does not exist for the 25 lots that exist. There is no protection for CAA or otherwise. He went on to confirm that they would be willing to provide written recognition.

Joseph Drauss suggested that a simulator equal to the sound be utilized for the smallest to largest aircraft.

Pat O'Leary respectfully replied that they are before this Commission for a zone change as opposed to site plan approval. He added that it would be a pertinent question during site plan approval phase where you may ask for the decibel levels to be identified. He reminded the Commission that it is already zoned residential where a house can be built but they are trying to create something better for the community.

**Motion:** to continue the two (2) Public Hearings on April 7, 2022. Made by Erika Carrington, seconded by Joseph Drauss. Unanimous Approval.

**3. Evelyn M. Dederick & Dorothy Daniels/625 Straits Turnpike – Site Plan Application & for a Special Exception for a commercial building in excess of 14,000 square ft. pursuant to Sections 31.1.1 & 52.2 of the Regulations (Application #2022-1-4)**

Chairman Smith called the Public Hearing to order at 7:42 p.m. and read the Legal Notice published in Voices on 2-16-2022 & 2-23-2022 for the record.

Emily Jones, P.E. with Civil 1 Engineering in Woodbury, CT spoke on behalf of the applicant. She stated that she has not had the opportunity to go over any updated drainage calculations with the town engineer. The property is located in the CA-40 Zone, on the west side of Straits Turnpike, approximately 900 feet south towards Naugatuck from Maples Restaurant and Country Club Road and is 3.92 acres in size which contains an existing single-family home. There is an Eversource easement through the southern portion of the property, abuts Army Corps of Engineers' land to the east and across the street and is mainly wooded. There is no public water or sewer, therefore extensions of the sanitary sewer line and installation of a well will be required for any sort of commercial development.

The proposed project consists of 27,550 square feet of commercial and retail space on 2 floors with a footprint of 23,500 square feet with retail and office building with parking and drainage. The site would be accessed from Route 63 and the drainage will be handled by two (2) subsurface stormwater infiltration systems designed to accommodate up to the 100-year storm. Extensive earthwork will be required however, this application does not include the special permit for earthwork. Since the proposed building exceeds 14,000 square feet they are also seeking a special exception. She plans to submit the architectural renderings to Economic Development.

Attorney Robert Lubus, Jr. with Grady & Riley LLP 86 Buckingham Street, Waterbury, CT 06710 spoke on behalf of the Santillos, now Mannas, who are the property owners immediately to the rear of the subject property. They take issue with the size of the building and believe that it is going to take up almost double what is allowed for the site. They anticipate it becoming a massive parking lot and massive building, creating an overdevelopment for the site. His clients own 10 acres, zoned residential, that they eventually plan to develop. The proposal would cover almost the entire developable property. In addition, it is his understanding that 31 of the parking spaces will have to be compact spaces because of the size of the development and zoning. They respectfully suggest that the proposal be scaled down.

**Motion:** to continue the Public Hearing on April 7, 2022. Made by William Stowell, seconded by Erika Carrington. Unanimous Approval.

### **MINUTE APPROVAL**

#### **4. Discussion of the Minutes of the Regular Meeting held on February 3, 2022**

**Motion:** to approve the Minutes as submitted. Made by Joseph Drauss, seconded by William Stowell. Unanimous Approval.

### **OLD BUSINESS**

#### **5. Peter Vileisis/288 Watertown Rd. – Application for a 5 Lot Subdivision (Application #2021-10-3)**

Emily Jones, P.E. with Civil 1 Engineering in Woodbury, CT spoke on behalf of the applicant and confirmed that nothing has changed since the Public Hearing was closed last month. She added that she just recently received the draft documents for the legal easements and deed restrictions. She would grant an extension if the Commission wanted town counsel to review them.

Chairman reminded her that a set of revised plans are needed as soon as possible. He also shared with her that he received a notice from the tax collector last Monday informing him that Mr. Vileisis is delinquent on his taxes and nothing will get approved if taxes are outstanding.

She agreed to submit the revised plans and discuss the tax issue with her client. She then added that the Middlebury Land Trust is interested in the open space and would like an additional 10-15 foot strip along the back in order to connect the trail. She questioned if it could be a condition of approval of if she would need to modify it.

Attorney Dana D'Angelo stated she would look into it and reach out to Attorney Pilicy.

6. **New Haven Mortgage Co., LLC/3, 7, 11, 15, 18, 19, 20, 22, 23, 24, 26 & 28 Hunting Ridge Road; 2, 4, 6, 8, 10, 12, 14, 15, 17, 18, & 19 Deer Run Road; Lots 7-02/055, 7-02/055X, 7-02/097 & 7-02/098 Deer Run Road; Lot 6-02/002 Washington Drive & Lot 7-02/128 Triangle Boulevard – Application for a Text Amendment to Section 22.2.1 A of the Regulations (Application #2022-1-1)**

Discussion was tabled.

7. **New Haven Mortgage Co., LLC/3, 7, 11, 15, 18, 19, 20, 22, 23, 24, 26 & 28 Hunting Ridge Road; 2, 4, 6, 8, 10, 12, 14, 15, 17, 18, & 19 Deer Run Road; Lots 7-02/055, 7-02/055X, 7-02/097 & 7-02/098 Deer Run Road; Lot 6-02/002 Washington Drive & Lot 7-02/128 Triangle Boulevard – Application for a Zone Change from existing R-40 to R-40/PRD (Application #2022-1-2)**

Discussion was tabled.

8. **Evelyn M. Dederick & Dorothy Daniels/625 Straits Turnpike – Site Plan Application & for a Special Exception for a commercial building in excess of 14,000 square ft. pursuant to Sections 31.1.1 & 52.2 of the Regulations (Application #2022-1-4)**

Discussion was tabled.

## **NEW BUSINESS**

Chairman Smith requested to address the following agenda item prior to having Hiram Peck address the Commission.

**12. Peter Amara/1582 Straits Turnpike – Application for a Site Plan Modification regarding Architectural Plans and stairway relocation (Application #2022-2-1)**

Scott Meyers, P.E. & L.S. with Meyers Associates P.C. spoke on behalf of the applicant Peter Amara who is also the architect. Site Plan and Excavation approvals were granted last year. Within the last 8 months or so, the Amara's have changed the building. The only change to the site plan was the modified stairwell bump-out on the south side, which was moved approximately 12 feet west. All else remained the same.

Peter Amara confirmed that he will submit it for an Economic Development Commission

Chairman Smith expressed his preference for the modification and confirmed that they would need to return next month.

**OLD BUSINESS**

**9. Discussion and presentation of a Recreational Cannabis regulation, for banning such sales in Middlebury**

Hiram Peck of Plan Three confirmed he received a copy of the Temporary Moratorium and it is his understanding that it soon due to expire. As a result, he submitted and reviewed the attached Proposed Zoning Regulation Amendment for the existing Regulations and he suggests to add it to the new Regulation (yet to be drafted) should the Commission decide to move forward. As a Regulation change requires a Public Hearing, one must be scheduled to delete the Temporary Moratorium and an additional hearing must be scheduled for the adoption of a new Regulation.

Attorney Dana D'Angelo confirmed that two (2) separate hearings would be required but can take place in the same evening.

**Motion:** to schedule two (2) Public Hearings for April 7, 2022:

1. Adoption of Regulations Prohibiting Recreational Cannabis Sales &
2. Deletion of the Temporary Moratorium

Made by Joseph Drauss, seconded by Paul Anderson. Unanimous Approval.

**10. Discussion of schedule for the review of the draft regulations previously delivered to the Commission**

Hiram Peck of Plan Three submitted and reviewed that attached 2021 Legislative Changes Regarding Land Use Issues. He stressed that there are many sections that



are unclear and suspects that this session of legislature may result in more changes due to their ambiguity. He made sure to explain the process for opting out of Accessory Dwelling Units (ADUs) PA 21-29 which requires a Public Hearing, that 2/3 of the Commission votes to opt out and that a Legal Notice is published. It then goes to the Board of Selectmen which must follow all of the same requirements. In order for town to official opt out, both Commissions must have followed the requirements and the end result must be that **both** Commissions chose to opt out. He asked that the members consider if there is a regulation that can worded in order to make it work. If not, he believes January of 2023 is the deadline to opt out, however, due to the lengthy process, it should be started in the near future. With respect to affordable housing, he put together a proposal for this Commission's consideration in order to have it done by June of 2022 and accommodate a variety of types of housing. He suggested that they start to initiate the project, approve a schedule and possibly advertise and utilize an online survey method (i.e. SurveyMonkey) of an online survey on the town's website for the residents. He plans to draft the questions for consideration. He proposes to conduct a PowerPoint presentation next month regarding the background housing data and possible adoption of general goals. By May 1, 2022 he would like to have the data of the survey study analyzed and in draft form for the Commission's review. He would like to provide a presentation of the completed plan and adoption by the Commission by June 1, 2022, then sent to the Board of Selectmen as well. A copy of the plan must be sent to the CT Office of Policy & Management.

Chairman Smith confirmed that Mr. Peck could make his presentation during the April 7, 2022 Regular Meeting.

**11. Discussion of schedule for the review of the draft regulations previously delivered to the Commission**

Hiram Peck stressed the importance of having to finalize the draft of the Regulations he provided.

Chairman Smith suggested that they hold a series of workshops to go through the draft and have it open to the public for their input.

All agreed that Saturdays would be best and to email Chairman Smith by Monday March 7, 2022 with their availability.

**OTHER BUSINESS**

**13. Any other business added to the agenda by a 2/3 vote of the Commission**

None

#### **14. Enforcement Report**

Curtis Bosco, Z.E.O. reviewed the status of various ongoing noncompliance issues throughout town and agreed to collaborate with Attorney Dana D'Angelo with respect to some of the issues that have been in existence for quite some time.

#### **15. Adjournment**

**Motion:** to adjourn the meeting at 8:59 p.m. Made by Erika Carrington, seconded by William Stowell. Unanimous Approval.

Filed Subject to Approval,

Respectfully Submitted,

Rachelle Behuniak, Clerk

Original to Brigitte Bessette, Town Clerk

cc: P&Z Commission Members  
Paul Bowler, Chairman, Conservation Commission  
Mark Lubus, Building Official  
Curtis Bosco, Z.E.O.  
Ken Long, Chairman, Z.B.A.  
Attorney Dana D'Angelo  
Rob Rubbo, Director of Health



### Testimony Opposing

1. New Haven Mortgage Co., LLC/3,7,11,15,18,19,20,22,23,24,26 & 28 Hunting Ridge Road; 2, 4, 6, 8, 10, 12, 14, 15, 17, 18, & 19 Deer Run Road; Lots 7-02/055, 7- 02/055X, 7-02/097 & 7-02/098 Deer Run Road; Lot 6-02/002 Washington Drive & Lot 7-02/128 Triangle Boulevard – Application for a Text Amendment to Section 22.2.1 A of the Regulations (Application #2022-1-1)  
and
2. New Haven Mortgage Co., LLC/3,7,11,15,18,19,20,22,23,24,26 & 28 Hunting Ridge Road; 2, 4, 6, 8, 10, 12, 14, 15, 17, 18, & 19 Deer Run Road; Lots 7-02/055, 7- 02/055X, 7-02/097 & 7-02/098 Deer Run Road; Lot 6-02/002 Washington Drive & Lot 7-02/128 Triangle Boulevard – Application for a Zone Change from existing R40 to R-40/PRD (Application #2022-1-2)

Kevin A. Dillon, A.A.E.  
Executive Director  
Connecticut Airport Authority

Town of Middlebury – Planning & Zoning Commission  
March 3, 2022

Dear Chair Smith and distinguished members of the Planning & Zoning Commission,

My name is Kevin Dillon, and I am the Executive Director of the Connecticut Airport Authority (CAA). I am **submitting these comments in opposition to agenda items 1 and 2.**

The Connecticut Airport Authority (CAA) would like to express concerns and opposition to the proposed development located on the lots referenced in items 1 and 2. Due to the proximity of the planned residential development to Waterbury Oxford Airport (OXC), the CAA would like to ensure that all residents are aware of the potential for noise since the development will be in the main flight path to the runway. This runway handled 38,043 operations in 2021, and it is important that any potential buyers are aware of the likelihood of airport-related noise. It is also important to note that the CAA and Federal Aviation Administration just recently purchased 72 homes directly adjacent to the proposed development due in large measure to noise issues.

The CAA respectfully requests that, at a minimum, potential buyers be notified that they are in the vicinity of the airport approach/departure surfaces and that this will result in aircraft noise. The CAA also requests that permanent language be added to the town zoning regulations describing necessary steps developers would have to take and who to coordinate with on development in a runway approach, in/under a departure surface, or near an airport. This language should include a requirement to notify buyers and receive a signed letter that buyers are aware of their proximity to an airport and that they may reside in an airport approach/departure surface.

The CAA would like to meet with the Town to discuss our concerns with residential development surrounding airports, especially locations in runway approach and departure surfaces. In addition to the noise matter, we also have considerable concerns with the potential height of this development and equipment that would be used during construction. At a minimum, we will need to ensure that the developer is meeting all obstruction evaluation (FAA Form 7460) requirements. We will be reaching out to the Town to find a suitable time in the near future to discuss this important matter further.

Thank you for your consideration of my comments. Please feel free to contact me at (860) 292-2054 if you have any questions or concerns.

Sincerely,

Kevin A. Dillon, A.A.E.  
Executive Director  
Connecticut Airport Authority

RECEIVED

JAN 03 2022

PLANNED RESIDENTIAL DEVELOPMENT OVERLAY DISTRICT  
BUILDING DEPARTMENT  
MIDDLEBURY, CT

## SECTION 22

### PLANNED RESIDENTIAL DEVELOPMENT OVERLAY DISTRICT

#### 22.1 Purpose:

The purpose of the Planned Residential Development Overlay District ("PRD") is (1) to provide for diversity of housing types and sizes, (2) to provide additional affordable or economical housing, (3) to protect environmentally significant areas and (4) to preserve significant amounts of open space by allowing flexibility in the design and placement of residential structures.

#### 22.2 Qualifying Standards:

No parcel of land shall be considered for a Planned Residential Development Overlay District unless it complies with the following standards:

22.2.1 The parcel shall be located in (and thereafter if approved shall be designated in conjunction with) an R-40 Residential District in areas of the Town of Middlebury, specified below ("Eligible Area"). Such district shall be designated on the zoning map as R-40/PRD. In addition, an identifying number may be assigned to each district. The Eligible Areas are:

A. That portion of the R-40 District bounded northerly by Judd Hill Road; easterly by Longmeadow Brook; southerly by Oxford town line; and westerly by a line commencing on the Oxford town line and running northerly ~~along the westerly boundary of property now or formerly of the Estate of Mary Alishauskas (as it existed on November 1, 1989) to the street line of Christian Road and thence continuing northerly along said Christian Road to Judd Hill Road.~~ westerly and southerly by a line commencing on the Oxford Town Line running along the boundary line of property now or formerly of the Connecticut Airport Authority; westerly by a line commencing on the Oxford Town Line running along the boundary property line now or formerly of the Connecticut Airport Authority and by a line commencing from the boundary line of property now or formerly of the Connecticut Airport Authority along the property line now or formerly of Salvarezza Particia; To the street line of Christian Road and thence commencing Northerly along said Christian Road to Judd Hill Road. Excluding residential lots identified by the Assessor's Map as 7-02/053 and 7-02/054.

B. That portion of the R-40 District on the easterly side of Town identified as those properties presently served by Hillcrest Water

Company as evidenced by its water lines in place adjacent to said property on June 1, 1989.

C. That portion of the R-40 District is described as follows:

Property situated at North Benson Road on the east and west sides thereof and also bounded on the north by Judd Hill Road, in part, and in part by land now or formerly of Francis M McDonald et al, which additional eligible area is shown as: (1) Parcels 1 and 78 on Middlebury Tax Assessor's Map No. 7-6; (2) Parcel 16 on Middle Tax Assessor's Map No. 8-4; (3) Parcel 3A on Middlebury Tax Assessor's Map No. 7-4; and (4) a portion of Parcel 9 on Middlebury Tax Assessor's Map No. 7-4, generally described as an area east of North Benson Road defined by a line that is approximately 980± feet east of such road at the southeasterly corner of such area, thence approximately 1,255± feet to the north-northwest to a point which is approximately 825± feet east of North Benson Road. The land included in such eligible area includes North Benson Road, beginning at a point on the west side thereof which approximately 1760± feet north of the intersection of North Benson Road and Southford Road, thence in a northerly direction to a point on the west side of North Benson Road which is approximately 285± feet south of the intersection with Judd Hill Road, and beginning at a point on the east side of North Benson Road which is approximately 1625± feet north of the intersection of North Benson Road and Southford Road, thence in a northerly direction on North Benson Road to a point on the east side of North Benson Road which is approximately 418± feet south of Judd Hill Road.

- 22.2.2 The minimum size for Planned Residential Development District is 50 contiguous acres; the maximum size is 200 acres. For the purposes of this section, property separated from other property by a Town road shall be considered to be contiguous, provided that there is a minimum of 30 acres on each side of such Town road.
- 22.2.3 The PRD must contain 200 ft. minimum road frontage. The Commission may, however, approve reduced frontage (but not less than 150 feet) if existing conditions would permit such access which would not adversely affect abutting property or be detrimental to the neighborhood. The minimum road :frontage must be on a Street designated as an arterial roadway or a collector street in the Middlebury Plan of Development. For purposes of this section, frontage on North Benson Road shall nevertheless qualify as such :frontage.
- 22.2.4 PRDs may be created within existing zoning districts located in Eligible Areas or may be rezoned together with a paired R-40 residential district





## NVCOG STAFF REFERRAL REPORT

TO: Planning & Zoning Commission, CEO, and Town Planner of Middlebury, and Naugatuck Valley Council of Governments (NVCOG) Regional Planning Commission (RPC) representatives

FROM: Keith D. Rosenfeld, Regional Municipal Planner, NVCOG, 49 Leavenworth Street, Suite 303, Waterbury (203-757-0535)

January 24, 2022

NVCOG FILE NO.: MIDD-154-011022-Z  
MUNICIPALITY: Town of Middlebury  
DATE RECEIVED: January 10, 2022  
DATE OF PUBLIC HEARING: March 3, 2022  
TYPE OF REFERRAL: Zoning Regulation Amendment  
APPLICANT: First New Haven Mortgage Company, LLC

### DESCRIPTION OF PROPOSAL:

The Town of Middlebury has received an application from First New Haven Mortgage Company, LLC, through its agent, The Pellegrino Law Firm, as follows: The First New Haven Mortgage Company, LLC is the owner of properties located at 1-30 Christian Road and a prospective purchaser of Lot 97 and Lot 98 Christian Road, currently owned by the Town of Middlebury. The applicant is requesting a text amendment to Section 22 of the Town of Middlebury Zoning Regulations, along with a corresponding map amendment.

As a Planned Residential Development Overlay district, the purpose of Section 22 of the Middlebury Zoning regulations is to provide for diverse housing types, additional affordable housing while protecting sensitive environmental sites and preserving open space. Proposed amendments to Section 22 are to include new "eligible Areas" where this development can occur.

The corresponding Zone Change property corresponds directly to the property identified in the overlay district, identified as an Eligible Area designated on the zoning map as R-40/PRD.

### STAFF RECOMMENDATION:

With the unlikelihood that traffic would be diverted through the airport property to the south, staff finds the proposed text amendment to Section 22 of the Town of Middlebury Zoning Regulations, along with a corresponding map amendment to be regionally insignificant and will result in no inter-municipal impacts.

\* \* \* \* \*

This staff recommendation is transmitted as written above unless we receive comments or objections within five days of the time you receive this proposal. If objections cannot be resolved within the scope of the original recommendations, you may submit a reconsideration request to the Regional Planning Commission for further discussion of the findings.

MIDD-154-011022-Z

Proposed Zoning Regulation Amendment;

Delete: Cannabis moratorium

Effective date: \_\_\_\_\_2022 (Date of Commission vote after properly noticed public hearing is held and closed).

Then at the same properly noticed public hearing:

ADD: Article 1, Section 12, Specific Town wide Prohibition:

A. Any sale whether retail or wholesale, of any amount of recreational cannabis in any zone, location or district to anyone within the Town of Middlebury is hereby prohibited as is authorized by Public Act 21-1 and in accordance with the Zoning Regulations of the Town of Middlebury.

Date of properly noticed public hearing: \_\_\_\_\_2022

Date of vote on this amendment: \_\_\_\_\_2022

Effective date of this regulation amendment: \_\_\_\_\_2022

NOTE: The effective dates should be the same for each action.



## 2021 Legislative Changes Regarding Land Use Issues

Including: PA 21-29, PA 21-34 and 21-1 and others.

### 1. Accessory Dwelling Units (ADUs) PA 21-29: *Opt out process applies.*

- a. ADUs as of right
- b. ADUs not restricted to relatives
- b. No public hearing and permit issued within 65 days after ap.
- c. Must comply with all applicable fire and building codes.
- d. Connected or detached is OK. No exterior door req. Only 1 parking space req.
- e. Max of 1,000 sf or 30% of primary, whichever is smaller.
- f. Same req for setback and coverage etc as primary.
- g. No req to be affordable.
- h. May be regulated as short term rentals.
- i. Separate septic may not be req. Systems connecting 2 structures not a community system.

### 2. Multifamily Housing, PA 21-29:

- a. Encourages diverse housing stock for different incomes.
- b. Third party review fees are permitted, but may not be excessive.
- c. No numerical caps on multifamily (mf) homes in a district.
- d. Greater requirement to provide for housing incl mf housing and what is in State Plan of C&D for housing and Community Dev..
- e. ***Municipal Affordable Housing Plan req by June 1, 2022, submitted to OPM. Subsequent Plans every 5 years.***
- f. Commission on CT Housing Development and Future. Two reports to come, 2022 and 2023.
- g. OPM to analyze housing programs (in every municipality?) every two years.

### 3. Outdoor Dining, Special Act 21-3 and 21-2:

- a. Outdoor dining req to be allowed as an accessory use to licensed food establishment.
- b. Admin site plan review, 10 day turnaround on aps.
- c. Until 9 pm unless extended by Zoning Commission.
- d. Waving of minimum parking regs for outdoor dining.
- e. More specifics lacking in the bill re process or appeals.

### 4. Recreational Cannabis, PA 21-1:

- a. 21 and older rec use permitted.
- b. Multiple definitions established including retailer, sales to consumers and research programs.

- c. Municipal tax revenues, 3% of gross receipts to be used for streetscape, education, parolees, mental health, youth and civic engagement.
- d. Max 1 retail and 1 micro cultivator per 25,000 residents. (New cap in future?)
- e. Municipality may prohibit, restrict hours, restrict proximity.
- f. Must report action to OPM.
- g. Other restrictions apply if permitted in the municipality.
- h. Maybe petitioned to referendum.
- i. Ordinance may prohibit use of cannabis on municipal property.
- j. Cannabis is not agriculture under CGS.

#### **5. Traffic and Parking, PA 21-28:**

- a. Local authority may set speed limits without OSTA approval.
- b. Evaluation of traffic impacts on bike and pedestrian movements by OSTA.
- c. Developers may use Vehicles Miles Travelled (VMT) and/or LOS traffic calcs for developments.
- d. Funding for bike and ped trails from State.
- e. **PA 21-29 Zoning may require only 1 space per studio and 1 bedroom unit and max of 2 spaces for larger units. *Municipality may opt using specific opt out process.***

#### **6. Land Use Approval Expirations, PA 21-34, and 21-163**

- a. Delays the effective date of wetlands permit, if it is only one of the req. permits for a development.
- b. Special Permits/Special Exceptions approved before July 1, 2011 now valid for 19 years.
- c. Approvals granted between July 1, 2011 and March 10, 2020 are now valid for 19 minimum years after approval.
- d. Also initial approvals now valid for 14 years extended to 19 years.
- e. (Needs to be carefully sorted)

#### **7. Additional Zoning Requirements, PA 21-29**

- a. Wording of CGS 8-2 revised. Affirms furthering Federal Fair Housing Act. Character now means physical characteristics.
- b. Authorizes floating and overlay zones and planned development districts.
- c. Town may not prohibit cottage food activities (small scale home-based food production)
- d. Regulation of mobile homes not any different from other types of housing. PA 21-29 adds larger mobile manufactured homes. (length of smallest dimension of mobile home must be greater than 22 feet for this provision to apply)

**8. Meeting Procedures (including remote), PA 21-2 through April 30, 2022.**

- a. Allows remote meetings to be conducted.
- b. Many sections, all aimed at transparency and participation by public and Commission.
- c. Items to be posted on Town website. Etc.
- d. Still required notices to be placed in newspaper

**9. Commissioner Training, PA 21-29:**

- a. By 1/1/23 all P&Z and ZBA members must complete four hours of training including at least one hour concerning affordable housing and fair housing policies.
- b. Proof of training to be submitted to BOS by 3/1/24

**10. ZEO Credentials, PA 21-29:**

- a. Municipal ZEO must be certified by CAZEO by 1/1/23. (CZET or CZEO not specified)