



Town of Westport
Planning & Zoning Commission
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MEMORANDUM

TO: Members, Planning and Zoning Commission

FROM: Michelle Perillie, AICP/CFM, Planning and Zoning Director

DATE: November 11, 2024

RE: **Pre-Application Meeting for 1460 Post Road East to Permit Recreational Marijuana**

Proposal

Nicholas Tamborrino is representing Bluepoint Wellness located at 1460 Post Road East. Mr. Tamborrino submitted a Pre-Application Meeting Request to discuss permitting "Hybrid" (Medical/Recreational) marijuana sales at Bluepoint Wellness, which is limited to sell Medical Marijuana per §32-25, found [here](#).

Property Description and Existing Uses

1460 Post Road East is a 2.96-acre lot with frontage on Post Road East (US Route 1), connected to the public sewer, and improved with a 39,654 SF multi-tenant commercial building. The current building is occupied by retail, medical, and restaurant tenants, the Town's only medical marijuana dispensary. The lot is a split zoned lot with 37% of the lot in a residential zone (Residence A) and 63% of the lot in a commercial zone (General Business District or GBD). A 20' wide easement bisects the property and is reserved for emergency access to Regents Park, the condominium complex next door.

In 2018, the Planning and Zoning Commission granted Special Permit/Site Plan approval for a (Medical Marijuana) Dispensary, Bluepoint Wellness, at 1460 Post Road East pursuant to [Res. #18-021](#). Condition #1 of the resolution stated the approval does NOT authorize any future use for purposes of recreational sales if legalized. At the time it was unknown if/how the state legislature would respond to the question of legalizing recreational marijuana. A second location for a (medical marijuana) Dispensary was not granted; instead, four other applications were denied for various reasons in 2018, and the State reached their threshold of granting licenses to Dispensaries.

In 2019 a Zoning Permit was granted to Bluepoint Wellness to operate a Dispensary for medical marijuana sales only following the granting of a license by the State DCP. A Zoning Certificate of Compliance was issued on 12/29/19.

A recent Special Permit/Site Plan approval granted to the property owner of 1460 Post Road East by the Commission in July 2021 to convert retail and restaurant floor area to Medical use and related site work, maintains the Dispensary use as reflected on the approved building floor plans.

History of Recreational Marijuana

On July 1, 2021, Public Act 21-1, “An Act Concerning Responsible and Equitable Regulation of Adult-Use Cannabis,” went into effect as adopted by the state legislature and is available [here](#). The legislation legalized adult recreational use, sales, and cultivating of marijuana in Connecticut.

The Planning and Zoning Commission adopted Text Amendment #799, pursuant to [#PZ-21-00597](#) on September 9, 2021. The amendment was originally submitted with a 24-month sunset provision but was modified to entirely prohibit all cannabis establishments, with the exception of Medical Dispensary Facilities. The Resolution lists the following reasons.

1. The Commission modified the existing and proposed definitions in §5-2 listed in Text Amendment #799 to more clearly distinguish what is currently allowed pursuant to Text Amendment #735, adopted in 2017, enabling sales of marijuana to patients and caregivers for palliative use for medical purposes (aka Medical Marijuana), from what is now prohibited pursuant to this amendment (all types of Cannabis Establishments associated with recreational marijuana).
2. The Commission modified proposed §31-16 to remove the 24-month sunset provision, resulting in a permanent prohibition on Cannabis Establishments (except for “Medical Dispensaries Facilities”), following receipt of testimony during the public hearing that raised uncertainty whether the Department of Consumer Protection (DCP) would in fact be “ready” within 24-months to issue licenses for any of the 11-types of Cannabis Establishments listed in PA 21-1 or whether any lessons could be learned in this short time frame from municipalities that “opt-in” and allow recreational sales.
3. The Commission unanimously concluded a modification to Sec. 31-16 is appropriate at this time so there is no arbitrary deadline by which the P&Z Commission or other elected officials including the RTM must complete their research relating to the various issues associated with allowing Cannabis Establishments and public hearings nor a limit on the time available to foster discussions exploring this important topic with the public.

Process Considerations

A Pre-Application Meeting is a non-binding forum allowing an applicant to obtain feedback on a proposal from members of the Planning and Zoning Commission without expending resources associated with filing a formal application. §7-159b of the Connecticut General Statutes is the enabling legislation that allows for a non-binding forum between a future applicant and the Planning and Zoning Commission to exchange ideas. CGS §7-159b states:

“A Pre-Application review and any results or information obtained from it may not be appealed under any provision of the general statutes, and shall not be binding on the applicant or any authority, commission, department, agency or other official having jurisdiction to review the proposed project.”

Preliminary Analysis

The Planning and Zoning Commission may feel this question has been asked and answered in 2021 when review of Text Amendment ##799 was adopted. What has changed? Mr. Tamborrino submitted material indicating since July 1, 2024 package stores are now allowed to sell cannabis infused beverages at Westport liquor stores which are prohibited at Bluepoint which is negatively impacting their business.

Mr. Tamborrino suggests a benefit of this change would be a 3% tax revenue to the town and increased economic activity consistent with the 2017 Plan of Conservation and Development. He also cited fifty (50) adult use cannabis retailers are now operational in Connecticut which decreases the amount of business each location sees and eliminates traffic issues.

Pros and Cons

Potential adverse traffic impacts were cited by one Planning and Zoning Commission member to initially persuade her to choose to prohibit versus regulate Cannabis Establishments. As no surrounding municipality to date has indicated they will opt to regulate, she expressed concerns regarding potential traffic a Cannabis Establishment could generate if located in Westport accessible by both I-95 and the Merritt Parkway, exacerbating existing traffic congestion.

Mr. Tamborrino 's narrative indicates the existing business operates in a professional and compliant manner which has had no negative impact on town activities or traffic. Our office is in receipt of a letter from Marek Kozikowski, AICP, Director of Land Use for Middletown, CT which states,

“During the review of the application for this special exception use, the City was very concerned that a cannabis retailer would create severe traffic issues around the property. The City was familiar with the severe traffic issues in Massachusetts when marijuana was legalized and feared that Middletown would experience the same. However, in our experience, none of our concerns have come to fruition. The presence of VENU has simply not been the traffic generator we expected from a cannabis retailer.”

Proceeds from taxes and other revenue streams was cited by as a reason to potentially consider allowing and regulating Cannabis Establishments. Public Act 21-1 provides for a 3% municipal sales tax (above and beyond the standard 6.35% sales tax) to be collected by the State and remitted to the municipality where a retailer is located. These proceeds become part of the municipality's general revenue, but with a proviso the proceeds may only be spent on the following purposes:

- Streetscape improvements and other neighborhood developments in communities where cannabis or hybrid retailers or micro-cultivators are located.
- Education programs or youth employment and training programs in the municipality.
- Services for individuals living in the municipality who were released from DOC custody, probation, or parole.
- Mental health or addiction services.
- Youth service bureaus and municipal juvenile review boards; and
- Community civic engagement efforts.

Public Act 21-1 also allows the collection of a one-time fee from retailers. For the first 30-days after the opening of a cannabis or hybrid retailer, a municipality may charge the retailer up to \$50,000 for necessary and reasonable costs for public safety services related to the opening.

Feedback Requested from the Planning and Zoning Commission

The applicant's Cover Letter identifies feedback is requested on their request to become a hybrid cannabis retailer as licensed by the Department of Consumer Protection with the Planning and Zoning Commission.

Next Steps

Depending on the feedback received at the Pre-Application Meeting, a future approval would require a two-step process, first a Text Amendment application for review at a future public hearing of the Planning and Zoning Commission and second a Special permit/Site Plan modification at which time neighbors within a 250' radius of the subject property will receive a Notice Letter sent in an envelope marked **"Urgent,"** in red, in hopes of engaging affected property owners at the public hearing. Additionally, the applicant should continue to reach out directly to neighboring property owners, Town Officials, and others who will be affected by the project.

Materials reviewed and available in the P&Z Office and on the Town's website [here](#):

Pre-Application Meeting Request Application Form endorsed by Nicolas Tamborrino, dated 10/24/24

Pre-Application Narrative, prepared by Nick Tamborrino, undated

Letter from Marek Kozikowski, AICP, Director of Land Use for Middletown, dated 11/1/24

Res. #18-021, dated 06/28/18

Res. #PZ-21-00597, Text Amend 799, dated 9/3/21

Public Act 21-1, An Act Concerning Responsible and Equitable Regulation of Adult-Use Cannabis