

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

WILTON PLANNING & ZONING COMMISSION MINUTES NOVEMBER 25, 2013 REGULAR MEETING

PRESENT: Chairman L. Michael Rudolph, Vice Chairman Chris Hulse, Commissioners Lori Bufano, Doris Knapp, Bas Nabulsi, Peter Shiue, and John Wilson

ABSENT: John Gardiner and Marilyn Gould (notified intended absences)

ALSO

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

PUBLIC HEARINGS

REGULAR MEETING

A. Mr. Rudolph called the Regular Meeting to order at 7:15 P.M., seated members Bufano, Hulse, Knapp, Nabulsi, Rudolph, Shiue, and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

B. APPROVAL OF MINUTES

1. November 12, 2013 – Regular Meeting

MOTION was made by Ms. Knapp, seconded by Mr. Wilson, and carried (7-0) to approve the minutes of November 12, 2013 as drafted.

C. SITE DEVELOPMENT PLAN REVIEW

1. SDP, ASML US, Inc., 77 Danbury Road, Alternative Signage Program

Present was Jeremy Oskandy, Arthur Howland & Associates, on behalf of ASML US, Inc.

Mr. Oskandy noted that the applicant decided, after the previous meeting, to comply with what the perceived preference of the Commission was at that time, i.e. 4-foot high signage. He distributed revised plans to the Commission, noting that the originally proposed 6-foot x 22-foot lettering has been reduced to 4 feet x 15 feet, essentially a halving in total square footage from 132 square feet to 60 square feet. He confirmed that the letters would likely be in contact with the building and not offset.

Mr. Nerney briefly reviewed proposed signage for the site, referencing a total of four proposed signs including the aforementioned 60 square-foot sign, two 16-square-foot signs on each cantilevered side of the building, and a 33 square-foot sign on the single story portion of the building.

Mr. Nabulsi asked whether the record is clear regarding what, exactly, the Commission is approving this evening. Mr. Nerney indicated that there may be some additional, very small incidental signs on the site but nothing that he considered significant and definitely none that would be viewable from off-site/Route 7.

Ms. White noted for the record that she reviewed the site plan with Environmental Affairs Director Pat Sesto, who confirmed that the plan is in conformance with what was approved by the Inland Wetlands Commission.

The Commission reviewed Draft Resolution #1113-4Z.

MOTION was made by Mr. Nabulsi, seconded by Ms. Knapp, and carried unanimously (7-0) to adopt as drafted Resolution #1113-4Z for SDP for **Alternative Signage** at 77 Danbury Road, effective December 16, 2013.

WHEREAS, the Wilton Planning and Zoning Commission has received an application from ASML US, Inc. for an alternative signage program application for property located at 77 Danbury Road; in a Design Enterprise (DE-10) District, known as Assessor's Map #69, Lot# 18, consisting of 29.2 acres; owned by ASML, US, Inc., and shown on the plans entitled:

Landscape Plan (Sheet L.1) – Prepared by Arthur H. Howland and Associates, submitted for ASML US, Inc., 77 Danbury Road, dated May 1, 2013 and drawn at a of 1" = 20'.

New Exterior Elevations (Sheet A300) - Prepared by H & R Design Facilities Planners,

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submitted for ASML US, Inc., 77 Danbury Road, dated July 22, 2013, last revised November 14, 2013 and drawn at a of $\frac{3}{4}'' = 1'$.

Enlarged Exterior Elevations (Sheet A301) - Prepared by H & R Design Facilities Planners, submitted for ASML US, Inc., 77 Danbury Road, dated July 22, 2013 and drawn at a of $\frac{3}{8}'' = 1'$.

Enlarged Exterior Elevations (Sheet A303) - Prepared by H & R Design Facilities Planners, submitted for ASML US, Inc., 77 Danbury Road, dated July 22, 2013, last revised November 14, 2013 and drawn at a of $\frac{3}{8}'' = 1'$.

Wall Sections (Sheet A305) - Prepared by H & R Design Facilities Planners, submitted for ASML US, Inc., 77 Danbury Road, dated July 22, 2013 and drawn at a of $\frac{3}{4}'' = 1'$.

Wall Sections (Sheet A306) - Prepared by H & R Design Facilities Planners, submitted for ASML US, Inc., 77 Danbury Road, dated July 22, 2013 and drawn at a of $\frac{3}{4}'' = 1'$.

Wall Sections (Sheet A306A) - Prepared by H & R Design Facilities Planners, submitted for ASML US, Inc., 77 Danbury Road, dated August 6, 2013, last revised November 19, 2013 and drawn at varying scales.

WHEREAS, the Wilton Planning and Zoning Commission reviewed the Alternative Signage Plan request at regularly scheduled meetings on October 14, 2013, November 12, 2013 and November 25, 2013; and

WHEREAS, the Wilton Planning and Zoning Commission has determined that the unique size and complexities associated with site warrant consideration for alternative signage; and

WHEREAS, the Wilton Planning and Zoning Commission has determined that the application is in substantial compliance with the Wilton Zoning Regulations;

NOW THEREFORE BE IT RESOLVED that the Wilton Planning and Zoning Commission **APPROVES** the Sign Plan effective December 16, 2013 and subject to the following conditions:

1. This Resolution does not replace requirements for the applicant to obtain any other permits or licenses required by law or regulation by the Town of Wilton, such as but not limited to: Zoning Permit, Sign Permit, Building Permit, Certificate of Zoning Compliance; or from the State of Connecticut or the Government of the United States. Obtaining such permits or licenses is the responsibility of the applicant.
2. In accordance with Section 8-3.(i) of the Connecticut General Statutes, all work or physical improvements required and/or authorized by the approved Plan shall be completed within five years of the effective date of this resolution. This five-year

period shall expire on December 15, 2018.

3. All proposed signage shall be non-illuminated unless otherwise amended by the Commission. Signage shall be installed in locations as designated on the approved signage plan.
4. Conditions pertaining to allowed alternative signage at 77 Danbury Road (existing signage)
 - a. Unless otherwise authorized by the Commission, the two existing monument signage along the Danbury Road right-of-way shall remain unchanged.

Conditions pertaining to allowed alternative signage at 77 Danbury Road (proposed signage)

- a. The façade signage shall be limited to the following:
 1. ASML Logo on two-story building – 60 square feet (4' x15').
 2. ASML logo on cantilevered façade – 16 square feet (8'x2') – (two signs, one on each elevation of the cantilevered projection).
 3. ASML logo on single-story building– 33 square feet (3' x11').
5. All approved signs shall be designed and erected in accordance with the aforementioned plans and as described on the alternative signage plan listed above. The proposed signs, shall be consistent with the signage represented on the submitted plans and shall not differ with respect to size, color, design or appearance. Said signs shall be located in the areas as shown on the submitted site plan.

Submittal of revised plans and application:

6. Two (2) completed revised sets, (collated and bound) shall be submitted to the Commission's office for endorsement as "Final Approved Plan" by the Town Planner. Said plans shall include all revisions noted above and shall bear an ORIGINAL signature, seal and license number of the professional responsible for preparing each plan or portion of it. Said plans shall include the following notes:
 - a. "In accordance with Section 8-3.(i) of the Connecticut General Statutes, all work in connection with this Sign Plan shall be completed within five years after the approval of the plan. Said five-year period shall expire on December 16, 2018."
 - b. "For conditions of approval for Sign Plan, see **Resolution #1113-4Z.**"

D. ACCEPTANCE OF NEW APPLICATIONS

1. SP#389, Jackson, 111 Highfield Road, Accessory apartment in existing barn

It was the consensus of the Commission to schedule a public hearing for **SP#389** on January 27, 2014.

E. PENDING APPLICATIONS

1. REG#13342, To amend Section 29-2.B to add definition of “Athletic Fields” and Section 29-9.E.2 to add new subparagraph entitled “Lighting for Outdoor Athletic Fields”

Mr. Rudolph seated members Bufano, Hulse, Knapp, Nabulsi, Rudolph, Shiue, and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

Ms. Knapp referenced a draft resolution of denial that was drawn up by staff and provided to Commissioners prior to the meeting. She stated that the draft resolution was excellent and represented her opinions on the matter precisely, noting that she was opposed to the regulation.

Mr. Nerney noted for the record that staff had prepared and provided to Commissioners both a draft resolution of approval and a draft resolution of denial for its review prior to the meeting.

Mr. Nabulsi stated that he was leaning towards a denial but would appreciate hearing other Commissioners’ opinions on the matter. He noted that it is important to realize that a denial is not a vote against turfing the field, or lighting the field, or against any other types of activities that could take place to improve the athletic capabilities of these fields, but is simply a consideration of the potential for up to 80-foot lights on these fields.

Ms. Bufano stated that she was also leaning toward denial, indicating her concern with the potential for 80-foot lights on these properties.

Mr. Shiue stated that he was initially in favor of the application, although as the hearings progressed, he noted that he did waiver somewhat, referencing in particular his concern for the orb of light which would ultimately be visible to some degree in spite of the directional/light beam focus emphasized by the applicant. In light of all of these considerations, he stated that he is in favor of the application, although he indicated a willingness to consider other Commissioners’ opinions on the matter.

Mr. Wilson stated that he was in favor of utilizing the fields in a reasonable manner, although he was bothered quite a bit by the applicant’s acknowledgement that some up-

lighting would be inevitable. He also noted his concerns with fog/smog conditions in the area of the field which would result in a dome of light over the entire area. Although he was sympathetic to the concerns of the neighbors, he did note his belief that the Town needs another turf field which he wholeheartedly supports. He stated that, in the end, and in spite of the Commission's safety-related modifications to the proposed amendment, he felt that he still did not know enough to make an advised, intelligent decision on the matter, noting that he heard no testimony that convinced him one way or the other as to what is safe lighting for each particular activity/sport. Failing that, he stated that he could not comfortably make a decision, and thus was leaning toward denial.

Referencing Middlebrook field in particular, Mr. Hulse felt that the proposed amendment would improve the situation for the neighbors by more efficiently directing the light. He felt that what is currently there is horrific. He was surprised that timing of the lighting was not in any way addressed/restricted, which he felt was critical and should have been included in the proposed amendment. He stated that he was particularly impressed by Al Nickel's comment that he must drive his daughter to fields outside of Wilton for practice, and the inherent dangers associated with such frequent travel. He noted that each field would still require its own specific Special Permit application, noting that the proposed amendment is not a blank check for lights across all fields. He also cited the lighting expert's comment that in his 35 years of experience, all of his installations have involved 75-80 foot poles, which Mr. Hulse considered very telling. As a result, he indicated that he was leaning towards approval.

Mr. Rudolph stated that he was most impressed by 1) the fact that double-income parents, who don't get home until 5-6 P.M., need the advantage of lighting to have their children participate in athletics throughout the community and 2) the admission on the part of the lighting expert at the first session that Middlebrook field lighting did not need to be more than 70 feet, resulting in what he felt was a deficiency in the testimony of the lighting expert.

Further, he felt that the Commission does not have any satisfactory basis for determining a) what the lighting fixture height has to be and b) what the number of lights has to be, i.e. the Commission was not presented with sufficient evidence to incorporate such standards into any resolution. In spite of the Commission's proposed modifications, particularly the minimum height for maximum safety provision, he felt that the Commission still has no real idea of what requirements it would actually be approving. Noting the amendment's requirement that applicants still have to come before the Commission with a Special Permit application for lighting each individual field, he questioned what is really being accomplished by the proposed amendment. He stated that he approves of the concept of lighting and the right of the Town's children to participate in athletics after dark, but he was not satisfied that this application accomplishes anything, and thus he would vote to deny.

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Mr. Shiue felt enough safeguards were written into the proposed amendment, noting again that it is not a blank check.

Mr. Nabulsi felt that if the regulation is approved, the Commission will have accomplished a great deal, i.e. it will have put in place a framework that would allow applicants to come in and present evidence to support up to 80-foot lights for athletic fields in residential districts. He expressed concern, however, that opening up such an opportunity in the residential zones could significantly impact immediate neighbors and others who are in a range of vision of 80-foot stanchions that would stand above the tree line.

Mr. Rudolph felt that property owners who move into a community where lights already exist on a playing field know to some extent what they are getting into, although he understood the impact of such lighting on fields where no lighting currently exists. As an example, he cited the Madaras Memorial field and the impact that any lighting would have on Hunting Ridge Lane residents, for example.

Mr. Nabulsi felt that passing the proposed regulation could create a pall of sorts on properties near, and in viewing range of, fields where no lighting currently exists but where, by virtue of the passage of this amendment, 80-foot lights could potentially be installed, even if such lighting were never, in fact, installed. He noted that seeking a variance from the Zoning Board of Appeals, as is currently required for such lighting, is a one-time situation/application which would be reliant upon the Board's evaluation of each individual property on its own merits. In contrast, he felt that the proposed amendment "paints" with a much broader brush and he expressed concern that it might not be in the best interest of the Town.

Mr. Shiue noted that the Commission would have the ability with the proposed amendment to consider each application on an individual basis.

Mr. Nabulsi felt that the ability exists (although he acknowledged the lighting expert's testimony to the contrary) to light a turf field in a way that would accommodate most, if not all, potential evening uses of fields via 30-foot lighting which is currently allowed by regulations. Mr. Wilson stated that he was not as confident in that regard.

Ms. Knapp questioned whether 30-foot lighting might become more effective in the near future as lighting technology continues to improve/evolve. Mr. Shiue felt that 30-foot lighting would never be equivalent to 70 or 80-foot lighting, unless the laws of physics were to change.

Mr. Rudolph referenced the use of Town fields by outside interests (i.e. non-Wilton children) that was mentioned at the hearings. He stated that he found it distressing to whatever extent that type of use creates a need for additional lighting.

Mr. Wilson referenced further testimony that indicated such uses were on a case-by-case basis and only if no Town people were going to use the particular field at that particular time.

Ms. Knapp noted that that indicates there is room in the schedule for the Town's teams to utilize such time slots.

Mr. Hulse thought that the "outside interests" reference was to a men's soccer league coming in from Norwalk and/or Danbury with play/practice time later at night when some parents of younger children do not want their children practicing. He stated that he would not support lights being on longer/later into the evening hours if it was for outside interest groups versus Wilton sports teams.

Mr. Wilson felt that everyone on the Commission was in agreement that they want this use for the kids and they also want neighbors to be considered in any decision made.

Mr. Hulse felt that no testimony contradicted the fact that whether a field is lit by 30-foot lights or 70-foot lights, a lit field would be visible in the distance, which he felt further supported his opinion that timing/lighting restrictions are imperative in any such regulation.

Mr. Nabulsi disagreed, noting that the potential for a larger percentage of the Town to be impacted is significantly higher with 70-foot lighting than with 30-foot lighting, both from the aura of the light and from the direct visibility of the stanchions and the lights themselves.

Mr. Wilson referenced the testimony of the applicant as well as his personal experience in the lighting field, noting that the angle of the higher lights will actually be better for the neighbors up high, although he conceded that the physical structure of the light stanchions might be visible.

Mr. Nabulsi felt that while it is a more challenging lighting design issue to accomplish effective lighting with 30-foot lights while satisfying spillage requirements at the property line, he felt that the Commission achieves an appropriate objective, from a zoning perspective, by limiting the height of stanchions and relying on the existing regulations to assure that the spillage is controlled to the degree required by the regulations.

Mr. Wilson noted that the only way to accomplish this with 30-foot lighting is to have a boat-load more lights on a site.

Referencing one of the points included in the draft resolution of denial, Ms. Knapp suggested that perhaps an expert be hired or a Commission be convened to investigate

some of these issues with which the Commission is now struggling.

Mr. Nerney agreed that this matter may go beyond the Planning and Zoning Commission. He suggested that the Commission consider referring it to another entity, e.g. Parks and Recreation or some other body that could put together a study group to review the issues at hand. In response to a question from Mr. Rudolph as to whether the Commission would have such authority, Mr. Nerney thought that it would probably be up to the proponents to pursue such an option. He felt that a blue ribbon panel, perhaps involving outside expertise, would be a more comprehensive approach that could look at not only issues of lighting, but also inventory of fields, natural versus turf surfacing, etc., i.e. look at where the Town is today and what the needs of the future might be. He likened it to the issue of cell towers in 2000, when the Board of Selectmen formed a steering committee to be proactive on the matter as opposed to reactive.

A straw poll was taken to determine which draft resolution the Commission should work on first. The straw poll indicated five Commissioners in favor of denying the application and two Commissioners (Hulse and Shiue) in favor of approving the application. The Commission therefore proceeded to review the draft resolution of denial #1113-2REG. Minor modifications were incorporated into the resolution.

MOTION was made by Ms. Knapp, seconded by Ms. Bufano, and carried (5-2) to adopt as amended Resolution #1113-2REG to **deny** application **REG#13342**. Commissioners Hulse and Shiue opposed.

WHEREAS, the Wilton Planning and Zoning Commission accepted application #13342 for consideration of amendments to Sections 29-2.B. and 29.9.E. of the Zoning Regulations of the Town of Wilton as it pertains to the definition of athletic fields and the lighting for outdoor athletic fields located on public school properties; and

WHEREAS, the Planning and Zoning Commission conducted a public hearing on October 28, 2013, continuing said hearing to November 12, 2013 to receive comment from the public and has fully considered all evidence submitted at said hearing;

NOW THEREFORE BE IT RESOLVED that the Wilton Planning and Zoning Commission **DENIES** application #13342 for the following reasons:

1. The proposed regulation amendment, as drafted, seeks to allow outdoor lighting fixtures on public school athletic fields; potentially to a height of 80 feet. Based on public testimony and submitted evidence, it is the consensus of the Commission that the potential for such lighting in residentially-zoned and developed areas is contrary to protecting and conserving the character, environment and social and economic stability of these areas and is also counter to efforts of encouraging orderly and beneficial development within the community in general.

2. The Commission finds the proposed regulation amendment to be inconsistent with the purpose of zoning; specifically the lack of connectivity between residential usage and athletic field lighting and the distinct manner in which each operate. As described in Section 29-1 of the Zoning Regulations, the fundamental purpose of zoning is: “.....to guide the future growth and development of the Town in accordance with a comprehensive plan designed to represent and promote the most beneficial and convenient relationships among the residential, commercial, industrial and public areas within the Town, considering the suitability of each area for such uses as indicated by existing conditions, trends in development and changing modes of living, and having due regard for the use of land, building development and economic activity, both within and adjacent to the Town”.
3. Although the 2010 Plan of Conservation and Development refers to the need for additional playing fields such passages, as referenced in Chapter 6 of the Plan entitled “Infrastructure Strategies”, do not suggest the need for additional field lighting nor the need for erecting taller light standards. Moreover the proposed amendment appears contrary to recommendations contained within Chapter 4 of the Plan of Conservation and Development which speak to the desirability of minimizing light pollution.
4. The Commission finds that, at present, all public school athletic fields are located in residentially-zoned areas of the community. The Commission further finds that these fields are situated close to residential homes where the presence of such lighting would likely compromise the quality of life for neighboring properties and/or locations within viewing range, potentially impact property values and undermine the broader stated purpose of the Town’s Residential “R-1A” and “R-2A” districts; the regulations of which assert: “The single-family residential districts are intended to provide suitable areas for residential development appropriate to the environmental characteristics of the land and the character of the neighborhood. The districts are also intended to accommodate certain nonresidential uses which are compatible with residential uses while preserving neighborhood character and property values” (*Section 29-5.A – Wilton Zoning Regulations*).
5. The Commission believes a more comprehensive and thorough undertaking of the subject matter should be pursued before considering a zoning regulation amendment. This may involve the appointment of a study committee comprised of representation from various town commissions, recreation and sport groups, a town-commissioned consultant with appropriate expertise in the lighting field as well as public involvement. The Commission believes such an exploration designed to assess needs, current and future operational costs and location options will provide the proper direction and input so as to develop clear and comprehensive land use policies that best serve the community.

F. COMMUNICATIONS

G. REPORT FROM CHAIRMAN

1. Reports from Committee Chairmen

H. REPORT FROM PLANNER

Mr. Nerney advised the Commission that a variance for the higher light poles at Middlebrook field was sought/approved in the spring of 2012, and the decision was challenged soon thereafter. He noted that a recent court decision remanded it back to the Zoning Board of Appeals for findings of fact, which was done at the Board's last meeting on November 18, 2013. Mr. Nerney stated that he was not sure how the matter would proceed going forward.

This being Commissioners Wilson and Rudolph's last meeting, Mr. Wilson thanked staff for its help and guidance over the years, and Mr. Rudolph stated that it has been a privilege and an honor to serve with all of his fellow Commissioners and staff. He thanked everyone.

I. FUTURE AGENDA ITEMS

- 1. SUB#912, Fawcett, 27 Redding Road, 2-lot subdivision
[Public Hearing – December 9, 2013]**
- 2. SP#386, Hoffman Landscapes, Inc., 647-651 and 631-643 Danbury Road, To amend SP#267 with respect to operation of a contracting business at the premises [Public Hearing – December 9, 2013]**
- 3. SP#387, Jersey Mike's Franchise Systems, Inc., 35-39 Danbury Road, To allow a restaurant/fast food establishment without drive-in facilities [Public Hearing – December 9, 2013]**
- 4. SP#388, 22DR, LLC, 22 Danbury Road, To allow operation of health and fitness club [Public Hearing – January 13, 2014]**
- 5. SP#389, Jackson, 111 Highfield Road, Accessory apartment in existing barn [Public hearing – January 27, 2014]**

J. ADJOURNMENT

MOTION was made by Mr. Wilson, seconded by Mr. Hulse, and carried unanimously (7-0) to adjourn at 8:18 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary