

PLANNING & ZONING
COMMISSION
Telephone (203) 563-0185
Fax (203) 563-0284



TOWN HALL ANNEX
238 Danbury Road
Wilton, Connecticut 06897

WILTON PLANNING & ZONING COMMISSION MINUTES JANUARY 13, 2014 REGULAR MEETING

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

ABSENT: Marilyn Gould (notified intended absence)

ALSO

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

Town Planner Nerney noted for the benefit of the public that application SP#386 (Hoffman Landscapes, Inc.) would be continued until January 27, 2014 at the request of the applicant. He explained that public input could be taken, but the applicant would not be presenting this evening.

PUBLIC HEARINGS

1. SUB#912, Fawcett, 27 Redding Road, 2-lot subdivision

Mr. Hulse called the Public Hearing to order at 7:15 P.M., seated members Bufano, Fiteni, Hulse, Knapp, Nabulsi, Poundstone, Shiue, and Wong, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. He noted that the hearing was continued from a previous date.

Present was Kevin O'Brien, land use consultant, on behalf of the applicant.

Mr. O'Brien briefly reviewed the two issues that remained open as of the last meeting, including notification to the Town of Redding and receipt of septic approval from the

Health Department. He noted that both issues have since been resolved.

Ms. Knapp referred for the record to a memorandum dated January 10, 2014 from Jennifer M. Zbell (Wilton Health Department) to Robert Nerney (Town Planner); and an email sent January 13, 2014 from Joseph Paola (Georgetown Fire District) to Daphne White.

Mr. Nerney indicated that staff had no further questions.

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

MOTION was made by Mr. Nabulsi, seconded by Ms. Poundstone, and carried (8-0) to close the hearing.

There being no further comments from the Commission or the public, at 7:20 P.M. the Public Hearing was closed.

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

Mr. Hulse stated that the hearing would be continued until January 27, 2014 at the request of the applicant. He asked if anyone in the audience wished to speak for or against the application.

There being no comments from the Commission or the public, at approximately 7:21 P.M. the Public Hearing was continued until January 27, 2014.

2. SP#387, Jersey Mike's Franchise Systems, Inc., 35-39 Danbury Road, To allow a restaurant/fast food establishment without drive-in facilities

Mr. Hulse called the Public Hearing to order at approximately 7:22 P.M., seated members Bufano, Fiteni, Hulse, Knapp, Nabulsi, Poundstone, Shiue, and Wong, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. He noted that the hearing was continued from a previous date.

Ms. Knapp referred for the record to a memorandum dated January 10, 2014 from Jennifer M. Zbell (Wilton Health Department) to Robert Nerney (Town Planner); a letter from Douglas I. Bayer, with attached Parking Study Supplement from Tighe & Bond, dated January 8, 2014; and a letter of objection dated January 13, 2014 from Gary Lorusso, Trustee of Frank and Clementine Lorusso Trust, to Wilton Planning & Zoning

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Commission.

Present were Doug Bayer, attorney; Chris Granatini, engineer, Tighe & Bond; and Lee Wilson, property owner/lessor.

Mr. Bayer distributed the original of the afore-referenced Parking Study Supplement from Tighe & Bond dated January 8, 2014.

Mr. Granatini addressed details of the Parking Study. He explained that two separate surveys were completed, on December 19, 2013 between 8 AM and 6 PM, and on January 7, 2014 between 10 AM and 12:30 PM, with parking occupancy delineated by sections for both the front and the rear buildings. Focusing on the front building (i.e. Table 1), he noted that parking volume was relatively steady between 11 AM and 2 PM, with total available open spaces for the front building ranging between 52 at 8 AM and 35 at 6 PM. He noted further that if the approximate 10 available west (rear) parking spaces were to be excluded entirely from the analysis, there would still be about 16+/- parking spaces available for the front building at Jersey Mike's peak hour, versus a peak demand of 12 spaces as determined by the Institute of Transportation Engineers for fast food restaurants without drive-thru windows.

He then addressed the Parking Survey conducted on January 7, 2014 (Table 2). He noted that the numbers, when compared to Table 1 of the December 19th survey, are generally similar, substantiating the previous study and demonstrating that there is available parking to accommodate the high-turnover use typical of a Jersey Mike's operation.

It was noted by Commissioners that the January 7th study was conducted on one of the coldest days the area has experienced in many years.

Mr. Bayer noted that the parking survey clearly indicates sufficient parking on the site, referencing in particular the significant availability of parking on the north side where the hardware store used to be located.

In response to questions pertaining to existing tenant vacancies on the site, Mr. Wilson noted that the hardware store has been vacant for 8 years.

Addressing the fact that employees were asked to park in other than the critical parking areas for the January 7th study, Mr. Nabulsi remarked that one would have expected more favorable parking availability, i.e. more open spaces, particularly in the eastern section of the front building, which was not in fact evident in the study. Mr. Wilson explained that at least three tenants admitted to not complying with his request that employee vehicles park in the rear portions of the site.

Mr. Granatini noted that the Commission has been focused on the front part of the site,

but he called attention to the bottom of Tables 1 and 2, which considers all available parking areas on the site and which indicates plenty of available parking on the site overall.

Mr. Nabulsi indicated that he was not yet convinced that it would not be a challenge to satisfy parking needs in the eastern portion of the front building. Mr. Bayer noted that zoning regulations do not require satisfaction of parking needs within individual portions of a site, but rather require compliance of the site as a whole. He explained that a parking waiver is required because of the greater parking requirements for a food use as compared to the previous retail use, although he noted further that zoning regulations do not distinguish between different types of food use. He felt that the proposed Jersey Mike's would be more akin to a retail use, rather than a restaurant use, and is a prime example of why provisions such as parking waivers are allowed within the zoning regulations. He noted again the survey's indication of ample parking availability on the property as a whole, as well as in the front section of the site.

Addressing concerns expressed by Mr. Wong in connection with traffic flow, particularly with respect to tight quarters and high turnover on the site, Mr. Granatini cited the existence of two exits and three entrances on the site, as well as the shared easement with the property to the south.

Mr. Nabulsi referenced the December 19th parking data. He noted the east section's capacity of 39 parking spaces and the availability of 7 and 8 parking spaces at 11 AM and 12 noon, respectively, versus the stated Jersey Mike's requirement of 12 parking spaces. As a result, he noted that 4-5 vehicles would be required to park elsewhere on the site at those times. Mr. Granatini cited the availability of significant parking on the northern portion of the site, which he noted is a short walk to the subject location.

Mr. Nabulsi asked whether any demarcated walkway is currently available leading from the rear parking area of Dunkin' Donuts to the front. Mr. Granatini indicated that such a walkway is not currently available, which he noted is fairly typical of parking lots, but he indicated that such an area could be hatched on that side of the building if the Commission so desires. He pointed out that the rear of the building is not really utilized for parking.

Mr. Hulse felt that some demarcation will probably be needed once existing vacancies are filled, at which time rear spaces will likely have to be utilized.

Mr. Nerney referenced a letter of objection dated January 13, 2014 from Gary Lorusso, the neighbor to the south, expressing concerns with parking overflow onto his property. Mr. Nerney raised the possibility of providing some directional signage to direct vehicles to utilize parking in the rear.

Mr. Bayer stated that the aforementioned letter is factually incorrect, noting in particular that Dunkin' Donuts has been on the site since 1992, and the parking waiver that was previously granted was for a liquor store, which never did open on the site. He found it hard to believe that parking in connection with Dunkin' Donuts is an issue since the property owner, Lee Wilson, has never received complaints in that regard. Mr. Bayer noted further that he would view any such issue as a civil matter between the two property owners.

Mr. Wilson confirmed that he was taken completely by surprise by the aforementioned letter, noting that he has never received written or verbal communication from the neighbor to the south regarding parking issues on the site. He stated further that the facts, as communicated in the letter, are completely erroneous.

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

Zack Helms, owner of the natural food store at 33 Danbury Road, stated that he was fairly new to the site, which adjoins the southern border of the subject parcel, noting that he was there to speak on behalf of the other retail tenants on the site. He noted that at any given time of day, there will be 5-10 unauthorized vehicles in their parking lot next door, which are primarily customers of Dunkin' Donuts. He expressed frustration with the dates utilized for the parking studies because: 1) the original parking study of some years ago was conducted on a Saturday, which he felt was not representative of the heavy weekday traffic generated in the area; 2) the December 19th study just completed by Tighe & Bond was exceedingly close to Christmas; 3) the January 7th study was one of the coldest days experienced in approximately 40 years – and thus he felt that the dates were not fair nor representative of the traffic/parking that would be experienced on a more typical business day.

Mr. Helms expressed concern that so many of the available parking spaces are located at least 120 feet away and down a lengthy decline, whereas parking on their property to the south is located only 26 feet away from Dunkin' Donuts, providing much easier access for vehicles in need of a parking space. He noted that they have only 24 parking spaces, of which approximately half are taken up by the adjoining property's needs. In addition, he pointed out that the subject lot is only 53 feet wide, which leaves very little room for vehicle negotiation, whereas their lot at 33 Danbury Road is approximately 80 feet wide and thus more attractive in that regard as well.

Mr. Helms stated that it is easy for drivers to miss the access to available parking on the west portion of the lot, and if a vehicle misses that access it would have to exit the site, turn left onto Route 7, and re-enter the site, which he felt would be a very unlikely maneuver. He felt that the configuration of the subject site is a critical factor, especially given the topographical challenges as well. He urged the Commission to take into consideration the amount of parking that has been occurring on their site. He stated that

tenants on the subject site do not police their lot and, as a result, he and the other tenants at 33 Danbury Road plan to install signage to address these parking issues.

Mr. Bayer noted that the most recent parking surveys produced essentially the same data as the 2010 survey. He stated that the regulations are designed to handle peak usage, noting in that regard that the current uses will be complimentary to each other, i.e. Dunkin' Donuts with an early morning concentration of patrons and Jersey Mike's with more of a lunchtime crowd. He emphasized that the evidence indicates the site as a whole can support the proposed use, noting again his belief that the nature of the business is actually more retail than restaurant and thus shouldn't require as many spaces as the regulations would suggest.

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

MOTION was made by Ms. Poundstone, seconded by Ms. Knapp, and carried (8-0) to close the hearing.

There being no further comments from the Commission or the public, at approximately 8:00 P.M. the Public Hearing was closed.

3. SP#388, 22DR, LLC, 22 Danbury Road, To allow operation of health and fitness club

Mr. Hulse called the Public Hearing to order at approximately 8:00 P.M., seated members Bufano, Fiteni, Hulse, Knapp, Nabulsi, Poundstone, Shiue, and Wong, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Ms. Knapp read the legal notice dated December 30, 2013 and she referred for the record to a memorandum dated January 10, 2014 from Jennifer M. Zbell (Wilton Health Department) to Robert Nerney (Town Planner); a 3-page Planning and Zoning Staff Report dated December 17, 2013; a letter dated January 7, 2014 from Concerned Owners of Fawn Ridge Condominium Community to Daphne White (Assistant Town Planner) with attached Parking Study dated December 4, 2013; an email dated January 8, 2014 from Scott Powell to Daphne White; and a response letter dated January 10, 2014 from J. Casey Healy to Planning and Zoning Commission.

Present were J. Casey Healy, attorney for the applicant; and Ethan Hirschmann and Colleen Delaney, Gold Shore CrossFit Gymnasium.

Mr. Healy briefly described the premises (previously occupied by Hitchcock Furniture), noting that it is zoned DRB (Design Retail Business) and includes 29 parking spaces on the site. He described the proposed health and fitness club use, known as Gold Shore

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CrossFit Gymnasium, noting that it is not a typical gym but rather will offer strength and conditioning sessions conducted by a trainer. He explained that all sessions would be by appointment only and would consist of a maximum of 22 members taught by 2 trainers; walk-ins would not be permitted nor would clients be permitted to come/go as they please; and classes would last exactly one hour, with a minimum of at least 30 minutes scheduled between classes to allow an easy flow of people/vehicles in/out of the premises.

Mr. Healy reviewed responses dated January 10, 2014 to the Planning and Zoning Staff Report dated December 17, 2013. He addressed in detail each item on a point by point basis, noting in particular that Tighe & Bond is of the opinion that parking will be sufficient (even with the reduction from 29 to 28 spaces to accommodate a handicapped space) since the maximum number of vehicles on the premises at any time will be 26 (=22 clients + 2 trainers + 2 employees).

In response to a question from Ms. Poundstone, Ethan Hirschmann indicated that initially the business would market only to adults and teens, but may introduce kids' programs or High School athletic teams at some time in the future.

In response to further questions about scheduling, Mr. Healy indicated that fitness classes would be held Monday through Friday mornings at 5, 6:30, 9, and 10:30 AM, and afternoons/evenings at 12 noon, 3:30, 5, and 6:30 PM; and on Saturday/Sunday mornings at 7, 8:30 and 10 AM. He explained that private training sessions would be held in between the morning and afternoon sessions on weekdays and after 10 AM on weekends, when required.

Mr. Hirschmann explained that classes are separated by a half hour since, generally, about 98% of clients clear out completely in between classes. Colleen Delaney confirmed that stretching is included as part of each hour's class, and personal training would occur only at the times indicated.

In light of the fact that sauna, shower and a juice bar will be provided for client use, Mr. Nabulsi felt it might be unrealistic to presume that there will not be some lag/delay in clearing out between classes and he questioned how that might be addressed.

Mr. Hirschmann stated that there is generally no "hang-over" of clients (per his experience at his Branford gym) after the early morning and noon classes since these are populated by clients constrained by typical work schedules. He acknowledged a little bit of hang-over between the 9 and 10:30 AM classes, averaging 5 people or less at his Branford gym where classes are comprised of 25-30 people. In response to another question from Mr. Nabulsi, Mr. Hirschmann indicated that if parking were found to be an issue, they might consider adding a class to reduce overall class sizes of other sessions.

Mr. Healy recalled the Bright Horizons Daycare application of some years ago where Commission concerns with queuing/congestion at drop-off/pick-up times were addressed via queuing studies that were required of the applicant at pre-defined intervals after a certain percentage of the facility's student population was achieved. He indicated that such an option/condition could be considered in this instance as well so that scheduling adjustments could be made accordingly, if necessary.

Mr. Hirschmann confirmed that they would address any issues as they arise, noting that it is in the best interest of the business to provide a comfortable and convenient experience for clients, and he felt that parking convenience would be particularly important in that regard.

Mr. Nerney noted for the record that the subject property was granted a parking variance in the 1990s which runs with the property, not with the tenant, and consequently the property is under-parked per zoning regulations for most retail uses that could be established there. As a result, he noted that many potential businesses have opted against leasing the premises because of parking inadequacies.

Following up on that point, Mr. Healy added that there is no set parking requirement noted in the regulations for health and fitness clubs.

Mr. Nabulsi stated that he was not clear as to what sets of conditions would be appropriate in any potential approval for the site, referencing in particular conditions that would mirror the parameters as provided in the applicant's narrative. He was not sure how the Commission could accomplish this, i.e. appropriately constrain the operation within the parameters indicated.

Mr. Healy stated that he would be happy to have Mr. Nerney talk to Town Counsel as to how best to address this issue. He noted it was the applicant's assumption that the Commission would be looking for some framework in that regard, and thus the reason for providing this level of detail.

Mr. Healy indicated that he would like to continue the hearing to have time to address issues raised this evening.

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

Marion Barbieri, resident of Fawn Ridge, expressed concern that 28 parking spaces will not be adequate for the minimum 26 vehicles that will need to be accommodated on the site and that, consequently, there will be some vehicles spilling over into the few Fawn Ridge parking spaces that are contiguous to the site. She questioned whether a half hour between sessions would be adequate, particularly since there may be hang-over of clients

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from one session to the next. She expressed particular concern with school children in the area and parents sitting in cars with their children, all of whom wait for school buses on Fawn Ridge Lane, particularly between 7:30 and 8 AM. She also felt that the parking area may need more than just the striping proposed by the applicant, given the potholes and pavement cracking issues of the past few weeks.

Barbara Hager stated that she is an attorney hired to represent the Fawn Ridge Association, noting for the record that the Association has not yet made a decision one way or the other about this application. She was appreciative that Mr. Healy had requested a continuance of the hearing, noting that she wished to second the request for a continuance until the next meeting.

Bill Tarara, a 2-unit owner at Fawn Ridge, noted that Fawn Ridge has a total of 126 units, not 61, as indicated in one of the applicant's submissions. He asked that the following issues be addressed: 1) it is very difficult to take a left turn out of the Fawn Ridge driveway going south; 2) the sidewalk should be extended from the Gateway development northward to their property; 3) the State D.O.T. sign should be relocated to improve sight lines at the driveway entrance; 4) a right-hand turn lane would be helpful so that cars heading north out of the driveway are not unnecessarily queued up behind a car waiting to make a left turn out of the exit.

Allison Jennings, 21 Fawn Ridge, agreed that adding an extra lane going out of the driveway would be helpful. She cited issues/concerns as follows: 1) traffic moving quickly on a slightly curved portion of Route 7 where cars are taking a right on red from Kent Road and are heading south to enter into Gateway via a left-hand turn; 2) safety issues in connection with children waiting for school buses; 3) sight line issues; 4) the need for a sidewalk (unable under certain conditions to get to the traffic button); 5) a stop sign would be helpful; 6) lighting should not shine into nearby residences after a certain hour in the evening; 7) there doesn't appear to be room in the parking lot for snow.

Daria Veccia expressed particular concern with the traffic pattern, citing the ingress/egress of 22 vehicles for each exercise session, in addition to traffic generated by Fawn Ridge residents. She raised the issue of potential queuing onto Route 7 and the impact of such queuing on traffic exiting north from Gateway. She questioned whether the proposed business would be a good fit for the area, given the existing high traffic volume in the area.

Mr. Nerney stated that staff has had frustrations in this part of Town over the past years. He explained that the Town had petitioned the State to allow dedicated left-hand turns into the Gateway Plaza, but was denied, and now no left turns are permitted into the southern area of the site at all. In response to a question from Ms. Poundstone about possibly petitioning the State again, Mr. Nerney explained that this project would not fall under D.O.T. jurisdiction since it's a re-occupancy and not a major site change as it was

with Gateway.

Mr. Hulse expressed particular concern with the issue of children waiting in the driveway area when CrossFit-generated vehicles would be entering/exiting the site.

Lee Wilson, present in the audience, spoke as a member of the Economic Development Commission, noting that this is another case where a building has been sitting vacant for 7-8 years. He stated that Wilton is in competition with surrounding towns, noting that food and personal service-oriented businesses form the majority of tenant candidates these days. Given the current economic climate, he felt that this business represents a unique tenant opportunity for the subject site.

Rafael Narotta questioned how walk-ins could be prohibited with 36,000 cars going by the property during the day, noting that the 8,000 square-foot building could accommodate 500-600 people inside. He expressed particular concern with the potential for a 20 car-long queue along Route 7 in the early morning hours.

Mr. Nabulsi noted that the Commission does not have anything in its possession that shows the subject building in the context of the Fawn Ridge development. He stated that the Commission needs to see something to allow it to make a judgment as to potential queuing issues and where all these cars are going to be and, particularly, where the children are going to be in relation to incoming/outgoing traffic on the site.

There being no further comments from the Commission or the public, at approximately 9:01 P.M. the Public Hearing was continued until January 27, 2014.

REGULAR MEETING

- A.** Mr. Hulse called the Regular Meeting to order at 9:01 P.M., seated members Bufano, 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. December 9, 2013 – Regular Meeting

MOTION was made by Ms. Knapp, seconded by Ms. Bufano, and carried (7-0-1) to approve the minutes of December 9, 2013 as drafted. Commissioner Hulse abstained.

C. SITE DEVELOPMENT PLAN REVIEW

D. ACCEPTANCE OF NEW APPLICATIONS

E. PENDING APPLICATIONS

1. SUB#912, Fawcett, 27 Redding Road, 2-lot subdivision

The Commission reviewed draft Resolution #0114-1S.

The Commission discussed in detail condition B.12 addressing the issue of possible future changes to the site. The intent of the Commission was to prevent “significant” modifications to the site, given the undersized nature of the lots and the fact that the subdivision was essentially granted via the ZBA variance process, primarily because of the historical significance of the structures. The Commission was cognizant of not over-reaching its authority in such matters and thus spent a considerable amount of time addressing the issue/definition of “significant” and fine-tuning the language of the condition. After considerable discussion, the condition was re-written accordingly.

MOTION was made by Mr. Nabulsi, seconded by Ms. Knapp, and carried unanimously (8-0) to adopt as amended Resolution **#0114-1S** for **SUB#912**, effective January 16, 2014.

WHEREAS, the Wilton Planning and Zoning Commission has received a **Subdivision** application **SUB#912** from Gavin Scott Fawcett and Colleen Nee Fawcett, for a two-lot subdivision located on CT Route 107 (a.k.a. 27 Redding Road), in an R-1A District, Assessor’s Map #12, Lot #102, 2.300 acres, owned by Gavin Scott Fawcett and Colleen Nee Fawcett and shown on the plans entitled:

Vicinity Map, prepared for Gavin Scott Fawcett and Colleen Nee Fawcett, prepared by Douglas R. Faulds, land surveyor, dated August 15, 2013, at a scale of 1"=100', no sheet #.

Property Survey, prepared for Gavin Scott Fawcett and Colleen Nee Fawcett, prepared by Douglas R. Faulds, land surveyor, dated October 22, 2012, at a scale of 1"=40', no sheet #.

Re-subdivision, prepared for Gavin Scott Fawcett and Colleen Nee Fawcett, prepared by Douglas R. Faulds, land surveyor, dated August 15, 2013, at a scale of 1"=40', no sheet #.

Existing Conditions Plan, prepared for Gavin Scott Fawcett and Colleen Nee Fawcett, prepared by Douglas R. Faulds, land surveyor, dated August 15, 2013, at a scale of 1"=40', no sheet #.

Proposed On-Site Subsurface Sewage Disposal System, prepared for Fawcett Residence, prepared by Douglas P. DiVesta, civil engineer, dated September 13, 2013, at a scale of 1"=20', sheet #1 of 3.

Details, prepared for Fawcett Residence, prepared by Douglas P. DiVesta, civil engineer, dated September 13, 2013, at a scale as noted, sheet #2 of 3.

Details, prepared for Fawcett Residence, prepared by Douglas P. DiVesta, civil engineer, dated September 13, 2013, at a scale as noted, sheet #3 of 3.

WHEREAS, the Planning and Zoning Commission conducted a public hearing on December 9, 2013 and January 13, 2014 to receive comment from the public and has fully considered all evidence submitted at said hearing; and

WHEREAS, the Planning and Zoning Commission finds the Zoning Board of Appeals has granted the requisite variances of the zoning regulations to allow consideration of the subject subdivision application.

NOW THEREFORE BE IT RESOLVED effective January 16, 2014 the Wilton Planning and Zoning Commission **APPROVES** the two-lot subdivision on 27 Route 107 (a.k.a. 27 Redding Road), subject to the endorsement and filing of the record Subdivision Map, and subject to the following conditions:

A. GENERAL CONSIDERATIONS

1. It is the responsibility of the applicant to obtain any other permits or licenses required by law or regulation. Governing bodies which may have jurisdiction include the Town of Wilton; the State of Connecticut or the United States Government.
2. No equipment or material shall be deposited, placed or stored in any wetland or water course, on or off site unless specifically authorized by an Inland Wetlands Permit.
3. Housing numbers shall be as follows:

Lot #1 shall remain 27 Route 107, (Map#12, Lot#102)

Lot #2 shall become 29 Route 107, (Map#12, Lot#102-1)

4. For this particular application, the Commission waives the requirement for the dedication of open space. This waiver is granted on the finding that the applicant meets Section 4.5.2. of the Subdivision Regulations. The Planning and Zoning Commission has determined that a reservation of 12% of the parcel for open space is not necessary because the minimum reservation constitutes less than one acre, is not contiguous to other open space and, in light of these conditions, finds that such dedication would be of little public value.

5. The applicant shall modify the existing site conditions so as to reduce the site coverage associated with proposed Lot #2 to not more than fifteen percent (15%). Said modification shall be completed and verified by a Connecticut-licensed land surveyor prior to the recording of the subdivision plan in the Office of the Wilton Town Clerk.
6. The proposed septic systems, located on and serving each lot, shall be constructed, installed to the satisfaction of the Wilton Health Department and shall be fully operational prior to the recording of the subdivision plan in the Office of the Town Clerk.
7. The private drinking water well located on proposed Lot #1, shall be abandoned pursuant to Wilton Health Department directives and approval. Such abandonment shall be completed prior to the recording of the subdivision plan in the Office of the Town Clerk.
8. Any low over-hanging branches leading to the rear of the existing house on Lot #1 shall be removed to allow for adequate access by emergency vehicles; including fire trucks.

B. PERTAINING TO BOTH LOTS #1 and #2 (In the event Lot #1 and/or Lot #2 undergo new development or re-development)

9. Development shall not alter the existing natural site grading and drainage patterns of adjoining properties. Runoff caused by new development, during and after construction, shall be minimized and diverted to natural drainage patterns.
10. Driveways shall be clearly marked to facilitate rapid identification by emergency vehicles.
11. Fuel oil tanks shall only be located above ground or within a basement.
12. Any change which would result in demolition, reconstruction and/or site alteration shall be subject to Commission review and approval.
13. There shall be no construction activities on the site on Sundays or holidays. The hours of construction shall be between the hours of 7:00 am and 5:00 pm Monday through Friday and 8:00 am and 5:00 pm on Saturdays, except for interior work within the individual houses.
14. A copy of this resolution shall be given to the project manager of each lot and shall be available on site during construction.

C. PRIOR TO FILING OF FINAL SUBDIVISION MAP

15. The Final Subdivision Plan shall be revised to include the following:
 - a. The address designation within each approved lot as specified herein.
 - b. The note: “Subdivision #912 for conditions of approval see Resolution #0114-1S.
 - c. The subdivision map shall be filed within 90 days following expiration of the

appeal period, unless the applicant obtains an extension from the Planning and Zoning Commission.

- d. The applicant shall provide the Planning and Zoning Department with an electronic copy of the subdivision plan prior to the recording of said plan with the Town Clerk.

D. SUBSEQUENT TO FILING OF THE FINAL SUBDIVISION MAP

16. The applicant shall, within thirty (30) day of the filing of the Final Subdivision Plan, submit the following:
 - a. Eight (8) paper prints of the filed subdivision plan with the Town Clerk's notations. Said prints shall be signed and embossed by all the appropriate consultants/engineers.
 - b. The record subdivision map shall indicate any watercourses and wetlands on the lots and shall delineate the limit of disturbance on each lot.
 - c. A Mylar reduction of the approved Subdivision Plan at a scale of 1"=800'.
 - d. Three (3) copies of all other plans and documents as specified herein. Said plans and documents shall bear the seal, signature and license number of the registered professional(s) responsible for preparing appropriate sections of the plans and documents.

E. PRIOR TO THE ISSUANCE OF A ZONING PERMIT (In the event Lot #1 and/or Lot #2 undergo new development or re-development)

17. A site plan shall be submitted for review and approval by the Commission's staff prior to obtaining a zoning permit for the re-development of either Lot #1 and/or Lot #2. If applicable, each site plan shall include a tree and stone wall preservation plan. Said plan shall locate each tree with a diameter (caliper) over 16" within the buildable area and 10" diameter (caliper) within the setback areas and all stone wall features on the property. The plan shall explain why any such tree or stone wall is not to be preserved, and shall explain any alternate plans that have been considered. Any trees and/or stone walls proposed to be preserved shall be depicted on the tree and stone wall preservation plan and shall be protected throughout the construction and thereafter.
18. A bond estimate for all site work shall be provided by the applicant to the Commission's staff for the redevelopment of either Lot#1 or Lot#2, which shall include, but not be limited to sedimentation and erosion controls, tree protection, grading, seeding and a 10% contingency. Such amount shall be approved by the Commission's staff. The bond shall be in a form and amount with proper surety satisfactory to the Commission's Land Use Counsel, and shall be submitted prior to any site disturbance.
19. Zoning permits involving new construction for either Lot#1 or Lot#2 shall be

- accompanied by revised site development plans if the site plans of either lot differ from the submitted stamped engineering plans reviewed by the Planning and Zoning Commission. The plans are to be prepared and stamped by a Connecticut-licensed engineer.
20. Final plans shall be updated to include the Health Department certification block pursuant to Section 3.315 of the Subdivision Regulations.

**F. PRIOR TO THE ISSUANCE OF A CERTIFICATE OF ZONING COMPLIANCE
(In the event Lot #1 and/or Lot #2 undergo new development or re-development)**

21. All utilities for either Lot#1 or Lot #2 shall be installed underground prior to the issuance of a certificate of zoning compliance.
22. All lot corners shall be pinned and verification from the applicant's Land Surveyor of such lots shall be submitted prior to obtaining zoning compliance for such lot.
23. The applicant's land surveyor shall submit an as-built survey showing the location of all structures and site improvements and indicating building and site coverages.

-END RESOLUTION-

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**

Tabled.

3. **SP#387, Jersey Mike's Franchise Systems, Inc., 35-39 Danbury Road, To allow a restaurant/fast food establishment without drive-in facilities**

Mr. Nerney advised the Commission that it has up to 65 days from close of hearing to deliberate. The Commission decided to begin its discussion on the matter this evening.

Mr. Hulse expressed concerns, particularly with respect to safety, noting that the shopping center currently has 3 vacant locations, with only 8 parking spaces available during peak hours.

Ms. Knapp expressed similar concerns, noting that people are likely not going to cruise around to the back of the site to find parking for a fast-food location.

Mr. Wong noted that the owners of the subject site and the adjoining southerly parcel will have to deal with their mutual agreement/parking easement; he felt it was not the concern

of the Commission. Referencing his years of personal experience dealing with leases such as these, he stated that when there is a lack of parking on such sites, the matter tends to self-correct (i.e. patrons stop coming).

Ms. Bufano felt that the Commission needs to be sensitive, noting that the very same issues could arise for any business attempting to come in to the site.

Mr. Nerney stated that the Commission might want to consider a signage plan for the site to address the aforementioned parking concerns.

Mr. Nabulsi noted for the record that the Commission should be considering the totality of the property when evaluating the applicant's requested 8-space parking waiver, not just the front area along Route 7.

Mr. Hulse felt that well laid-out walking paths would be to the owner's best interest.

Ms. Poundstone suggested that any resolution of approval clearly address conditions/specifications pertaining to directional signs on the site, as well as sidewalk improvements.

It was the consensus of the Commission that staff should prepare a draft resolution of approval with conditions including delineation of a walkway along the side of the building; installation of directional signage; and perhaps some guidelines pertaining to hours of patronage and rear delivery times – to be further discussed at the next meeting on January 27, 2014.

4. SP#388, 22 DR, LLC, 22 Danbury Road, To allow operation of health and fitness club

Tabled.

F. COMMUNICATIONS

1. David Conneely, 74 Westport Road, Request for Commission interpretation of term “professional office”

Present were Casey Healy, attorney; and David Conneely, applicant.

Referencing the two submitted letters on the matter from J. Casey Healy to Planning and Zoning Commission, dated December 4, 2013 and January 10, 2014, Mr. Nerney explained that the applicant is seeking an interpretation of “professional office”.

Mr. Nabulsi asked whether a favorable interpretation this evening would imply that the activity may automatically go forward.

Mr. Nerney explained that the subject site has been used as a residence in the past and the prospective buyer would like to use it as a professional office under Section 29-5.C.4 of zoning regulations. He explained that the proposed use is a health and mindfulness center which incorporates a form of naturopathic medicine, hydrotherapy, relaxation, etc., as outlined in the aforementioned letters.

In response to a question from Mr. Nabulsi as to how a psychiatrist’s office would be interpreted in that regard, Mr. Nerney indicated his belief that doctors are considered professional offices. Mr. Hulse asked the same question in connection with a dentist’s office. Mr. Nerney explained that such professional office uses are considered accessory, noting that the primary use would have to remain residential and he referenced certain standards in the zoning regulations that must be satisfied, including square footage limitations.

Ms. Poundstone asked if flotation facilities must be certified.

Mr. Nabulsi referenced paragraph 3 of the aforementioned letter of December 4, 2013, wherein the applicant quotes the zoning regulations’ definition of “office, general” which specifically excludes activities associated with the “medical profession”. He questioned whether this exclusion represented the significant aspect of the subject discussion. Mr. Healy confirmed that therein lay the crux of the matter before the Commission this evening. He contrasted the example of a psychologist’s office, which would likely satisfy the zoning definition of a professional office, with a pediatrician’s office and its much greater volume of patients, traffic, etc., which he felt would not satisfy the same definition. He noted the applicant’s opinion that the proposed use does qualify as a professional office, but he felt that confirmation/some direction should be sought from the Commission before moving forward with any required approvals.

In that regard and in response to the question raised earlier by Mr. Nabulsi about the

impact of a favorable interpretation this evening, Mr. Healy explained that such an interpretation would not trigger automatic approval of the proposed use. Rather, the applicant would then be required to demonstrate satisfaction with the conditions, as set forth in Section 29-5.C.4 of zoning regulations, for approval of a professional office/home occupation for resident occupants.

Mr. Conneely briefly explained the nature of his business, noting that it is currently located on Main Street in Westport. He confirmed, in response to a question from Ms. Poundstone, that floatation therapy is not a group activity. He explained that the business, if approved for the subject site, would consist of 3 discrete suites with individual floatation chambers, all of which are sanitary and clean. He confirmed that the location would also be his personal residence as required by regulations.

Mr. Nerney, responding to a question from Ms. Bufano, explained that zoning regulations for such uses require 2 parking spaces per dwelling unit plus 1 parking space per 300 square feet of the commercial portion.

In response to further questions from the Commission pertaining to licensing/certification, Mr. Conneely stated that there is a national association, although no specific licenses/certificates are issued in connection with this activity, nor is he or the facility licensed by the Department of Consumer Affairs. He did cite State health requirements, noting that assessments are conducted 1-2 times per year and water is tested daily.

Mr. Healy indicated that he could obtain a list of what agencies, whether State or local, have jurisdiction and what exactly that jurisdiction is, in terms of applications, certifications, annual inspections, etc. as well as what compliance would be required by Wilton Health Department. He stated that they would also double-check whether the person providing the service needs to be licensed in any way although he did not believe that was the case.

Responding to a question regarding insurance, Mr. Conneely stated that a uniquely crafted insurance policy is held by the business, underwritten by a national insurance agency. He also explained that some health insurance companies consider the service a form of biofeedback and thus provide coverage in those instances.

In response to a question regarding additional personnel on the site, Mr. Conneely stated that there would be one other person, part-time, for consultations, cleanses, etc.

Mr. Nabulsi questioned whether it might be an easier fit to classify the proposed business/activity as a home occupation rather than as a professional office. Mr. Healy indicated that he would look into that as well.

It was the consensus of the Commission to continue the discussion until the next meeting so the applicant would have time to obtain additional information for Commission consideration.

G. REPORT FROM CHAIRMAN

1. Reports from Committee Chairmen

H. REPORT FROM PLANNER

I. FUTURE AGENDA ITEMS

**1. Discussion pertaining to 385 Danbury Road and Resolution #1013-2Z
(proposed Goddard School)**

Mr. Nerney referenced a timing issue that has arisen in connection with the subject application. He referenced condition #8 of Resolution #1013-2Z which reads as follows: “In the event of a change of use (i.e. a use other than a child daycare/preschool nursery), the Commission shall reserve the right to require permanent closure of the driveway entrance/exit onto Kristine Lilly Way. This requirement, drafted to the satisfaction of the Commission’s staff, shall be executed and recorded in the office of land records (Office of the Wilton Town Clerk), prior to the issuance of a zoning permit.”

He explained that requiring execution and recording prior to the issuance of a zoning permit causes a timing issue for the School since the purchase/financing of the property is subject to getting a building permit, which cannot be issued without first obtaining a zoning permit. He suggested that the resolution be revised to require execution and recording prior to the issuance of **zoning compliance** rather than a **zoning permit**. He noted further that since the original application was a Site Development Plan and not a public hearing, public notice was not required at the time the application was heard.

It was the consensus of the Commission that staff should amend condition #8 of Resolution 1013-2Z as proposed.

2. Discussion pertaining to local land use policies with respect to medical marijuana

Mr. Nerney referenced the recent bill passed in the Connecticut legislature to allow for the production and dispensing in Connecticut of marijuana for medicinal purposes. He stated that he attended a seminar session last September where the Commissioner of Consumer Protection presented an overview of the State act. He explained that it would operate similarly to liquor laws in the State, i.e. a limited number of licenses will be issued to grow and sell marijuana, with very strict requirements in place.

He noted that many Towns are enacting a moratorium, most of which are of a 1-year duration, to allow Planning/Zoning Commissions time to review the issue and to decide if they want to create regulations to address the matter and, if so, to begin working on such regulations/standards. He explained that a moratorium would place a ban on any medical marijuana-related permits and would give the Town one year to develop/adopt regulations. He noted that Ridgefield and New Canaan have already adopted such a moratorium and Darien is currently considering it. He suggested adopting such a moratorium for Wilton.

It was the consensus of the Commission to move forward on the matter as suggested.

I. FUTURE AGENDA ITEMS

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

Withdrawn.

J. ADJOURNMENT

MOTION was made by Ms. Knapp, seconded by Mr. Nabulsi, and carried unanimously (8-0) to adjourn at 10:21 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary