

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 MAY 12, 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.

### PUBLIC HEARINGS

- 1. REG#14345, Amend Section 29-6.C.4.j of zoning regulations pertaining to banks or financial institutions with drive-in facilit(ies) in Wilton Center District**

Mr. Hulse called the Public Hearing to order at 7:15 P.M., seated members Bufano, Fiteni, Hulse, Knapp, Poundstone, and Shiue, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Ms. Knapp read the legal notice dated April 16, 2014.

Present were J. Casey Healy, applicant; and Dave Schiff, VHB, Inc., planner.

Mr. Healy explained that Wilton zoning regulations currently permit more than one drive-in facility in both the General Business (GB) and Design Retail Business (DRB) districts, but only one such facility in the Wilton Center (WC) district. He briefly reviewed a history of drive-in facilities at banks/financial institutions in the WC district, noting that 1) prior to March, 1994 there were no limitations on the number of such facilities; 2) in March, 1986 the Commission approved two drive-in facilities for The Wilton Bank (now BankWell) at 47 Old Ridgefield Road; 3) between March, 1994 and April, 1997, drive-in facilities for banks/financial institutions in WC were prohibited, noting in particular that there appears to be no record of discussion as to why such facilities were prohibited at

**P&Z Minutes – 05/12/14 – Page 2**

that time; 4) and then effective in April, 1997, regulations were amended to allow a drive-in facility (singular) for banks/financial institutions in WC, noting again that there was no record of discussion as to why only a single such facility was permitted at that time.

Referencing the reason for the subject application, Mr. Healy explained that Fairfield County Bank wishes to install a second drive-in facility for its ATM. He noted that the machine is currently located in the southerly wall of the bank, requiring a bank patron to exit his/her car in order to use the machine since there is no ATM-associated parking available whatsoever on the site. He explained that this situation has raised many safety/liability concerns for the bank since parking has become haphazard on the site, sometimes resulting in parking in the next door driveway as well as parking that sometimes blocks access to the teller window. He noted that the Bank feels it would be safer to install the ATM in the existing island.

Mr. Schiff referenced his planning memorandum dated March 31, 2014, noting that a drive-in facility needs to be evaluated in terms of vehicle access, pedestrian safety and visual impact. In that regard, he noted that Special permit regulations provide the Commission with controls for reviewing such applications, covering items such as consistency with the Town Plan of Conservation and Development (POCD), analysis of vehicular and pedestrian impacts, etc. He noted further that Special Permit regulations also provide the Commission with the ability to apply conditions/safeguards, including periodic review of the Special Permit to determine continuing compliance.

Mr. Schiff noted further that Wilton Center is also a Village District, which places an additional layer of review on such applications. Referencing the POCD, he noted its stated objective for Wilton Center that businesses continue to thrive and that residents are attracted to the Center. In that regard, he cited Fairfield County Bank's belief that its current ATM location is unsafe for its patrons, and that a relocated ATM would not only improve pedestrian safety and traffic flow but also reinforce WC as a business center.

At 7:25 P.M. Commissioners Nabulsi and Wong were seated.

Mr. Nabulsi referenced the bottom of page 2 of Mr. Schiff's aforementioned memo which cites the POCD's emphasis on pedestrian amenities. In that regard, he asked how the elimination of a "walk-up" ATM in favor of two drive-ups can be reconciled with the POCD's expressed emphasis on pedestrian amenities. Mr. Schiff noted that the current ATM doesn't function well or safely and, given its current location on the property, it doesn't attract the sort of use the bank would like, noting in particular that patrons do not routinely stroll up to the ATM on this site.

Mr. Healy added that his office is located within view of the Bank and he attested to the fact that the current ATM is almost all drive-up, and not walk-up, access, although he noted that a drive-thru ATM would not preclude walk-up patrons.

Mr. Nerney referenced the Planning and Zoning Staff Report of April 23, 2014, noting that the Commission might wish to consider a cap of perhaps two (2) drive-up windows per bank institution in the WC district, which would cut down on the amount of pavement and thus maintain the feel of a more pedestrian-friendly environment.

Mr. Healy noted that the Bank would have no objection to limiting the number of drive-ups to two in WC district.

Mr. Nabulsi questioned whether it would be better to specify such a limitation in the proposed text amendment or to deal with such an issue on a site-by-site basis.

Mr. Schiff felt it could go either way, noting that a specified cap might provide a certain comfort level to the Commission, although he acknowledged that Special Permit controls built into the regulations would allow for such a limitation anyway.

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

Ms. Knapp referred for the record to a 2-page Planning and Zoning Staff Report dated April 23, 2014.

There being no further comments from the Commission or the public, at 7:32 P.M. the Public Hearing was closed.

## **REGULAR MEETING**

- A.** Mr. Hulse called the Regular Meeting to order at 7:32 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. April 15, 2014 – Regular Meeting**

**MOTION** was made by Ms. Knapp, seconded by Ms. Poundstone, and carried (6-0-2) to approve the minutes of April 15, 2014 as drafted. Commissioners Hulse and Nabulsi abstained.

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

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

**E. PENDING APPLICATIONS**

**1. REG#14345, Amend Section 29-6.C.4.j of zoning regulations pertaining to banks or financial institutions with drive-in facilit(ies) in Wilton Center District**

The Commission discussed the application and reviewed Draft resolution of approval #0514-3REG. The general consensus was that the number of drive-in facilities in Wilton Center district should be capped at two.

MOTION was made by Ms. Poundstone, seconded by Ms. Knapp, and carried (7-1) to adopt as amended Resolution #0514-3REG for REG#14345, effective May 15, 2014. Mr. Nabulsi opposed, noting his opinion that the number of facilities should not be capped but rather should be handled on a site-by-site basis.

**WHEREAS**, the Wilton Planning and Zoning Commission accepted application #14345 for an amendment to Section 29-6.C.4.j. of the Zoning Regulations of the Town of Wilton pertaining to the establishment of Special Permit requirements for banks or financial institutions within the Wilton Center (WC) District of the Town of Wilton; and

**WHEREAS**, the Planning and Zoning Commission has conducted a public hearing on May 12, 2014 to receive comment from the public and has fully considered all evidence submitted at said hearing; and

**WHEREAS**, the Planning and Zoning Commission by way of the special permit process and input from the Village District Consultant Committee, retains the ability to review architectural elements and aesthetic features of planned improvements in the Wilton Center District; and

**WHEREAS**, the proposed regulation change is consistent with the intent of the Plan of Conservation and Development based on the desirability of supporting the local businesses while protecting the unique environment of Wilton Center;

**NOW THEREFORE BE IT RESOLVED** that the Wilton Planning and Zoning Commission **APPROVES** amendment #14345 effective May 15, 2014 as follows:

Section 29-6.C.4.j.

4. Special Permit Uses:

j. Banks or financial institutions with not more than two (2) drive-in facilities.

**F. COMMUNICATIONS**

**G. REPORT FROM CHAIRMAN**

**H. REPORT FROM PLANNER**

Mr. Nerney referenced the recently submitted Site Development Plan application for 44 Westport Road, scheduled to be heard on June 9, 2014. He raised the possibility of engaging the services of outside consultants on behalf of the Town, which he noted has been done in the past in connection with large, complex applications. He explained that such services would be at the applicant's expense. If the Commission decided to move in that direction, he recommended employing the services of both a civil engineer and a traffic consultant and, in that regard, he distributed sample copies of "Requests for Proposals" for Commission review.

After a brief discussion, it was the consensus of the Commission to move forward with the Requests for Proposals for both civil engineering firms and traffic consultants in connection with the subject application. Minor modifications were made to the forms, including revisions to the requested submission dates.

In response to questions from Mr. Nabulsi, Mr. Nerney explained that the Courts have ruled that zone changes and map changes are not necessary in connection with Section 8-30g Affordable Housing applications. He noted further that the burden shifts to the Commission to approve or deny such an application based on reasons/concerns that are limited to health and safety, and only where such concerns outweigh the overall need for affordable housing in the community. He confirmed that traditional zoning requirements (e.g. bulk, area, use limitations, character of an area, etc.) do not come into play with these types of applications.

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Mr. Nerney referenced his memorandum dated April 2, 2014 regarding "Medical Marijuana – Regulation Concepts" previously distributed to the Commission, which included a copy of draft regulations pertaining to the production and dispensing of medical marijuana. He noted, in particular, the following:

1) the draft regulations include definitions of dispensaries, production facilities, and paraphernalia;

2) the definition of paraphernalia would be narrower than the State definition (Section 21-a-240 of CT General Statutes), which Town legal counsel has already reviewed and approved;

- 3) dispensaries would be permitted to dispense medical marijuana and sell paraphernalia only to those who are authorized to purchase medical marijuana;
- 4) dispensaries would be permitted in the General Business (GB) district only, and would require 1000-foot separating distances from facilities/venues such as schools, houses of worship, playgrounds, etc., similar to established Consumer Protection guidelines;
- 5) production facilities would only be permitted in the DE-10 district;
- 6) both types of facilities would be regulated via Special Permit regulations;
- 7) no more than one (1) sign would be permitted, with size limitations, also as per Consumer Protection/State of CT guidelines;
- 8) no greater than 10% of gross floor area could be dedicated to the sale of paraphernalia.

Mr. Nerney suggested that Commissioners continue to review the aforementioned document in anticipation of a future public hearing on the matter, noting that the Town moratorium on medical marijuana is in effect until February, 2015. He confirmed, in response to a question from Ms. Poundstone regarding security on such sites, that he has been in touch with the Police Chief in connection with security issues on such sites.

It was the general consensus of the Commission to schedule a public hearing on proposed medical marijuana regulations sometime in the September timeframe or thereabouts.

**I. FUTURE AGENDA ITEMS**

1. **SP#390, Rolling Hills Country Club, Inc., 333 Hurlbutt Street, To allow construction of paddle tennis courts and warming hut [P.H. – Tuesday, May 27, 2014]**
2. **SDP, 44 Westport Road, LLC, 44 Westport Road, To allow construction of twenty (20) units pursuant to Section 8-30g of CT General Statutes [P.H./Discussion – Monday, June 9, 2014]**

**J. ADJOURNMENT**

MOTION was made by Ms. Knapp, seconded by Ms. Bufano, and carried unanimously (8-0) to adjourn at 8:06 P.M.

Respectfully submitted,

Lorraine Russo  
Recording Secretary