

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

WILTON PLANNING & ZONING COMMISSION MINUTES NOVEMBER 10, 2014 REGULAR MEETING

PRESENT: Vice Chair Sally Poundstone, Secretary Doris Knapp, Commissioners Lori Bufano, John Comiskey, Joe Fiteni, Peter Shiue, and Franklin Wong

ABSENT: Christopher Hulse, Bas Nabulsi (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

1. SP#393, Walter Cromwell, 462 Danbury Road, Request to Modify Site Previously Approved for Adaptive Use

Ms. Poundstone, acting as Chairwoman in the absence of Chairman Hulse, called the Public Hearing to order at 7:15 P.M., seated members Bufano, Comiskey, Fiteni, Knapp, Poundstone, Shiue, and Wong, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Ms. Knapp read a memorandum dated November 7, 2014 from Jay E. Hanseman to Planning and Zoning Commission requesting that the hearing be continued until November 24, 2014.

There being no further comments from the Commission or the public, at approximately 7:16 P.M. the Public Hearing was continued until November 24, 2014.

2. SP#394, The Lake Club, Inc., 175-195 Thayer Pond Road, Replacement of lighting on tennis courts 2 and 3

Ms. Poundstone called the Public Hearing to order at approximately 7:16 P.M., seated members Bufano, Comiskey, Fiteni, Knapp, Poundstone, Shiue, and Wong, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Ms. Knapp read the legal notice dated October 28, 2014; and referenced a 2-page Planning and Zoning Staff Report dated November 6, 2014, and a memorandum dated November 6, 2014 from the Conservation Commission to the Planning & Zoning Commission.

Present were Richard Erario, member and former Governor of The Lake Club; Dean Armstrong, member of The Lake Club; and Doug Moffat, Manager of The Lake Club.

Mr. Armstrong distributed a 7-page color-photo package including existing conditions on courts 2 and 3, and recent lighting improvements on courts 7 and 8.

Mr. Erario briefly reviewed the subject application, referencing previously submitted drawings and the aforementioned photos. He referenced photos #1 and #2, explaining that existing lighting poles on courts 2 and 3 are 42 feet high with double-headed fixtures, without baffles, which direct lighting at an approximate 45-degree angle onto the center of the courts. He also referenced photo #3, highlighting existing mature foliage that provides sufficient screening/shielding for courts 2 and 3.

Mr. Erario explained that the proposed new poles for courts 2 and 3 would be 15 feet shorter than existing and the new fixtures would have a horizontal design, equipped with recessed light bulbs and shields, and would direct lighting directly downward, not angled, onto the courts. He called the Commission's attention to photo #5 of existing conditions on courts 7 and 8 after similar lighting was installed in 2010. He noted further that there would be less than 0.5 foot-candles of illumination at a 20-25 foot distance from the courts.

Addressing the issue of timing, Mr. Erario stated that the courts would be used from Memorial Day through the end of September, noting that the courts are used essentially while the leaves are on the trees and thus they are always well-screened when in use. He noted that a timer will be utilized to shut off lighting by 10 P.M. each evening, same as is done for courts 7 and 8. He felt that the proposed lighting for courts 2 and 3 would represent a significant improvement overall.

In response to a question from Mr. Comiskey, Mr. Erario explained that the courts have reached their useful life and are being resurfaced, making this a logical time to also upgrade lighting.

Mr. Wong cited his personal experience with glare emanating from the Club's paddle ball

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courts, and he asked if there is a complete light spillage plan for all of the Club's outdoor facilities.

Mr. Erario explained that such a plan was required by the Commission some time back in connection with a prior application, but was not required for the subject application, and the Club was subsequently determined to be in conformance with what was approved at that time. Ms. Poundstone noted further that the Commission should only be addressing the application before it this evening.

Ms. White confirmed, in response to a question from Ms. Knapp, that the Town's lighting standards/regulations have not changed in the recent past.

Mr. Erario noted further that there is no usage overlap between the tennis courts and the paddle courts, so there should be no cumulative lighting issues in that regard. He stated again that the proposed lighting modifications would represent a significant reduction in light spillage for the site.

Mr. Erario also confirmed that the Club anticipates no increase in membership as a result of the proposed lighting improvements.

Ms. Poundstone asked if anyone in the audience wished to speak for or against the application.

There being no further comments from the Commission or the public, at approximately 7:31 P.M. the Public Hearing was closed.

REGULAR MEETING

A. Ms. Poundstone called the Regular Meeting to order at 7:31 P.M., seated members Bufano, Comiskey, Fiteni, Knapp, Poundstone, Shiue, and Wong, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

B. APPROVAL OF MINUTES

1. October 27, 2014 – Regular Meeting

MOTION was made by Ms. Knapp, seconded by Ms. Bufano, and carried (7-0) to approve the minutes of October 27, 2014 as drafted.

C. SITE DEVELOPMENT PLAN REVIEW

D. ACCEPTANCE OF NEW APPLICATIONS

1. **SP#396, ASML US, Inc., 77 Danbury Road, Proposed improvements including 3 building additions, additional lighting and restriping of parking area**
2. **SP#397, Yeager, 134 Ridgefield Road, Accessory Dwelling Unit**

The Commission accepted the above applications (SP#396 and SP#397) and set a public hearing date for both for December 8, 2014.

3. **SDP, Friends of the Norwalk River Valley Trail/CT DOT, Autumn Ridge Lane and Sharp Hill Road, Proposed Gravel Parking Area**

The Commission accepted the above application and set a discussion date for November 24, 2014.

E. PENDING APPLICATIONS

1. **SP#393, Walter Cromwell, 462 Danbury Road, Request to Modify Site Previously Approved for Adaptive Use**

Tabled.

2. **REG#14346, Medical Marijuana, Amendments to Section 29-2.B, 29-6.B.3.x and 29-7.B.2.s**

The Commission reviewed/discussed draft resolution of approval #1114-4REG.

Mr. Nerney briefly reviewed modifications to proposed regulation amendments discussed at the previous hearing, including changes to the definition of “paraphernalia”; the Town of Redding’s request pertaining to separation distances from adjoining communities; and required compliance with all laws and licensing requirements set forth by the State.

A brief discussion ensued regarding proposed Section 29-6.B.3.x.(4) limiting the display/sale of paraphernalia to a maximum of 10% of gross floor area. It was the general consensus of the Commission to strike said limitation, citing potential enforcement difficulties as well as a perceived inconsistency with the way other such medical facilities are regulated in Town.

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Mr. Wong expressed a number of concerns relating to the regulations as proposed, as well as a general philosophical objection. With respect to the latter, he felt that the Commission was setting an undesirable precedent in its imposition of land use restrictions on medical marijuana uses, i.e. restrictions that are not imposed on any other medical facilities in Town. He felt that such regulations were neither necessary nor justified and would ultimately impose an unfair regulatory burden on potential medical marijuana facilities/businesses.

He felt that the definition of “school” in Sections 29-6.B.3.x.(1) and 29-7.B.2.s.(1) needed to be further clarified, citing the example of whether a dance academy would be considered a “school”.

He felt that proposed restrictions regarding permitted signage for such sites were overly restrictive, noting that clear identification of such facilities is important for both the business owner and for prospective patients.

He also expressed concern with the proposed security regulations and the necessity for same.

Mr. Nerney stated that the majority of the Town’s proposed regulations originate from the Consumer Protection laws/State statutes, which he noted were written in such a way as to give Towns a say in the operation of such businesses within their communities. He noted further that the regulations as proposed provide an opportunity for public input in connection with future applications via the Special Permit process incorporated into the proposed regulations.

Ms. Poundstone stated that if it were to become apparent in the future that there are issues/difficulties with the regulations as currently proposed/adopted, then it is always within the purview of the Commission to modify said regulations in the future.

A modification was incorporated into the resolution clarifying the definition of “school” as per the definitions of “public school” and “private school” in Section 29-2.B of zoning regulations.

The majority of Commissioners were in favor of adopting the proposed regulations as amended.

MOTION was made by Ms. Knapp, seconded by Mr. Fiteni, and carried (5-2-0) to adopt as amended Resolution #1114-4REG for **REG#14346**, effective November 13, 2014. Commissioners Comiskey and Wong opposed.

WHEREAS, the Wilton Planning and Zoning Commission accepted application #14346 for amendments to Section 29-2.B., Section 29-6.B.3.x., and Section 29-7.B.2.s. of the Zoning

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Regulations of the Town of Wilton pertaining to the sale and production of medical marijuana within the Town of Wilton; and

WHEREAS, the Planning and Zoning Commission conducted a public hearing on October 27, 2014 to receive comment from the public, received and considered comments from the neighboring communities of Ridgefield and Redding and has fully considered all other evidence submitted at said hearing; and

WHEREAS, notice and copies of the application have been forwarded to the South Western Regional Planning Agency and the Housatonic Valley Council of Elected Officials for application review and comment; and

WHEREAS, the Planning and Zoning Commission finds the regulation, as drafted, balances the needs of the community by providing what it believes to be reasonable separation distances from other uses deemed by the State of Connecticut to be incompatible.

WHEREAS, the proposed regulation is consistent with Connecticut General Statutes § 8-3, as amended; and

WHEREAS, the Planning and Zoning Commission has determined that the amendments are consistent with the 2010 Plan of Conservation and Development;

NOW THEREFORE BE IT RESOLVED that the Wilton Planning and Zoning Commission **APPROVES** amendment #14346, effective November 13, 2014 as follows:

Amend Section 29-2.B of the Zoning Regulations of the Town of Wilton, Connecticut for purposes of adding the following definitions:

37. **DISPENSARY FACILITY, LICENSED:** means a place of business where marijuana, as defined in Section 21a-408 of the Connecticut General Statutes, may be dispensed or sold at retail to qualifying patients and primary caregivers and for which the Connecticut Department of Consumer Protection has issued a dispensary facility permit to an applicant under the Act and section 21a-408-1 to 21a-408-70, inclusive, of the Regulations of Connecticut State Agencies.
105. **PARAPHERNALIA:** means drug paraphernalia, as defined in Section 21a-240 of the Connecticut General Statutes; which for purposes of these regulations, is limited only to those devices and products designed to assist in ingesting, inhaling or otherwise introducing lawfully-prescribed medical marijuana into the human body .
117. **PRODUCTION FACILITY, LICENSED:** means a secure, indoor facility where the production of marijuana occurs and that is operated by a person to whom the Connecticut Department of Consumer Protection has issued a producer license under the Act and

sections 21a-408-1 to 21a-408-70, inclusive, of the Regulations of Connecticut Agencies.

Amend the Zoning Regulations of the Town of Wilton, Connecticut for purposes of adding new use provisions known as Section 29-6.B.3.x:

3. Special Permit Uses:

x. Licensed Dispensary Facility provided any and all other local, state and federal permits have been obtained and subject to the following requirements:

(1) A Licensed Dispensary Facility shall not be located within 1,000 feet of any of the following uses:

- (a) School as defined in Section 29-2.B. (118) and Section 29.2.B. (121) of these regulations
- (b) Place of worship
- (c) Playground or park
- (d) Child daycare facility
- (e) Another licensed dispensary facility

Separation distances contained in this section shall be measured by calculating the shortest straight line between the boundaries of the

properties accommodating each respective use; regardless of the community in which such use is located.

(2) No marijuana, product packaging, display boards, pricing information or Paraphernalia shall be displayed so as to be viewable from the outside of the Facility.

(3) Exterior signage shall be subject to provisions set forth in Section 29-8.A of the Zoning Regulations; except that permissible signage serving a Licensed Dispensary Facility shall be subject to the following limitations:

- (a) No more than one non-illuminated sign, whether permanent or temporary, shall be viewable from the outside of the Facility. The dimensions of such sign shall not exceed 16" x 18".
- (b) Signage, viewable from the outside of the Facility, shall not include the advertisement of any marijuana brand names or utilize any graphics or pictures related to marijuana or Paraphernalia.

(4) A comprehensive security plan shall be required detailing the means by

which all marijuana products and permissible Paraphernalia will be safeguarded against diversion, theft or loss. Said plan shall be accompanied by architectural drawings of both the interior and exterior of the building in which the Licensed Dispensary Facility is located.

- (5) In addition to requirements provided in Sections 29-10 and 29-11 of these regulations, the applicant shall submit a detailed map, drawn at a scale of 1" = 50'. Said map shall depict all existing buildings, structures, lot boundaries and an inventory of all present-day uses and businesses within 1,200 feet of a proposed Licensed Dispensary Facility. The Commission shall make a finding as to whether the applicant has satisfied the spatial separation requirements set forth in these regulations.
- (6) In addition to complying with these regulations, a Licensed Dispensary Facility shall remain in full compliance with all laws and licensing requirements set forth by the State of Connecticut.

Amend the Zoning Regulations of the Town of Wilton, Connecticut for purposes of adding new use provisions known as Section 29-7.B.2.s.

Special Permit Uses:

- s. Licensed Production Facility provided any and all other local, state and federal permits have been obtained and subject to the following requirements:
 - (1) A Licensed Production Facility shall not be located within 1,000 feet of any of the following uses:
 - (a) School as defined in Section 29-2.B. (118) and Section 29.2.B. (121) of these regulations
 - (b) Place of worship
 - (c) Playground or park
 - (d) Child daycare facility
 - (e) Another Licensed Production Facility

Separation distances contained in this section shall be measured by calculating the shortest straight line between the boundaries of the properties accommodating each respective use; regardless of the community in which such use is located.

- (2) All production and storage of marijuana-derived products shall be conducted entirely within a secure climate-controlled building.

- (3) A comprehensive security plan detailing the means by which all marijuana products will be safeguarded against diversion, theft or loss. Said plan shall be accompanied by architectural drawings of both the interior and exterior the building in which the Licensed Production Facility is located.
- (4) In addition to complying with the requirements of Sections 29-10 and 29-11 of these regulations, the applicant shall submit a detailed map, drawn at a scale of 1" = 50', depicting all existing buildings, structures, lot boundaries and an inventory of all present-day uses and businesses within 1,200 feet of a proposed Licensed Production Facility. The Commission shall make a finding as to whether the applicant has satisfied the spatial separation requirements set forth in these regulations.
- (5) In addition to complying with these regulations, a Licensed Production Facility shall remain in full compliance with all laws and licensing requirements set forth by the State of Connecticut.

- END RESOLUTION

3. SP#394, The Lake Club, Inc., 175-195 Thayer Pond Road, Replacement of lighting on tennis courts 2 and 3

At the request of the Commission, staff distributed draft resolution of approval #1114-11P for review.

The Commission briefly reviewed the resolution. No changes were incorporated into the draft text.

MOTION was made by Ms. Knapp, seconded by Ms. Bufano, and carried (6-0-1) to adopt as drafted Resolution #1114-11P for **SP#394**, effective November 13, 2014. Commissioner Wong abstained.

WHEREAS, the Wilton Planning and Zoning Commission has received Special Permit application (**SP#394**) from The Lake Club, Inc. to replace lighting for two existing tennis courts known as "Courts #2 & 3" at The Lake Club, 165 Thayer Pond Road, (a/k/a 175-195 Thayer Pond Road, Assessor's Map #139, Lots #47 and #48), owned by the The Lake Club, Inc. and located in a Residential "R-2A" District; as shown on the plans entitled:

Map of Property-Prepared for The Lake Club, Inc.

Prepared by Roland H. Gardner, land surveyor, submitted to Planning and Zoning Department on October 7, 2014, scale 1"=100'.

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Sketch-Prepared for The Lake Club, Inc.

Prepared by RKW Land Surveying, land surveyors, dated November 10, 2006, last revised September 23, 2014, scale 1"=20'.

Proposed Tennis Court Lights (Courts 2&3)-Prepared for The Lake Club, Prepared by Environmental Land Solutions, LLC, landscape architects, dated September 22, 2014, scale 1"=30', sheet#LP-1.

RLS-TE-2000 Installation-Prepared for The Lake Club.

Prepared by RLS Lighting, Inc., lighting company, dated October 3, 2014, not to scale, sheet # ALX10031401.

RLS-TE-2000 Installation-Prepared for The Lake Club.

Prepared by RLS Lighting, Inc., lighting company, dated January 11, 2011, not to scale, sheet # RLS-RTAP.

WHEREAS, the Planning and Zoning Commission has conducted a public hearing on November 10, 2014 to receive comment from the public and has fully considered all evidence submitted at said hearing; and

WHEREAS, based upon testimony provided, the Planning and Zoning Commission finds the proposed replacement lighting to be superior to existing lighting in terms of minimizing light spillage; hence, adverse impacts to the neighborhood.

NOW THEREFORE BE IT RESOLVED effective November 13, 2014 the Wilton Planning and Zoning Commission **APPROVES** Special Permit #394 to replace lighting associated with two existing tennis courts, known as "Courts #2 and 3", for property located at 165 Thayer Pond Road 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 United States Government. 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 Special Permit site plan shall be complete within five years of the effective date of this resolution. This five-year period shall expire on November 13, 2019.
3. Tennis courts shall not be illuminated between the dates of October 15th and May 1st.

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4. Tennis court lighting shall be turned off no later than 10:00 p.m. during periods of permissible use.
5. The applicant shall install timers on the lighting for “Tennis Courts #2 and 3”, so as to assure that all lighting is extinguished by 10:00 p.m.
6. In order to reduce light spillage, extended light cut-offs as shown on the submitted lighting plan, shall be installed on all light fixtures serving “Tennis Courts #2 and 3”.
7. Any amplification of sound associated with use of the subject tennis courts shall be restricted pursuant to Condition #6 contained within Resolution #0910-15P.
8. All past conditions of approvals by the Wilton Planning and Zoning Commission shall remain in effect.

Submittal of revised plans and application:

9. Three (3) completed revised sets, (collated and bound) shall be submitted to the Commission's office for endorsement as "Final Approved Plan" by the Town Planner prior to receiving a zoning permit. 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. "According to Section 8-3.(i) of the Connecticut General Statutes, all work in connection with this site plan shall be completed within five years after the approval of the plan. Said five-year period shall expire on November 13, 2019."
 - b. "For conditions of approval for Special Permit #394, see Resolution #1114-11P."

Prior to the Issuance of a Certificate of Zoning Compliance:

10. Pursuant to submitted plans and prior to the issuance of a certificate of zoning compliance, all light cut-offs features shall be installed on the proposed light fixtures.

- END RESOLUTION -

F. COMMUNICATIONS

- 1. 241 Danbury Road Associates, LLC, 241 and 249 Danbury Road, Question pertaining to interpretation of Retail Design Requirements as set forth in Section 29-6.A.5 of zoning regulations**

Mr. Nerney advised the Commission that the applicant requested a continuation of the subject matter until November 24, 2014.

G. REPORT FROM CHAIRMAN

- 1. Reports from Committee Chairmen**

H. REPORT FROM PLANNER

I. FUTURE AGENDA ITEMS

- 1. SP#395, Wilton GSE, LLC, 372 Danbury Road, To reduce the number of parking spaces required on the site per Section 29-8.B.2.c of zoning regulations [P.H. – Nov. 24, 2014]**

J. ADJOURNMENT

MOTION was made by Ms. Knapp, seconded by Mr. Fiteni, and carried unanimously (7-0) to adjourn at approximately 8:04 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary