

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

WILTON PLANNING & ZONING COMMISSION MINUTES APRIL 26, 2010 REGULAR MEETING

PRESENT: Chairwoman Sally Poundstone, Vice Chairman John Wilson, Secretary Doug Bayer, Commissioners Alice Ayers, Marilyn Gould, Bas Nabulsi, Eric Osterberg, Dona Pratt, and Michael Rudolph

ABSENT:

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#10319, TIAA-CREF, 10 and 20 Westport Road, To amend Sections 29-2.B, 29-7.B.2, 29-8.B of zoning regulations pertaining to Conference Center uses and parking**

Ms. Poundstone called the Public Hearing to order at 7:15 P.M., seated members Ayers, Bayer, Gould, Nabulsi, Osterberg, Poundstone, Pratt, Rudolph, and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Ms. Poundstone noted that the hearing was continued from a previous meeting.

Present were Clarissa Cannavino, attorney; and David Schiff, planning consultant; on behalf of the applicant.

Mr. Schiff referred to Attorney Healy's response letter to the Commission dated April 22, 2010. He briefly addressed some of the issues raised at the last hearing, noting in particular the following proposed modifications: 1) removal of the phrase "to other individuals or groups"; 2) addition of the word "concurrently" to Section 29-7.B.2.r(2); and 3) addition of the words "and are therefore not permitted", if desired by the Commission, although it was Mr. Schiff's opinion that the phrase was not necessary.

Mr. Schiff felt that 1) it would be preferable to leave the terms "conference" and "social

functions” undefined since attempts to further define these terms and/or include a number of examples for each, could raise additional issues as to the meaning of other words included in such definitions; 2) revising the “admission fee” limitations to provide more specificity as to which events are not permitted could potentially make distinctions that might be considered legally questionable; and 3) potential impacts on abutting residential uses would be minimal given existing setback, parking and loading limitations in Wilton’s zoning regulations, as well as lighting, noise and odor restrictions in Town ordinances.

Mr. Wilson noted for the record, via a sound level meter he brought to the meeting, that the average decibel level recorded in the meeting room this evening was 75 decibels, which was significantly higher than the maximum decibel level of 55 permitted by Town ordinance between the hours of 10 P.M. and 7 A.M. It was further noted that the Town ordinance requires the decibel level reading to be taken at the property line.

Mr. Rudolph stated that he preferred to have the phrase “and are therefore not permitted” appended to Section 29-7.B.2.r(6), as he had originally requested.

A question arose as to liquor permit applications and requirements of the State Liquor Authority. It was determined that a permanent alcohol license would not be permitted for the site, per DE-10 zoning restrictions, but that temporary alcohol permits could be applied for, as needed, in anticipation of individual events that would be hosted on the premises.

A question was also raised, with reference to Section 29-7.B.3.i of zoning regulations, as to whether a conference center would be entitled to recreational facilities. Mr. Schiff stated that he was comfortable with the wording as proposed since the aforementioned regulation refers to permitted accessory uses in the DE-10 zone whereas the proposed conference center use would be considered a principal use in the DE-10 zone.

Mr. Bayer referred for the record to a 4-page response letter from J. Casey Healy dated April 22, 2010 to Planning and Zoning Commission, with attached “Proposed Text Amendments”.

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

MOTION was made by Mr. Wilson, seconded by Mr. Nabulsi, and carried (9-0) to close the hearing.

There being no further comments from the Commission or the public, at 7:37 P.M. the Public Hearing was closed.

2. **REG#10320, Amendments to Town of Wilton Zoning Regulations Pertaining to Floodplain Management, Sections 29-2.B and 29-9.F.**
and
3. **REG#10321, Amendments to Town of Wilton Subdivision Regulations Pertaining to Floodplain Management, Secs 4.4.5 and 4.4.5.3**

Ms. Poundstone called the Public Hearing to order for applications **REG#10320** and **REG#10321** at 7:37 P.M., seated members Ayers, Bayer, Gould, Nabulsi, Osterberg, Poundstone, Pratt, Rudolph, and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

Mr. Bayer read the legal notice dated April 13, 2010. He referred to the following documents for both applications: 1) a letter from Robert J. Nerney to Jonathan Chew (Housatonic Valley Council of Elected Officials) dated March 16, 2010, with attached Response by HVCEO to referral of Proposed Zone Change or Subdivision, mailed March 19, 2010; 2) SWRPA Report of the Referrals Committee dated March 30, 2010; and 3) a letter dated April 14, 2010 from Michelle Perillie, AICP (Westport Planning & Zoning) to Robert Nerney.

Mr. Nerney explained that both Federal and State governments have identified Wilton as one of a number of communities where floodplain regulations are outdated based upon an audit that is conducted once every five or so years. He noted that the Town has been working with the Connecticut DEP and, based upon its recommendations, changes/amendments were proposed to the Town's zoning and subdivision floodplain regulations and were reviewed by the Planning and Zoning Regulations Committee.

Mr. Nerney distributed copies of resolutions to the Commission pertaining to proposed changes in both of the aforementioned sets of regulations. He explained that the amendments must be adopted by June 18, 2010 noting that, if approved by the Commission this evening, they would not become effective until that date. He noted further that the State had already reviewed the proposed modifications and was satisfied with them as currently proposed. Ms. Poundstone also noted that the proposed text was basically supplied to the Town by the Federal and State governments.

In light of the foregoing, it was the general consensus of the Commission to vote to approve the resolutions later this evening.

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

MOTION was made by Mr. Nabulsi, seconded by Mr. Bayer, and carried (9-0) to close the hearing.

There being no further comments from the Commission or the public, at 7:52 P.M. the public hearings for applications **REG#10320** and **REG#10321** were closed.

4. SP#349, Olkoski, 81 Boulder Brook Road, Accessory dwelling unit

Ms. Poundstone called the Public Hearing to order at 7:52 P.M., seated members Ayers, Bayer, Gould, Nabulsi, Osterberg, Poundstone, Pratt, Rudolph, and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Mr. Bayer read the legal notice dated April 13, 2010. He referred to a 2-page Planning and Zoning Staff Report dated April 22, 2010; a memorandum dated April 20, 2010 from Michael Ahern to Daphne White; and a memorandum dated April 26, 2010 from Jennifer M. Zbell to Daphne White.

Present was Philip Olkoski, applicant.

Mr. Olkoski indicated that he had not received the Planning and Zoning Staff Report that was faxed to him on April 22, 2010, so he reviewed the Staff Report at the meeting.

Mr. Nerney referred to item #1 of the Staff Report, noting that the property falls within the boundaries of a public watershed. He stated that both the Wilton and State Health Departments had reviewed/approved the application, and he noted that an inspector, Casey Cordes, from SNEW (South Norwalk Electric and Water Company) had verbally indicated his approval of the application to staff. The Commission expressed concern that the applicant had not received an official comment in writing to that effect from SNEW. Although Mr. Nerney indicated that SNEW generally only comments when it has issues/concerns regarding an application, it was the consensus of the Commission that the applicant would be well advised to send a note to SNEW confirming that the water company had indeed received notification of the applicant's intentions and has no objections to the site modifications as proposed.

With respect to item #2 of the Staff Report and the proposed 10.5-foot high garage doors, Mr. Olkoski confirmed that there is no planned commercial activity for the garage, noting that the oversized doors are necessary to store his boat and snowmobile trailer.

A question arose regarding the applicant's right-of-way to the parcel. A discussion ensued and the deed was briefly reviewed, whereupon it was determined that the applicant does have right-of-way to the subject parcel.

A question also arose regarding a shed that is located on the property within the setback lines and which was not indicated on the original 1978 survey. Mr. Nerney explained that there is a 3-year law in the state statutes whereby buildings constructed more than 3 years ago are considered legal. Mr. Olkoski confirmed that the shed was built more than 3 years ago.

In response to item #4 of the Staff Report regarding depicted second story square footage that was discounted from the total accessory dwelling unit floor area, Mr. Olkoski confirmed that there is no plan to develop that space. It was therefore determined that as

long as the aforementioned space is not finished, the accessory unit would not exceed 25% of the gross floor area of the main residence, as permitted by Section 29-4.D.1.a of zoning regulations for accessory dwelling units.

The applicant entered four letters of support into the record. Mr. Bayer referenced the letters as follows: 1) from Robert C. Dalldorf and Nancy K. Swenson to Wilton Planning and Zoning dated April 25, 2010; 2) from Carol A. Pinto to Planning & Zoning Commission dated April 22, 2010; 3) from William J. McGreevy to Planning & Zoning Commission dated April 22, 2010; and 4) from Tom Fagan to Wilton Planning and Zoning dated April 21, 2010.

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

The Commission briefly discussed item #2 of Field Engineer Ahern's memorandum to Daphne White dated April 20, 2010, requesting grading and drainage information on the submitted drawings, with particular emphasis on how to minimize impacts to the adjacent downhill property at 286 Mountain Road. Although Mr. Nerney indicated that such issues are generally addressed during the permitting process, the Commission requested that the issue be resolved and some additional topographical information be provided prior to closing the hearing.

It was the general consensus of the Commission to keep the hearing open until the next meeting on May 10th so that drainage concerns could be further addressed.

Mr. Bayer also requested that the applicant provide additional information on the nonconforming shed on the property, particularly regarding its date of construction. Mr. Olkoski indicated that it was constructed a good ten years ago, noting further that it has no footings.

There being no further comments from the Commission or the public, at 8:21 P.M. the Public Hearing was continued until May 10, 2010.

REGULAR MEETING

- A.** Ms. Poundstone called the Regular Meeting to order at 8:21 P.M., seated members Ayers, Bayer, Gould, Nabulsi, Osterberg, Poundstone, Pratt, Rudolph, and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

B. APPROVAL OF MINUTES

1. March 22, 2010 – Regular Meeting

MOTION was made by Mr. Rudolph, seconded by Ms. Ayers, and carried (8-0-1) to approve the minutes of March 22, 2010 as drafted. Mr. Osterberg abstained.

2. April 12, 2010 – Special Meeting (Regulations Committee)

MOTION was made by Ms. Gould, seconded by Mr. Wilson, and carried (9-0) to approve the minutes of April 12, 2010 as drafted.

C. SITE DEVELOPMENT PLAN REVIEW

D. ACCEPTANCE OF NEW APPLICATIONS

1. SDP, Wilson Properties III, LLC, 142 Old Ridgefield Road, Sidewalk & Lighting

MOTION was made by Ms. Poundstone, seconded by Mr. Wilson, and carried unanimously (9-0) to accept the application and set a discussion date for **May 10, 2010**.

2. SP#350, Wilton Wine Search, 28 Center Street, Operation of package store

MOTION was made by Ms. Poundstone, seconded by Mr. Wilson, and carried unanimously (9-0) to accept the application and set a public hearing date for **May 24, 2010**.

E. PENDING APPLICATIONS

1. REG#10319, TIAA-CREF, 10 and 20 Westport Road, To amend Sections 29-2.B, 29-7.B.2, 29-8.B of zoning regulations pertaining to Conference Center uses and parking

The Commission requested that staff prepare a draft resolution of approval, as amended by Mr. Rudolph in Section 29-7.B.2.r.(6).

2. REG#10320, Amendments to Town of Wilton Zoning Regulations Pertaining to Floodplain Management, Sections 29-2.B and 29-9.F.

And

3. REG#10321, Amendments to Town of Wilton Subdivision Regulations Pertaining to Floodplain Management, Secs 4.4.5 and 4.4.5.3

The Commission briefly reviewed draft Resolutions **#0410-1REG** and **#0410-2REG**.

MOTION was made by Mr. Bayer , seconded by Mr. Nabulsi, and carried unanimously (9-0) to adopt Resolution **#0410-1REG** (with the understanding that Zoning Regulations Section Numbers would be inserted above the appropriate sections

within the text of the resolution), and to adopt Resolution #0410-2REG as drafted, both of which will become effective on June 18, 2010.

RESOLUTION #0410-1REG
April 26, 2010

WHEREAS, the Wilton Planning and Zoning Commission accepted application #10320 for amendments to Sections 29-2.B and 29-9.F of the Zoning Regulations of the Town of Wilton pertaining the community's flood management regulations; and

WHEREAS, the Planning and Zoning Commission conducted a public hearing on April 26, 2010 to receive comment from the public and has fully considered all evidence submitted at said hearing; and

WHEREAS, in accordance with C.G.S. §8-3b the Planning and Zoning Commission has notified the South Western Regional Planning Agency and the Housatonic Valley Council of Officials and has appropriately considered any and all commentary from such agencies; and

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

WHEREAS, the proposed regulation is consistent with advancing state and federal policy concerning the development of property within flood prone areas.

NOW THEREFORE BE IT RESOLVED that the Wilton Planning and Zoning Commission APPROVES application #10320 effective June 18, 2010 as follows:

PROPOSED CHANGES TO ZONING REGULATIONS

*Proposed text is depicted in **bold print** while the proposed deletion of text is highlighted through the use of a ~~strikethrough~~ font.*

29-2.B. DEFINITIONS

1. ADULT DAY CARE CENTER: An establishment which offers or provides a program of supplementary care for adult persons outside their own home for a part of the 24 hours in one or more days in the week.
2. AFFORDABLE HOUSING: A housing development (A) which is "assisted housing" as-defined in the Connecticut General Statutes Section 8-30g(a)(3): or (B) in which not less than twenty percent (20%) of the dwelling units will be conveyed by deeds containing covenants or restrictions which shall require

that such dwelling units be sold or rented at, or below, prices which will preserve the units as affordable housing, as defined in the Connecticut General Statutes Section 8-39a, for persons or families whose income is less than or equal to eighty percent (80%) of the area median income, for at least twenty years after the initial occupation of the proposed development.

3. **AFFORDABLE HOUSING UNIT:** Housing for which persons and families pay thirty percent (30%) or less of their annual income, where such income is less than or equal to 80% of the area median income for the Town of Wilton, as determined by the U.S. Department of Housing and Urban Development.
4. **ALTERATION:** As applied to a building or structure: (1) a change or rearrangement in the structural parts; (2) an enlargement or reduction, whether horizontally or vertically; or (3) the moving from one location or position to another.
5. **ANTENNA*:** A device used to collect, transmit and/or receive telecommunications or radio signals. Examples include panels, microwave dishes and single pole devices.
6. **AQUIFER:** A geologic unit capable of yielding usable amounts of potable water.
7. **AQUIFER PROTECTION ZONE:** An area designated on the map entitled "Wilton Planning and Zoning Commission Aquifer Map" as a primary recharge area for an aquifer yielding usable amounts of water for existing or potential water supplies.
8. **ASSISTED LIVING*:** A form of housing for persons who have difficulty performing daily tasks including but not limited to preparing meals, bathing, dressing, taking medication, housekeeping, laundry and/or transportation due to physical and/or mental impairment. Such persons shall not require continuous skilled nursing care. Such housing shall be for persons 62 years of age or older and/or handicapped persons under 62 years together with spouses or others providing care to such individuals.
9. **AUTOMOTIVE REPAIR AND SERVICE FACILITY:** Any building, place or location primarily providing automotive repairs or installation of automotive-related components, including but not limited to mufflers, transmissions, brakes, lubrication, body work, and sound systems.
- ~~10. **BASE FLOOD*:** The flood having a one percent (1%) chance of being equaled or exceeded in any given year, (100 year flood) as set forth in the Flood Insurance Study, Town of Wilton, Fairfield County, Connecticut, by the Federal Emergency Management Agency.~~
10. **BASEMENT*:** A portion of a building located partly underground but having less than one-half of its clear floor-to-ceiling height below the average finished grade of the adjoining ground and with a floor-to-ceiling height of not less than seven and one-half feet. [See

Appendix A, Figure A-1). For the purposes of Section 29.9-F, Development in Floodplain Areas, a basement shall be any area of a building having its floor subgrade on all sides.

11. **BAZAAR:** A sale of miscellaneous articles to benefit some charity, cause, organization etc.
12. **BED AND BREAKFAST ACCOMMODATIONS:** An establishment offering transient lodging accommodations to the general public operated by a resident manager, with a maximum of five guest rooms, with the serving of meals limited to breakfast for guests.
13. **BUFFER, BUFFER AREA OR BUFFER STRIP:** A strip of land free of any building, structure or use other than natural woody growths, landscaping, fencing or screening designed to shield or block noise, lights or other nuisances.
14. **BUILDING:** A structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any persons, animals or chattel.
15. **BUILDING, ACCESSORY:** A building subordinate to the principal building on the same lot, and used for purposes customarily incidental to that of said principal building.
16. **BUILDING COVERAGE:** The percentage of the total area of the lot covered by the ground floor area of all buildings and structures thereon, both principal and accessory, measured by the exterior dimensions of such building. {See Appendix A, Figure A-2}
17. **BUILDING HEIGHT:** The vertical distance to the level of the highest point of the roof's surface if the roof is flat, or to the mean level between the eaves and the highest point of the roof if any other type, measured from the average elevation of the finished grade adjacent to the exterior walls of the building. Where such finished grade is established by filling, however, its average elevation shall not be taken to be more than five feet above the average elevation of the outer perimeter of required yard spaces around the building. [See Appendix A, Figure A-3]
18. **BUILDING, PRINCIPAL:** A building in which is conducted the primary or principal use of the lot on which said building is situated.
19. **CELLAR:** A portion of a building located partly or wholly underground and having one-half or more of its clear floor-to-ceiling height below the average finished grade of the adjoining ground. [See Appendix A, Figure A-1]
20. **CHANGE OF USE:** Any proposed use which substantially differs from the existing use of a building, structure or lot, by having different zoning requirements or is otherwise categorized differently in the zoning regulations.
21. **CHANNEL ENCROACHMENT LINES:** Lines established along any waterway or flood-prone area, in accordance with Section 22a-342 of the General Statutes, by the Commissioner of Environmental Protection, beyond which, in the direction of the waterway or flood-prone area, no obstruction shall be placed unless authorized by the Commissioner of Environmental Protection.
22. **CHILD DAY CARE CENTER:** An establishment which offers or provides a program of

supplementary care to more than 12 related or unrelated children outside their own homes on a regular basis for a part of the 24 hours in one or more days in the week.

23. CLUB: A building, structure or use operated by a nonprofit recreational, fraternal, political, benevolent or athletic organization on a not-for-profit basis for its members or guests accompanying them.
24. COMMERCIAL: Interchange of goods or commodities, including the offering and/or sale of personal and professional services.
25. COMMERCIAL USE: Activity carried out for pecuniary gain.
26. COMMUNITY FACILITY: A building or structure occupied by a public or nonprofit private organization or group for recreational, social or civic purposes, and containing no dwelling units, sleeping accommodations, or public merchandising facilities, other than where the proceeds accrue to the nonprofit organization.
27. CONGREGATE HOUSING: A form of housing consisting of independent living assisted by on-site congregate meals, housekeeping and personal services for persons 62 years of age or older and/or handicapped persons under 62 together with spouses or others providing care to such individuals.
28. CURB CUT: The opening along the curb line of a street at which point vehicles may enter or leave the roadway.
29. CURB LEVEL: The permanently established grade of a street at the edge of pavement or at the base of the curb, in front of a lot.
30. DECIBEL: A unit of measurement of intensity of sound (the sound pressure level).
31. DECK: A porch-like structure or portion of a structure, usually constructed of wood, with structural supports.
32. DEPOSIT: For the purpose of these Regulations with respect to the movement of earth material, shall include, but shall not be limited to, fill, grade, dump, place, discharge or emit.
33. DESIGNATED AQUIFER: A geologic unit capable of yielding usable amounts of water and designated on a map entitled "Wilton Planning and Zoning Commission Aquifer Map."
35. DEVELOPMENT*: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.*
34. DIRECT RECHARGE: The process by which precipitation replenishes a stratified-drift aquifer by natural infiltration through the unsaturated zone to the water table.
35. DRAINAGE: The controlled removal of surface water or groundwater from land by drains, grading or other means which include runoff controls to minimize erosion and

sedimentation during and after construction or development, to maximize groundwater recharge, and to prevent or alleviate flooding.

36. DUST: Solid particulate matter capable of being air or gas borne.
37. DWELLING: A building designed or used exclusively as living quarters for one or more families. The term shall not be deemed to include automobile courts, motels, hotels, rooming houses, boarding houses, camping trailers, mobile home trailers, tourist homes or tents.
38. DWELLING, ATTACHED: A building containing two or more dwelling units attached to each other by continuous vertical party walls, without openings except for utilities, which walls extend from basement or cellar to roof.
39. DWELLING, DETACHED: A dwelling surrounded on all sides by yards and which does not have any roof, wall or floor in common with any other dwelling unit.
40. DWELLING, MULTI-FAMILY: A building containing two or more dwelling units, but excluding dwellings with accessory dwelling units.
41. DWELLING, SINGLE-FAMILY: A dwelling containing one dwelling unit only.
42. DWELLING UNIT, ACCESSORY*: A separate dwelling unit, whether or not it contains cooking facilities, which is in conjunction with, and accessory to, a single-family dwelling, including but not limited to, an in-law apartment, a guest cottage, a studio, or a cabana.
43. EARTH: Any material of which the ground is composed, including but not limited to soil, loam, sand, gravel, rock, stone, and clay.
44. EDUCATIONAL RESIDENTIAL FACILITIES*: A residential facility operated by a charitable organization that provides food, shelter, and personal guidance to no more than ten (10) students enrolled full time in Wilton Public Schools, two persons who care for them and those persons' minor children and one (1) resident tutor for the students.
45. EROSION: The detachment and movement of soil or rock fragments or the wearing away of the land surface by water, winds, ice or gravity.
46. EXCAVATION: The digging out, extraction, regrading, or removal of earth, whether exposed or covered by water, so as to alter its contour.
47. FAMILY: One person, or a group of two or more persons related by blood, marriage, legal adoption or legal guardianship, or a group of not more than four unrelated persons, living and cooking together as a single housekeeping unit, including domestic help but excluding boarders or roomers.
48. FAMILY DAY CARE HOME: A private family home caring for not more than six children, including the providers own children not in school full-time, where the children are cared for not less than three nor more than 12 hours during a 24-hour period, where care is given on a regularly recurring basis, and where the principal provider of the service resides on the

premises. During the regular school year, a maximum of three additional children who are in school full-time, including the provider's own children, shall be permitted, except that if the provider has more than three children who are in school full-time, all of the provider's children shall be permitted.

49. FARM: A parcel of land used for the purpose of producing agricultural, horticultural, floricultural, vegetable or fruit products of the soil, including the raising of horses and other domestic farm animals. Riding academies, livery stables, animal kennels, the breeding, raising or habitation of fur-bearing animals, pigs or goats, commercial poultry farms, stands for the sale of produce, or the commercial processing of the products of the farm, shall not be included.
50. FENCE: A structure designed of any material or combination of materials erected to enclose, separate, screen or buffer areas of land.
51. FILLING: The process of depositing clean fill such as soil, sand, gravel, rock or clay.
52. FINISH STRIPPING ESTABLISHMENT: A business or enterprise engaged in the removal of paint, varnish or other finishes from wood, metal or plastic articles through the use of a chemical process.
55. ~~FLOODPLAIN, 100 YEAR*: Areas of flood hazard having a one percent chance or greater of being partially or completely inundated by flood waters in any given year as identified as Flood Zones A, AI-30 and AE on the "Flood Insurance Rate Map (FIRM), Town of Wilton, Connecticut, Fairfield County, effective date February 18, 1998; or the floodway and floodway fringe as designated on the "Flood Boundary and Floodway Maps, Town of Wilton, Connecticut, Fairfield County, effective date February 18, 1998" and associated flood insurance study or any revision thereto, as prepared by the Federal Emergency Management Agency.~~
56. ~~FLOODWAY: The channel of a watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, are designated on the "Flood Boundary and Floodway Map, Town of Wilton, Connecticut, Fairfield County, effective date February 18, 1998" or any revision thereto, as prepared by the Federal Emergency Management Agency.*~~
53. FLOOR AREA, GROSS (GFA): The sum of the gross horizontal areas of every floor of a building, measured from the exterior face of outside walls or, where appropriate, from the centerline of a common wall separating two buildings, and including hallways, stairs, closets, columns, the thickness of walls and other features, but not including attached or built-in garages, porches or terraces.
54. FLOOR AREA, NET (NFA): For the purposes of these Regulations, 85 percent of Gross Floor Area.
55. FLOOR-AREA-RATIO: The gross floor area of all buildings on a lot divided by the lot area.
56. FRONTAGE: The length measured along that side or sides of a lot abutting on a public

street.

57. FREQUENCY: The number of oscillations per second of a vibration.
58. FUNERAL HOME: A building used for the preparation of the deceased for burial and the display of the deceased and ceremonies connected therewith before burial or cremation.
59. GARAGE, PRIVATE: An accessory building or portion of a principal building used for the parking and storage of motor vehicles and not available to the general public.
60. GARAGE, PUBLIC: A building or portion thereof, other than a private garage or carport, or any area above or below grade used for the parking and storage of motor vehicles and available to the general public.
61. GRADE, AVERAGE FINISHED: The mean of the highest and lowest finished grade at the base or foundation of the structure.
62. GRADE, FINISHED: The final elevation of the ground surface after the completion of grading.
63. GRADING: Any excavating, grubbing, filling (including hydraulic fill) or stockpiling of earth, or any combination thereof, which results in a change of contour or elevation.
64. GREENHOUSE: A building constructed mainly of glass or other transparent material, and used as a conservatory for the growing and protection of flowers or plants, and for the propagation and culture thereof.
65. GROUNDWATER: Water in the subsurface area beneath the water table in which all open spaces are filled with water.
66. GROUNDWATER RECHARGE AREA: That area from which water is added to the saturated zone by natural processes, such as infiltration of precipitation, or artificial processes, such as induced infiltration.
67. GROUP HOME, COMMUNITY CARE FACILITY: A residential facility which provides food, shelter, personal guidance and, to the extent necessary, continuing health-related services to mentally retarded or autistic persons.
68. GROUP DAY CARE HOME: An establishment which offers or provides a program of supplementary care to not less than seven nor more than 12 related or unrelated children on a regular basis for a part of the 24 hours in one or more days in the week.
69. HANDICAPPED PERSONS: As applied to the congregate housing regulations herein, persons who have been determined to have physical impairments which: (1) are expected to be of long continued and indefinite duration; (2) substantially impede the ability to live independently; and (3) are of such a nature that the ability to live independently could be improved by more suitable housing conditions.
70. HAZARDOUS WASTE: Waste material which may pose a present or potential hazard to

human health or the environment when improperly stored, transported or disposed of or otherwise managed, including, without exception, hazardous waste identified and listed in accordance with Section 3001 of the Resource Conservation and Recovery Act of 1976.

71. HOME OFFICE, HOME OCCUPATION: A commercial enterprise operated by the resident of a dwelling unit as an accessory use to the residence.
72. HOTEL OR MOTEL: An establishment offering transient lodging accommodations to the general public and which may provide additional services such as rooms for public assembly, the serving of food, and recreational facilities.
73. IMPERVIOUS SURFACE COVERAGE: The percentage which the ground floor area of all buildings and structures, specified building appurtenances and the pavement on a lot bears to the lot area.
74. INTERIOR LIVING AREA*: Any space, finished or unfinished, which has a potential ceiling height of not less than seven and a half feet, including a basement or cellar where the ceiling is five feet or more above the adjoining grade along any wall for a depth of fifteen feet or more. Any structure built in a DRD, THRD, or CRA-10 zone, previous to the date of this amendment, (March 1997) shall be considered a conforming building in terms of maximum interior living area.
75. JUNK YARD: More than 50 square feet of area used for the storage, collection, processing, purchase, sale, abandonment or accumulation of wastepaper, rags, scrap metal or other scrap or discarded goods, materials, machinery or other types of junk.
76. KENNEL: An establishment operated as a commercial use in which dogs are kept, boarded, bred, shown, trained, groomed, housed, or sold.
77. KITCHEN: A room, place or space within a structure equipped for the preparation and/or cooking of food, containing at a minimum a sink, stove and refrigerator.
78. LIVESTOCK: Animals kept, raised or offered for sale on a farm.
79. LOADING SPACE: An off-street area or berth for the loading or unloading of commercial vehicles.
80. LOT: A parcel of land occupied or capable of being occupied by a principal building, structure or use and the accessory buildings and uses customarily incidental thereto.
81. LOT OF RECORD: A lot, which is either part of an approved subdivision recorded in the office of the Town Clerk or described by metes and bounds, which has been recorded in the land records of the Town prior to July 6, 1951, including those lots subject to "free cuts".
82. LOT AREA: The total area within the lot lines of a lot, excluding any street rights-of-way.
83. LOT, CORNER: A lot which abuts two or more streets at their intersection, or which abuts two parts of the same street forming an interior angle of less than 135 degrees. [See

Appendix A, Figure A-4]

- 84. LOT, INTERIOR: A lot abutting only one street. [See Appendix A, Figure A-4]
- 85. LOT, REAR: A lot located to the rear of another lot and served by an access way owned in fee by the owner of the rear lot. [See Appendix A, Figure A-4]
- 86. LOT, THROUGH: A lot which abuts two parallel streets, or which abuts on two streets which do not intersect at the boundaries of the lot. [See Appendix A, Figure A-4]
- 87. LOT LINE: A line bounding the area of a lot.
- 88. LOT LINE, FRONT: The line separating the lot from the street right-of-way.
- 89. LOT LINE, REAR: The lot line which is generally opposite the front lot line; if the rear lot line is less than ten feet in length, or if the lot comes to a point at the rear, the "rear lot line" shall be deemed to be a line parallel to the front lot line, not less than ten feet long, and lying wholly within the lot and farthest from the front lot line.
- 90. LOT LINE, SIDE: Any property line extending from the front lot line to the rear lot line.
- 91. LOT WIDTH AND DEPTH: The horizontal distance of each side of the largest square that can be formed entirely within the lot or parcel.
- 96. ~~LOWEST FLOOR*: The lowest floor of the lowest enclosed area (including basement).~~
- 92. MANUFACTURING: The making, processing, fabrication or assembling of goods or wares by manual labor or by machinery.
- 93. MOTOR VEHICLE SERVICE STATION: Any area of land, including structures thereon, or any building or part thereof that is used for the sale of motor fuels and which may include the sale of motor vehicle accessories and facilities for lubricating, washing or otherwise servicing motor vehicles, but not including body work, major repair or painting thereof by mechanical means.
- 94. MULTI-USE BUILDING: A building containing two or more different uses, or two or more different commercial occupants.
- 95. NON-CONFORMING LOT: A lot of record of which the size and dimensions was lawful at the time of creation, but which by revision, adoption or amendment of regulations, fails to conform to the present size or dimensional requirements of the zoning district in which it is located.
- 96. NON-CONFORMING STRUCTURE OR BUILDING: A structure or building of which the size, dimensions or location was lawful at the time of adoption or amendment of these Regulations but which by reason of such adoption or amendment fails to conform to the present location, bulk or dimensional requirements of the zoning district in which it is located.

97. **NON-CONFORMING USE:** A use or activity which was lawful at the time of adoption or amendment of these Regulations, but which by reason of such adoption or amendment fails to conform to the present uses permitted in the zoning district in which it is located.
98. **NURSERY:** Land devoted to the commercial raising and sale of trees, plants, flowers, or shrubs and which may include greenhouses.
99. **OFFICE, GENERAL*:** A room or group of rooms used for conducting the affairs of a business, profession, service, industry or government but excluding those associated with the medical profession or the sale or leasing of real estate.*
100. **OFFICE, MEDICAL:** A room, group of rooms, or facilities used for conducting the affairs of those associated with the medical profession.
101. **OPEN SPACE:** A space not occupied by a building or structure on the same lot as the principal building or use.
102. **PARKING AREA:** Any public or private land area designed and used for parking motor vehicles including parking lots, garages, private driveways and legally designated areas of public streets.
103. **PARKING LOT:** An off-street, ground level area used for the temporary parking of more than four motor vehicles and available to the general public, whether for free or for compensation, or to accommodate employees, clients, customers or residents, but not including private driveways.
104. **PARKING SPACE, OFF-STREET:** The area designed or intended for the temporary parking of a motor vehicle, not including aisles and driveways giving access thereto, located in other than a public street or other public way and having a permanent means of access to a public street without requiring passage through another parking space.
105. **PARTICULATE MATTER:** Any finely divided liquid or solid matter, including smoke, capable of being air or gas borne.
106. **PERSONAL SERVICE BUSINESS*:** Businesses primarily engaged in providing services involving the care of a person or his or her apparel, such as barbershop, beauty salon, shoe repair, dry cleaning, tailoring or dressmaking, optician, clothing rental, photographic studio and other similar services.
107. **PET:** An animal that is domesticated and usually kept in the home for personal use or enjoyment.
108. **PLACE OF WORSHIP:** A building which is intended for the conduct of religious services and which is maintained and controlled by a religious body organized to sustain public worship and recognized as such for nonprofit status by the Internal Revenue Service.
109. **PORCH:** A structure, with or without a roof, projecting out from the wall or walls of a building, including a deck.

- 110. PREMISES: A lot, parcel or tract of land together with the buildings and structures thereon.
- 111. PRIMARY RECHARGE AREA: That area immediately overlying the stratified-drift aquifer and adjacent areas of stratified drift that may not have a sufficient saturated thickness to be part of the aquifer. The boundary of the primary recharge area is the contact between the stratified drift and adjacent till or bedrock.
- 112. PRIVATE: Confined to, or intended, only for the person or persons immediately concerned.
- 113. PRIVATE SCHOOL: Any building or group of buildings the use of which meets the State's requirements for primary, secondary or higher education and which is not operated by the Town or State.
- 114. PUBLIC: Belonging, or available, to all the people.
- 115. PUBLIC AND SEMI-PUBLIC USE: A nonprofit or quasi-public use or institution such as a place of worship, library, post office, hospital, school or facility of the Town, State, or Federal Government.
- 116. PUBLIC SCHOOL: Any building or group of buildings the use of which meets the State's requirements for primary, secondary or higher education and which is operated by the Town or State.
- 117. QUANTITY: For the purpose of measuring the intensity of light, the amount of brightness, glare or luminescence for which these Regulations establish acceptable limits in terms of foot-candles for a point source and for an area source.
- 118. RECREATION FACILITY: A place designed and equipped for the conduct of sports, leisure time activities and other customary and usual recreational activities.
- ~~124. RECREATIONAL VEHICLE*: A portable vehicle built on a chassis, which can be towed, hauled or driven and primarily designed to be used as temporary living accommodations for travel, camping and recreational purposes, including but not limited to campers, travel trailers and motor homes but excluding manufactured homes. Recreational vehicles shall not be stored in special flood hazard areas. Recreational vehicles and similar transportable structures placed on a site for 180 consecutive days or longer shall be anchored down and elevated to or above the base flood elevation.~~
- 119. RESEARCH AND DEVELOPMENT LABORATORY: Any laboratory engaged exclusively in the pursuit of scientific research and development, including the research and development of manufactured, processed or compounded products.
- 120. RESIDENCE: A dwelling unit or group of dwelling units.
- 121. RESTAURANT, SIT-DOWN: An establishment or use whose principal business is the preparation and serving of food for consumption on the premises, primarily served by a waiter or waitress at tables, booths or similar sit-down accommodations within the restaurant building.

122. **RESTAURANT, FAST FOOD:** An establishment or use whose principal business is the sale of pre-prepared or rapidly prepared foods, frozen desserts or beverages to the customer in a ready-to-consume state, primarily served in paper, plastic or other disposable containers, for consumption within the restaurant building, elsewhere on the premises, or for carry-out or delivery for consumption off the premises.
123. **RIDING STABLE:** A place where more than one horse per one-half acre of lot area or a total of three horses whichever is less, are kept, ridden, boarded, bred, shown, trained, groomed, housed or sold.
124. **RIGHT-OF-WAY, STREET:** The area of a public or private street, between the two opposing street lines of that street.
125. **RINGELMANN SMOKE CHART:** A chart for determining the density of smoke, issued by the Federal Bureau of Mines.
126. **SEDIMENT:** Solid material, either mineral or organic, that is in suspension, is transported, or has been moved from its site of origin by erosion as per 29-9.A.
127. **SENIOR CITIZEN HOUSING:** Dwelling units solely for use and occupancy by person(s) at least 62 years of age, or a spouse, sibling(s), child(ren) or one nurse or companion of same.
128. **SEWAGE EFFLUENT:** The waste content found in septic tanks.
129. **SETBACK LINE:** The line measured from a property line, as established by the minimum yard requirements of these Regulations, behind which buildings and structures may be legally erected.
130. **SEXUALLY ORIENTED BUSINESS*:** A nightclub, bar, restaurant, or similar establishment that regularly features live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities, or any business that features, sells or rents films, motion pictures, video cassettes, slides, books, magazines, newspapers or other forms of visual or audio presentations in which more than ten percent (10%) of the total presentation time or more than ten percent (10%) of the stock material is devoted to the showing of material that is characterized by any emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.
131. **SIGN:** Any structure or part thereof, or any device attached thereto or painted thereon, or any material or thing, illuminated or otherwise, which displays or includes any numeral, letter, emblem, device, trademark or other representation used as an announcement, designation, direction or display, to advertise or promote any person, firm, group, organization, commodity, service, event, profession or enterprise, when said display is placed out-of-doors or placed in a window intended for view by the people outside the establishment, but not including the following: the flag or insignia of any government or governmental agency; the flag of any civic, political, charitable, religious, patriotic, fraternal or similar organization which is hung on a flagpole or a mast; or any Christmas or other seasonal holiday decorations which do not contain commercial lettering, wording, designs, symbols or other devices.

132. SITE COVERAGE: That portion of the total area of a lot covered by buildings, structures, parking, drives, pavement or impervious surface treatment.
133. SLOPE TREATMENTS*: Stabilization methods, for a man-made or altered slope, to include but not limited to; riprap, boulder stabilization, gabions or any other surface treatment other than vegetation.
134. SMOKE: Any emission into the open air from any source, except emissions of an uncontaminated water vapor.
135. SMOKE UNIT: A measure of the quantity of smoke being discharged, which is the number obtained by multiplying the smoke density in the Ringelmann Smoke Chart by the time of emission in minutes - For example, the emission of Ringelmann Smoke Chart No. 1 for one minute equals one "smoke unit".
136. SOIL: Any unconsolidated mineral or organic material of whatever origin.
137. SOIL EROSION AND SEDIMENTATION CONTROL PLAN: A plan that indicates necessary land treatment measures, including a schedule for installation, which effectively minimizes soil erosion and sedimentation.
138. SOLID WASTE: Unwanted or discarded materials, including solid, liquid or contained gaseous materials.
139. SOUND LEVEL METER: An instrument, standardized by the American Standards Association, used for measurement of the intensity of sound and calibrated in decibels.
140. SPECIFIED ANATOMICAL AREA*: The section of the body less than completely and/or opaquely covered including human genitals, pubic region, buttock, female breast below a point immediately above the top of the areola and human male genitals in a discernibly turgid state, even if completely and opaquely covered.
141. SPECIFIED SEXUAL ACTIVITIES*: Human genitals in a state of sexual stimulation or arousal, acts of human masturbation, sexual intercourse or sodomy, or fondling or other erotic touching of human genitals, pubic regions, buttocks or female breasts.
142. STOOP: Any raised building entrance platform with one or more steps leading up to it.
143. STORE, GROCERY*: Store selling primarily foodstuffs for preparation and consumption off the premises.
144. STORY: That portion of a building including between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling next above it. A basement shall be counted as a "story" if its ceiling is more than five feet above the elevation from which the height of the building is measured.
145. STORY, ONE-HALF: A portion of a story directly above or below the story, as herein

defined, in the same building and accessible by interior stairway or elevator from the said story, provided the floor area, as defined herein, of the said "half-story" does not exceed 50 percent of the floor area of the said story.

146. STREET: An existing state or town highway, or a way shown upon a subdivision plat approved by the Planning and Zoning Commission, as provided by law, or a way shown on a plat duly filed and recorded in the office of the Town Clerk prior to July 6, 1951, but not including private driveways or rights-of-way.
147. STREET LINE: A common line between a lot and a street right-of-way.
148. STRUCTURE: Anything constructed or erected, the use of which requires (1) location on, in or under the ground or water or, (2) attachment to something having location on the ground or water, including but not limited to: buildings, swimming pools, tennis courts, towers, paddle or platform tennis courts, docks, balconies, open entries, porches, decks, handicap ramps, signs, permanent awnings, a gas or liquid storage tank that is principally above ground, ground-mounted antennas, ground-mounted solar panels and satellite dishes, and fences or walls more than six feet in height, other than retaining walls.
149. STRUCTURE, ACCESSORY: A structure, the use of which is customarily incidental and subordinate to that of the principal building, structure or use on the same lot.
150. STRUCTURAL ALTERATION: Any change in or addition to the supporting members of a structure or building such as bearing walls, columns, beams or girders or other such work requiring a building permit under the State Building Code.
151. STUDY: A room located in an apartment, in addition to the living room, bedrooms, kitchen, dining room and baths, which is not used primarily for sleeping.
152. SWIMMING POOL: A water-filled structure, permanently constructed or portable, having a depth of more than 24 inches and a water surface area of more than 60 square feet, designed, used, and maintained for bathing or swimming.
153. TAG SALE: The public sale of personal household goods by the owner thereof in conjunction with the cleaning out or vacating of residential premises. It does not encompass the sale of any goods brought to the premises for the purposes of public sale. "Tag sale" shall also include "garage sale", "barn sale", "yard sale" and other similar activities.
154. TEMPORARY STRUCTURE: A structure without any foundation or footings and which is removed when the designated time period, activity or use for which the temporary structure was erected has ceased.
155. TEMPORARY USE: A use established for a fixed period of time with the intent to cease such use upon the expiration of the time period.
156. TERRACE OR PATIO: A level, landscaped and/or surfaced area located on the ground with no structural supports other than subsurface base material and retaining walls. A terrace or patio located at grade or ground level shall not be deemed a structure.

157. TOWER*: A structure, whether freestanding or attached to a building or another structure, that is used to support equipment used to collect, transmit and/or receive telecommunications or radio signals. Examples include monopoles and lattice construction steel structures.
158. TRAILER: Any vehicle which is, has been, or may be mounted on wheels designed to be towed or propelled by another vehicle which is self-propelled, and may or may not be equipped with sleeping or cooking accommodations, or afford traveling accommodations, or for the transportation of goods, wares or merchandise.
159. USE: The specific purpose for which land, water or any structure is designed, arranged, intended or occupied.
160. USE, ACCESSORY: A use which is customarily incidental and subordinate to the principal use on a lot, and located on the same lot therewith.
161. VEHICLE, COMMERCIAL: Any motor vehicle with commercial license plates or with lettering, markings, racks or other apparent accessories indicating it is intended for use other than personal and/or recreational transportation.
162. VEHICLE STORAGE AREA*: An area accessory to an automotive sales and service business limited to the parking and storage of vehicles awaiting sale; not to be used for public parking.
163. VETERINARY HOSPITAL: A building for the medical and/or surgical care of sick or injured animals.
164. WATERCOURSES: As defined in Section 22a-38 of the Connecticut General Statutes.
165. WATER TABLE: The interface between the saturated zone and the unsaturated zone.
166. WETLANDS: As defined in Section 22a-38 of the Connecticut General Statutes.
167. YARD: An open space on the same lot with a building or group of buildings, which open space lies between the building or group of buildings and the nearest lot line, and is unoccupied and unobstructed from the ground upward, except for permitted accessory uses and structures. In measuring a yard, as required by these regulations, the line of building shall be deemed to mean a line parallel to the nearest lot line, drawn through the closest point of the building or group of buildings nearest to such lot line, and the measure shall be taken at right angles from the line of the building, as defined herein, to the nearest lot line.
168. YARD, FRONT: An open space extending across the full width of a lot and lying between the front lot line and the nearest facing wall of a building. [See Appendix A, Figure A-5]
169. YARD, REAR: An open space extending across the full width of a lot and lying between the rear lot line and the nearest facing wall of a building on the same lot. [See Appendix A, Figure A-5]

170. YARD, SIDE: An open space between the side line of a lot and the nearest facing wall of a building, and extending from the front yard to the rear yard, or in the absence of either of such yards, to the front and rear lot line, as the case may be. [See Appendix A, Figure A-5]
171. YARD, REQUIRED: An open space between a lot line and the permitted buildable area within which no structure shall be located except as specifically permitted by these Regulations.

29-9.F

DEVELOPMENT IN FLOODPLAIN AREAS

1. Purpose: To promote the health, safety and general welfare within the Town through the regulation of development in flood-prone areas to secure safety from flood and prevent property damage and losses.
2. Regulated Area: These Regulations shall apply to all properties located within the 100- year floodplain, more specifically defined as the ~~flood hazard areas~~ **Special Flood Hazard Areas** identified by the **Federal Emergency Management Agency (FEMA)** in its **Flood Insurance Study (FIS)** for **Fairfield County, Connecticut**, dated **June 18, 2010**, and accompanying **Flood Insurance Rate Maps (FIRM)**, dated **June 18, 2010**, and other supporting data applicable to the Town of Wilton, and any subsequent revisions thereto, are adopted by reference and declared to be a part of this regulation. Since mapping is legally adopted by reference into this regulation it must take precedence when more restrictive until such time as a map amendment or map revision is obtained from FEMA. The special flood hazard areas include any area shown on the FIRM as Zones A and AE, including areas designated as a floodway on a FIRM. **Special Flood Hazard Areas** are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the FIS for a community. BFEs provided on a FIRM are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a **specific location**. ~~as Flood Zones A, AI-30 and AE on the "Flood Insurance Rate Map (FIRM), Town of Wilton, Connecticut, Fairfield County, effective date February 18, 1998" or any revision thereto, prepared by the Federal Emergency Management Agency, and the floodway and floodway fringe as shown on the "Flood Boundary and Floodway Map (FBFM), Town of Wilton, Connecticut, Fairfield County, effective date February 18, 1998," or any revision thereto, prepared by the Federal Emergency Management Agency.*~~
3. Definitions: **The terms and definitions applicable to Section 29-9 F. of these regulations are specified below. The definitions set forth below shall only apply to Section 29-9 F. and any conflicting definitions contained in these regulations other than Section 29-**

9 F. shall be governed by the definitions set forth in Section 29-2.

~~Additional specific definitions for terms used herein, other than those of 29-2.B of these Regulations,~~ **Any undefined term or definition appearing in Section 29-9 F. shall bear the same meaning as those terms and definitions appearing in** ~~shall be as defined in Title 44 of the Code of Federal Regulations, Section 59.1.~~

- 1. BASE FLOOD: The flood having a one percent (1%) chance of being equaled or exceeded in any given year, (100 year flood) as set forth in the Flood Insurance Study, Town of Wilton, Fairfield County, Connecticut, by the Federal Emergency Management Agency.**
- 2. BASE FLOOD ELEVATION (BFE): The elevation of the crest of the base flood (100-Year Flood). The height in relation to mean sea level (NAVD of 1988) expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.**
- 3. COST: As related to substantial improvements, the cost of any reconstruction, rehabilitation, addition, alteration, repair or other improvement of a structure shall be established by a detailed written contractor's estimate. The estimate shall include, but not be limited to: the cost of materials (interior finishing elements, structural elements, utility and service equipment); sales tax on materials, building equipment and fixtures, including heating and air conditioning and utility meters; labor; built-in appliances; demolition and site preparation; repairs made to damaged parts of the building worked on at the same time; contractor's overhead; contractor's profit; and grand total. Items to be excluded include: cost of plans and specifications, survey costs, permit fees, outside improvements such as septic systems, water supply wells, landscaping, sidewalks, fences, yard lights, irrigation systems, and detached structures such as garages, sheds, and gazebos.**
- 4. DEVELOPMENT: Any man-made change to improved or unimproved real estate, including but not limited to the construction of buildings or structures; the construction of additions, alterations or substantial improvements to**

buildings or structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment; the storage, deposition, or extraction of materials; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities in Special Flood Hazard Areas.

5. **EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured home are to be affixed (including, as a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date, October 1, 1982, of the floodplain management ordinance adopted by the community.
6. **EXPANSION TO AN EXISTING MANUFACTURED HOME PARK OR SUBDIVISION:** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).
7. **FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA):** The federal agency that administers the National Flood Insurance Program (NFIP).
8. **FINISHED LIVING SPACE:** As related to fully enclosed areas below the base flood elevation (BFE), a space that is, but is not limited to, heated and/or cooled, contains finished floors (tile, linoleum, hardwood, etc.), has sheetrock walls that may or may not be painted or wallpapered, and other amenities such as furniture, appliances, bathrooms, fireplaces and other items that are easily damaged by floodwaters and expensive to clean, repair or replace.
9. **FLOOD OR FLOODING:** A general and temporary condition of partial or complete inundation of normally dry land areas from either the overflow of inland or tidal waters, or the

unusual and rapid accumulation or runoff of surface waters from any source.

10. **FLOOD INSURANCE RATE MAP (FIRM):** The official map of a community on which the Federal Emergency Management Agency (FEMA) has delineated both the special flood hazard areas (100-year floodplain) and the insurance risk premium zones applicable to a community.
11. **FLOOD INSURANCE STUDY (FIS):** The official study of a community in which the Federal Emergency Management Agency (FEMA) has conducted an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.
12. **FLOODPLAIN, 100 YEAR*:** Areas of flood hazard having a one percent chance or greater of being partially or completely inundated by flood waters in any given year as identified as Flood Zones A and AE on the "Flood Insurance Rate Map (FIRM), Fairfield County, Connecticut, effective date June 18, 2010"; and associated flood insurance study or any revision thereto, as prepared by the Federal Emergency Management Agency.
13. **FLOODWAY:** The channel of a watercourse and adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, are designated on the "Flood Insurance Rate Map (FIRM), Fairfield County, Connecticut, effective date June 18, 2010" or any revision thereto, as prepared by the Federal Emergency Management Agency.
14. **FUNCTIONALLY DEPENDENT USE OR FACILITY:** A use or facility that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities. The term does not include seafood processing facilities, long-term storage, manufacturing, sales or service facilities.

15. **HISTORIC STRUCTURE:** Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.
16. **LOWEST FLOOR:** The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area is not considered a building's lowest floor, provided that such an area meets the design requirements specified in Section 29-9 F. 7. C. of this regulation.
17. **MANUFACTURED HOME:** A structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities.
18. **MANUFACTURED HOME PARK OR SUBDIVISION:** A parcel or contiguous parcels of land divided into two (2) or more manufactured home lots for rent or sale.
19. **MARKET VALUE:** The market value of the structure shall be determined by an independent appraisal by a professional appraiser prior to the start of the initial repair or improvement, or in the case of damage, the value of the structure prior to the damage occurring.

20. **MEAN SEA LEVEL (MSL):** The North American Vertical Datum (NAVD) of 1988 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map (FIRM) are referenced.
21. **NEW CONSTRUCTION:** Structures for which the "start of construction" commenced on or after October 1, 1982, the effective date of the floodplain management regulations, and includes any subsequent improvements to such structures.
22. **NEW MANUFACTURED HOME PARK OR SUBDIVISION:** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date, October 1, 1982, of the floodplain management regulation adopted by the community.
23. **RECREATIONAL VEHICLE:** A portable vehicle built on a single chassis, four hundred (400) square feet or less when measured at the largest horizontal projection, which can be towed, hauled or driven and primarily designed to be used as temporary living accommodations, not for use as a permanent dwelling, for travel, camping and recreational purposes, including but not limited to campers, travel trailers and motor homes but excluding manufactured homes. Recreational vehicles shall not be stored in special flood hazard areas. Recreational vehicles and similar transportable structures placed on a site for 180 consecutive days or longer shall be anchored down and elevated to or above the base flood elevation.
24. **SPECIAL FLOOD HAZARD AREA (SFHA):** The land in the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year. SFHAs are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the Flood Insurance Study (FIS) for a community. BFEs provided on Flood Insurance Rate Map

(FIRM) are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location. SFHAs include, but are not necessarily limited to, the land shown as Zones A and AE on a FIRM. The SFHA is also called the Area of Special Flood Hazard.

25. **START OF CONSTRUCTION:** For other than new construction or substantial improvements under the Coastal Barrier Resources Act (P.L. 97-348), includes substantial improvement and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, substantial improvement or other improvement was within one hundred and eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erections of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
26. **SUBSTANTIAL DAMAGE:** Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damaged occurred.
27. **SUBSTANTIAL IMPROVEMENT:** Any combination of repairs, reconstruction, rehabilitation, alterations, additions or other improvements to a structure, taking place in a ten

year period in which the cumulative cost equals or exceeds 50% of the market value of the structure. This term includes structures that have incurred “substantial damage”, regardless of the actual repair work performed. For purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum to assure safe living conditions; or (2) Any alteration of a “historic structure”, provided that alteration will not preclude the structure’s continued designation as a “historic structure”.

28. **VARIANCE:** A grant of relief by a community from the terms of the floodplain management regulation that allows construction in a manner otherwise prohibited and where specific enforcement would result in unnecessary hardship.

29. **VIOLATION:** Failure of a structure or other development to be fully compliant with the community’s floodplain management regulations. A structure or other development without required permits, lowest floor elevation documentation, flood-proofing certificates of required floodway encroachment calculations is presumed to be in violation until such time documentation is provided.

30. **WATER SURFACE ELEVATION:** The height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the flood plains of coastal or riverine areas.

4. Data Required: All applications for approval of a Site Plan, Special Permit or Building Permit for residential **and non-residential** structures for properties within the regulated area ~~(Flood Zones A and AE-30)~~ **(Flood Zone A and AE)** shall include the following base flood level data:

a. The elevation, in relation to mean sea level, of the lowest floor,

including basement, for all new or substantially improved structures.

b. Where a structure is floodproofed, the elevation, in relation to mean sea level, to which it is floodproofed.

c. When base flood elevation data or floodway data are not available, then the Town Planner shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, State or other source in order to administer the provisions of these Regulations.

d. In ~~Zones AI-30 and AE~~ **Zones A and AE**, when a regulatory floodway has not been designated, it must be demonstrated that the cumulative effect of the proposed development when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.*

e. **A copy of all necessary federal or state permits for the project.**

5. Applicability: The provisions of this section shall apply to all new construction and substantial improvements within the 100-year floodplain (**special flood hazard area**). ~~Substantial improvement shall include any repair, reconstruction or improvement of a structure taking place within a ten-year period, the cost of which equals or exceeds 50% of the market value either before the improvement or repair is started or, if the structure has been damaged, before the damage occurred. "Substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. Improvements required for compliance with State or local health, sanitary or safety codes or alterations of structures listed on the National Register of Historic Places or the State Inventory of Historic Places are excluded.*~~ **Substantial improvement shall include any combination of repairs, reconstruction, rehabilitation, alterations, additions or other improvements to a structure, taking place during a ten year period, in which the cumulative cost equals or exceeds 50% of the market value of the structure as determined at the beginning of such ten year period, either before the improvement or repair is started or, if**

the structure has been damaged, before the damaged has occurred. This includes structures that have incurred “substantial damage”, regardless of the actual repair work performed. For purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either: (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or (2) Any alteration of a “historic” structure, provided that the alteration will not preclude the structure’s continued designation as a “historic structure”.

6. Records: The Commission shall maintain for public inspection all records pertaining to the provisions of these Regulations, including but not limited to:
 - a. Lowest floor elevations, in relation to mean sea level, for all new or substantially improved structures.
 - b. Floodproofing certifications.
 - c. Variances.
7. Flood Protection Requirements: In all regulated areas, Flood Zone A (unnumbered) and ~~Flood Zones AI-30~~ **Flood Zone AE** (numbered), the following provisions shall apply:
 - a. Residential construction: All new construction and substantial improvement of residential structures shall have the lowest floor, including basement, elevated to or above the base flood elevation.
 - b. Manufactured homes and recreational vehicles: All manufactured homes to be newly placed, undergoing a substantial improvement or repaired as a result of substantial damage, shall be elevated so that the bottom of the lowest floor is at or above the base flood elevation (BFE). The manufactured home must also meet all the construction standards per Section 29-9 F.7. This includes manufactured

home(s) located outside a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an existing manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or on a site in an existing park which a manufactured home has incurred substantial damage as a result of a flood. All manufactured homes shall be placed on a permanent foundation which itself is securely anchored and to which the structure is securely anchored so that it will resist flotation, lateral movement and hydrostatic pressures. Anchoring may include, but not be limited to, the use of over-the-top or frame ties to ground anchors. All manufactured homes shall be installed using methods and practices which minimize flood damage. Adequate access and drainage should be provided. Elevation construction standards include piling foundations placed no more than ten (10) feet apart, and reinforcement is provided for piers more than six (6) feet above ground level.

Recreational vehicles shall either be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use, OR meet all the standards of Section 29-9 F. and the elevation and anchoring requirement for a manufactured home. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions.

- c. Nonresidential construction: All new construction and substantial improvement of nonresidential structures shall have the lowest floor, including basement, elevated to or above the base flood elevation or be floodproofed to an elevation at or above the base flood elevation, **provided that together with all attendant utilities and sanitary facilities the areas of the structure below the required elevation are watertight with walls substantially impermeable to the passage of water.** Where floodproofing is utilized, an architect or professional engineer licensed in the State shall certify that the floodproofing methods shall be adequate to withstand the hydrostatic and hydrodynamic loads and the effects of buoyancy associated with the base flood. Prior to the issuance of a Certificate of Occupancy, the engineer or architect shall certify to the Building

Official that all floodproofing measures have been properly installed and shall withstand the effects of the base flood. A copy of the certification shall be filed with the Commission.

- d. Elevated buildings: New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwater to automatically equalize hydrostatic flood forces on exterior walls. The lowest floor is the lowest enclosed area including a basement. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor. These areas must be designed in accordance with this section. Designs for complying with this requirement shall either be certified by a State licensed professional engineer or architect and meet the following minimum criteria:*)
 - (1) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
 - (2) The bottom of all openings shall be no higher than one foot above grade.
 - (3) Openings may be equipped with screens, louvers, valves or other coverings or devices, provided that they permit the automatic flow of floodwater in both directions.
- e. Utility equipment, sewerage and water supply systems: Electrical, heating, ventilation, plumbing, air-conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. New or replacement water supply and sanitary sewer systems shall be designed to minimize or eliminate infiltration of floodwater into the systems and discharges from the systems into the floodwater. On-site sewage disposal systems shall be so located and constructed as to avoid damage to the system and contamination of the floodwater.

- f. Access: Each new or substantially improved nonresidential building shall have at least one access route above the base flood elevation.
- g. Alteration of watercourses: No alteration of a watercourse which shall diminish the flood-carrying capacity shall be permitted. No alteration of a watercourse shall commence without the approval of the Inland Wetlands Agency and without notification to the Connecticut Department of Environmental Protection, the Federal Emergency Management Agency and adjacent towns which may be affected.
- h. Anchoring: All new construction and substantial improvements shall be anchored to prevent flotation, collapse or movement of the structure **resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.**
- i. Construction materials and methods: All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage and materials and equipment that are resistant to flood damage. **All buildings and development sites will be reasonably safe from flooding.**
- j. Regulated floodway: Within the floodway, designated on the Flood ~~Boundary and Floodway~~ **Insurance Rate** Map, or other sources, all encroachments, including new construction, substantial improvements to existing structures, fill and the storage of buoyant material shall be prohibited **unless certification, with supporting technical data, by a Connecticut registered professional engineer is provided demonstrating, through hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that encroachments shall not result in any (0.00 feet) increase in flood levels during occurrence of the base flood discharge.** The Commission may request floodway data for watercourses without FEMA-published floodways. When such data is provided by an applicant or whenever such data is available from any other source (in response to the Commission's request or not), the Commission shall adopt a regulatory floodway based on the principle that the floodway must be able to convey the waters of the base flood without increasing the water surface

elevation more than one (1) foot at any point along the watercourse.*

- k. **Equal Conveyance:** Within the floodplain, except those areas which are tidally influenced, as designated on the Flood Insurance Rate Map (FIRM) for the community, encroachments resulting from filling, new construction or substantial improvements involving an increase in footprint of the structure, are prohibited unless the applicant provides certification by a registered professional engineer demonstrating, with supporting hydrologic and hydraulic analyses performed in accordance with standard engineering practice, that such encroachments shall not result in any (0.00 feet) increase in flood levels (base flood elevation). Work within the floodplain and the land adjacent to the floodplain, including work to provide compensatory storage shall not be constructed in such a way so as to cause an increase in flood stage or flood velocity.
- l. **Compensatory Storage:** The water holding capacity of the floodplain, except those areas which are tidally influenced, shall not be reduced. Any reduction caused by filling, new construction or substantial improvements involving an increase in footprint to the structure, shall be compensated for by deepening and/or widening of the floodplain, storage shall be provided on-site, unless easements have been gained from adjacent property owners; it shall be provided within the same hydraulic reach and a volume not previously used for flood storage; it shall be hydraulically comparable and incrementally equal to the theoretical volume of flood water at each elevation, up to and including the 100-year flood elevation, which would be displaced by the proposed project. Such compensatory volume shall have an unrestricted hydraulic connection to the same waterway or water body. Compensatory storage can be provided off-site if approved by the municipality.

8. **Variances**

- a. Variances of the development regulations for floodplain areas may be granted by the ZBA provided that

- (1) Failure to grant the variance shall result in exceptional hardship to the applicant;
 - (2) The variance shall be the minimum necessary, considering the flood hazard, to afford relief; and
 - (3) The variance shall not result in increased flood heights or threats to public safety.
 - b. Variances shall not be granted for any activity within the regulated floodway.
 - c. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the structure is to be built. The applicant shall pay for the cost of obtaining this information if it is not available at the office of the Planning and Zoning Commission. Such notice shall state that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation up to amounts as high as \$25 for \$100 of insurance coverage.*
 - d. The local flood plain management administrator shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency **in its biennial report**.*
9. Other Permits and Licenses: Nothing in these Regulations shall remove any individual, firm or corporation from the responsibility of obtaining any other permit, license or authorization required by federal, State or local law or regulations.
10. Disclaimer: The degree of flood protection required by these Regulations is considered reasonable for regulatory purposes. Larger floods than those reflected by the base flood elevations referenced herein may occur, and flood heights may be increased by man-made or natural causes. It shall also be recognized that land outside the regulated flood zones may be subject to flooding and flood damage. These Regulations shall not create any liability on the part of the Town for any flood damage that may result from reliance upon these Regulations or any administrative decisions lawfully made thereunder.

-End of Resolution-

**RESOLUTION #0410-2REG
April 26, 2010**

WHEREAS, the Wilton Planning and Zoning Commission accepted application #10321 for amendments to Sections 4.4.5 and 4.4.5.3 of the Subdivision Regulations of the Town of Wilton pertaining to floodplain areas; and

WHEREAS, the Planning and Zoning Commission conducted a public hearing on April 26, 2010 to receive comment from the public and has fully considered all evidence submitted at said hearing; and

WHEREAS, in accordance with C.G.S. §8-3b the Planning and Zoning Commission has notified the South Western Regional Planning Agency and the Housatonic Valley Council of Officials and has appropriately considered any and all commentary from such agencies; and

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

WHEREAS, the proposed regulation is consistent with advancing state and federal policy concerning the development of property within flood prone areas.

NOW THEREFORE BE IT RESOLVED that the Wilton Planning and Zoning Commission **APPROVES** application #10321 effective June 18, 2010 as follows:

PROPOSED CHANGES TO SUBDIVISION REGULATIONS

4.4.5 Floodplain Areas: Floodplain Areas are identified on maps entitled Flood Insurance Rate Map, **Fairfield County, Town of Wilton**, Connecticut, Community Panel Numbers **0238, 0239, 0243, 0357, 0376-0379, 0381-0384, 0386, 0387, 0389 and 0391-0393.** ~~090020-0001-0008~~ Revised as noted on panel numbers, which maps are on file in the Planning and Zoning office. Given the economic, societal, and ecological importance of floodplains, building in floodplains should be avoided. When this is unavoidable, regulations governing development in such areas shall comply with Section 29-9.F. of the Wilton Zoning Regulations and the following:

4.4.5.1 All new construction shall have the lowest floor, including basement, elevated to or above the base flood elevation.

4.4.5.2 All septic systems, electrical and water systems shall be located and constructed in a manner to minimize flood damage.

4.4.5.3 All applications shall have adequate drainage to reduce exposure to flood hazards **and shall be consistent with the need to minimize flood damage.**

4.4.5.4 Base flood elevation data shall be provided by a professional engineer for all subdivisions located within floodplain areas.

-End of Resolution-

4. SP#349, Olkoski, 81 Boulder Brook Road, Accessory dwelling unit

Tabled.

F. COMMUNICATIONS

G. REPORT FROM CHAIRMAN

1. Reports from Committee Chairmen

Ms. Pratt briefly reviewed details regarding the “Wilton Go Green” event scheduled for Sunday, May 2, 2010 from 11 A.M. to 4 P.M, noting that there would be approximately 80 exhibitors and 25 various activities, including a keynote speaker at 1 P.M. in Wilton Library’s Brubeck Room, who will exhibit aerial photos of the changing American landscape.

H. REPORT FROM PLANNER

Assistant Town Planner White distributed a proposed sketch addendum to Wilton’s zoning regulations relating to site coverage regulations. She explained that there is currently a building coverage exhibit in the regulations but nothing that further explains site coverage restrictions. She stated that the regulations could be amended to include the aforementioned sketch if the Commission were so inclined. She noted that it does not change policy, but is merely an illustration to clarify current site coverage regulations.

It was the general consensus of the Commission that the proposed illustration would be a valuable addition to the regulations.

Mr. Wilson added for the record that site coverage calculations for various styles of patios should be reviewed by the Commission at some point in the future.

I. FUTURE AGENDA ITEMS

J. ADJOURNMENT

MOTION was made by Ms. Ayers, seconded by Mr. Wilson, and carried unanimously (9-0) to adjourn at 8:38 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary