

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

## WILTON PLANNING & ZONING COMMISSION MINUTES JULY 26, 2010 REGULAR MEETING

**PRESENT:** Chairwoman Sally Poundstone, Secretary Doug Bayer, Commissioners Marilyn Gould, Bas Nabulsi, Eric Osterberg, Dona Pratt, and Michael Rudolph

**ABSENT:** Alice Ayers, John Wilson (notified intended absences)

### ALSO

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

Ms. Poundstone noted that this was Commissioner Osterberg's last evening on the Commission. She thanked him for his valued service and professional skills, and expressed hope that he might participate again sometime in the future.

### PUBLIC HEARINGS

- 1. SP#332A, Polito, 490 Danbury Road, To allow professional offices for non-resident occupants and residential apartments**

Ms. Poundstone called the Public Hearing to order at 7:17 P.M., seated members Bayer, Gould, Nabulsi, Osterberg, Poundstone, Pratt, and Rudolph, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. She noted that the hearing was continued from a previous meeting. Mr. Bayer referred for the record to a memorandum dated July 1, 2010 from Michael Ahern to Daphne White; and a memorandum dated July 9, 2010 from Fire Marshal David Kohn to Daphne White.

Present was J. Casey Healy, attorney on behalf of the applicant.

Mr. Healy referred to a posted site plan. He addressed an issue that was raised by the

Commission at the June 28<sup>th</sup> hearing regarding the permissibility of residence apartments, in conjunction with professional office use, within two buildings on one site. He explained the applicant's contention that both existing buildings on the subject site are principal buildings and thus are eligible for such uses per Section 29-5.C.6.d of zoning regulations. He stated that the Town has a long history of allowing more than one principal building on a site, referring to 1) the High School site on Danbury Road, which already had Marvin Tavern as well as a small yellow residence on the site prior to approval of the High School over 30 years ago; 2) the Town Hall complex, which is a multi-building site; 3) Lambert Corner, at the intersection of Route 7 and Westport Road, which has received approvals for the relocation of buildings with numerous tenants onto the site; 4) the Wilton Historical Society which received approval to relocate the Fitch House to the site some years ago, and which was not initially connected to the main structure, and 5) the buildings on the corner of Route 7 and Olmstead Hill Road.

Mr. Healy stated that not only does the proposal conform with zoning regulations, it also represents good land use, referring in particular to the Town's recently revised Plan of Conservation and Development which encourages smaller housing units above existing commercial space.

Regarding parking on the site, Mr. Healy stated that the applicant would be amenable to either of the two alternative parking plans proposed, although he noted that the revised second plan would relocate most of the parking behind the building, making it less visible from Route 7 and impacting fewer trees. He noted further that the driveway was pre-existing and therefore not restricted by current grading regulations, and he indicated that the Fire Department had no issues with access to either building on the site.

Ms. Gould expressed very strong objection to the applicant's argument. She felt that the aforementioned multi-building sites are totally different from the site in question. She noted that the subject property was developed some years ago under the premise that the main structure would serve as a private residence and the smaller historic structure would be allowed to remain as long as it was not used as another dwelling unit. She noted that the application at that time did not come in under Section 29-5.C.6 (Professional Offices for Nonresident Occupants) of zoning regulations.

Mr. Healy stated that the large building qualifies under Section 29-5.C.6.c of zoning regulations since it was used principally as a residence for at least three years prior to the date of this application.

Mr. Bayer noted for the record that the applicant did apply several years ago, and received approval, for an accessory dwelling unit under Section 29-5.C.8 (Historic/Architecturally-Significant Buildings) of zoning regulations. He felt that to now argue that this very same structure (previously discussed/referred to as an accessory building) is in fact a principal

building for purposes of the current application flies in the face of the prior application. Mr. Healy stated that the applicant would abandon the approval it previously received for the aforementioned accessory apartment. Mr. Bayer felt that the representations from the applicant in connection with the two separate applications were completely opposite.

Mr. Healy maintained that the Town does permit two principal buildings on a site. In response to a request from Mr. Rudolph for support of this position within the zoning regulations, Mr. Healy referred to Section 29-4.A.3 (Determination of Uses) which states that “where a proposed use is not clearly permitted nor clearly prohibited . . . the Commission shall make the determination . . .” and it was his opinion that the Commission had already made such a determination with respect to the many multi-structure sites that currently exist in the Town. Mr. Rudolph stated that he was not persuaded by the applicant’s argument.

Mr. Nerney referred to Section 29-5.C.6.c of zoning regulations (Professional Offices for Nonresident Occupants). He noted that although the main building may have been used principally as a residence for at least three years prior to the date of the application, the smaller building was essentially taken out of/discontinued as a principal use when it was approved several years ago for use only as a non-habitable play room. Mr. Healy felt that a strict reading of the same section of the regulations implied that the structure had only to have been used as a residence for any three-year period, not necessarily for the most recent three-year period, prior to the date of application, which he felt was clearly the case given the age of this historic structure. Mr. Nerney called the applicant’s attention to the leading phrase of the regulation (i.e. “in order for a residence to qualify for an accessory office use”). He felt that use of the word “residence” in that clause implies that the structure is a residence today and he noted that the applicant had clearly attempted to abandon the building’s former residential use when it developed the property some years ago.

Mr. Nerney also referred to Section 29-5.C.d which references residence apartments within “the principal building”, noting that the reference to principal building is clearly singular. He stated that he was not aware of any other examples of multiple principal buildings approved under this section of the regulations.

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

Mr. Nabulsi asked the applicant if this is the only way that the application can work, i.e. if there were any other bases upon which the Commission could consider approving the application. Mr. Healy stated that perhaps the applicant could attach the smaller building to the larger structure in some way and apply for professional office use with apartments via a new application under the same regulation, thus avoiding the principal building issue entirely.

Ms. Gould asked if the applicant might consider a less intensive use with perhaps one dwelling unit and one office. Mr. Healy noted that the Plan of Conservation and Development encourages apartment uses on Route 7, and zoning regulations permit such uses as well.

There being no further comments from the Commission or the public, at 7:40 P.M. the Public Hearing was closed.

**2. SP#45P, The Lake Club, Inc., 175 and 195 Thayer Pond Road, Add lighting to tennis courts 7 & 8**

Ms. Poundstone called the Public Hearing to order at 7:40 P.M., seated members Bayer, Gould, Nabulsi, Osterberg, Poundstone, Pratt, and Rudolph, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. She noted that the hearing was continued from a previous meeting. Mr. Bayer referred for the record to a letter dated July 19, 2010 from Dawn Dahl and Paul Freitas to The Lake Club; a letter dated July 18, 2010 from Roxane Witke to Planning & Zoning Commission; and a letter dated July 26, 2010 from Penny Rashin (Governor, The Lake Club, Inc.) to Planning and Zoning Commission.

Present were Richard Erario, Penny Rashin, and Doug Moffat, representing the interests of The Lake Club.

Ms. Poundstone thanked The Lake Club for recently providing the Commission with the opportunity to view existing lighting during evening hours.

Mr. Erario reminded Commissioners that courts 2 and 3 (which are currently illuminated) have 40-foot pole heights and non-directional lighting fixtures, whereas courts 7 and 8 would have 27-foot pole heights and downward-directed illumination per the proposed plans.

Ms. Pratt noted for the record that she had listened to the recording of the prior meeting.

Ms. Pratt asked how long the balloons remained elevated on the site. Mr. Erario stated that the balloons were up for 3 days over a weekend period. He explained that neighbors were not informed since it was done for the benefit of The Lake Club, which also took photos of the balloons from different perspectives.

Ms. Gould referred to the aforementioned letters from neighbors. She asked if the Club

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has any intention to institute a day camp on the site. Mr. Erario said it did not. Ms. Gould also asked for clarification regarding private events on the site. Mr. Erario stated that there are no events for non-members, and club members cannot rent the Club for their own personal use.

Ms. Gould also asked about the issue of weed extraction, which was referenced in one of the aforementioned letters from a neighbor. She specifically questioned whether permits/approvals were obtained in connection with the weed extraction process. Mr. Moffat, General Manager of the Club, stated that weeds were just pulled from the pond by hand, noting that no chemicals were used. Ms. Gould recommended that in the future the Club speak to Director of Environmental Affairs Pat Sesto prior to performing any such activities. Mr. Moffat agreed.

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

Roxane Witke, 61 Woods End Drive, questioned whether the proposed tennis court lighting would result in additional social activities, lighting and/or noise. She also complained that after requesting several times that the Club provide her with a list of its scheduled social activities/competitions for the year, she finally received a list that was incomplete.

Mr. Erario stated that when the Club receives any complaint or suggestion, it takes it very seriously and tries to remedy the situation quickly. He referred to some past issues, including speeding vehicles (which resulted in installation of a speed bump on the Club site), and loudspeaker noise (which the Club has also mitigated over the past years). He noted further that the Club is currently trying to remediate the paddle tennis court lighting which has caused a number of complaints from surrounding neighbors.

With respect to the subject application, Mr. Erario assured the Commission that tennis play would terminate in mid-October, regardless of weather conditions; lights would be extinguished at 10 P.M. each night; and additional screening would be provided.

In response to further questions from the Commission, Mr. Erario confirmed that the previously referenced speed bump has since been removed as a result of plow damage, but he explained that the Club is currently in the process of obtaining bids for a removable speed bump to replace it.

There being no further comments from the Commission or the public, at 7:55 P.M. the Public Hearing was closed.

**3. REG#10322, O'Brien Design, 118 Old Ridgefield Road, Amendment to Zoning Regulations Section 29-6.B.3.i to allow more residential units in GB zoning district within 1000 feet from a train station**

Ms. Poundstone called the Public Hearing to order at 7:55 P.M., seated members Bayer, Gould, Nabulsi, Osterberg, Poundstone, Pratt, and Rudolph, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. She noted that the hearing was continued from a previous meeting. Mr. Bayer referred for the record to a letter dated July 15, 2010 from Kevin O'Brien to Planning and Zoning Commission.

Present was Kevin O'Brien, applicant.

Mr. O'Brien stated that he reviewed zoning regulations for the towns of Darien, New Canaan, Ridgefield and Bethel. He briefly explained the regulations for each, noting that all of the foregoing towns have regulations similar to Wilton's DRB zone, whereby the number of residential units in commercial zones is not restricted by acreage, but rather by F.A.R. (floor area ratio) and parking limitations. He noted that all are further regulated via the Special Permit process.

He acknowledged the Commission's reluctance to have applicants revise its zoning regulations, but he hoped that the Commission would consider his proposal to have merit and to be a prudent approach toward increasing residential density around a train station.

In response to questions from the Commission regarding his client's needs at Crossways, Mr. O'Brien explained that if the Commission were to rewrite the subject regulation, his client would prefer that 8 or more residential units be permitted in the GB zone within 1000 feet from a train station, since 8 such units already exist in one of the buildings on the Crossways site. He noted further that since the mid 1990s when the DRB regulations were revised to allow dwelling units above businesses without regard to acreage on the site, the Town has not received any such applications to his knowledge, and he did not think it likely that the Town would receive many such applications if it changed the GB regulation as proposed. He noted that only a very few properties would ultimately be impacted by such a modification.

Ms. Gould asked whether the applicant considers itself already grandfathered with respect to the aforementioned units. Mr. O'Brien explained that since his client would be redeveloping some aspects of the site, it is likely that only some grandfathering would be preserved.

In response to questions from the Commission, Mr. O'Brien noted that the way regulations are currently written regarding dwelling units above businesses, 10 such units could conceivably be permitted on a 1-acre DRB site whereas only 3 such units would be permitted on a similar GB site. He felt that there should be greater flexibility within the GB zone and that perhaps any new GB regulations in this regard should be more similar to current DRB regulations.

Mr. Nabulsi asked about options available to the Commission from a procedural perspective with regard to the subject application. Mr. Nerney explained that the Commission can make certain editorial-type changes to the application as proposed, but the application must remain intact substantively since it was already legally noticed/published in the newspaper.

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

There being no further comments from the Commission or the public, at 8:14 P.M. the Public Hearing was closed.

**4. SP#324A, Wilton Commons, 21 Station Road, Modifications to previously approved plans for senior housing**

Ms. Poundstone called the Public Hearing to order at 8:15 P.M., seated members Bayer, Gould, Nabulsi, Osterberg, Poundstone, Pratt, and Rudolph, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. She noted that the hearing was continued from a previous meeting. Mr. Bayer referred for the record to a memorandum dated July 13, 2010 from Bob Nerney to Planning and Zoning Commission, with attached resolution #0207-2P.

Present were Jim Evans and Lou Contadino, architects, on behalf of Wilton Commons.

Mr. Evans posted plans, comparing the 2007 plan for 77 approved units to the currently proposed plan of 51 units. He highlighted differences in the footprints of the building, the parking configurations, and lighting. He noted that the current plans include an unfinished attic where all air-handling units will be housed. He stated that drainage plans, as well as the affordable housing plan, have been submitted for staff review.

Mr. Nerney explained that staff met with Mr. Evans late last week, noting that many of the issues raised in the P&Z Staff Report have been addressed by the applicant. He noted that engineering aspects of the plan still require some more attention and he suggested keeping the hearing open so that staff can continue to work on outstanding issues with the

applicant.

In response to questions from the Commission, Mr. Evans explained that the current plan relocated the building about 12 feet back from the front property line and shifted it a bit to the left (southwestward), primarily to accommodate a greater depth in the front parking area which he felt would be beneficial for the elder residents.

Mr. Nabulsi expressed concern with the implications of this repositioning on the remaining portion of the structure that the applicant indicated might someday be built on the site. He stated that it would be helpful to be able to see how the remaining portion would fit/be sited on the parcel since he recalled some serious grading issues that were highlighted during the original application process.

Ms. Poundstone suggested that the applicant stake the site prior to the next meeting.

Mr. Bayer asked if an overlay of both plans could also be provided so that the Commission could more clearly see the changes being proposed. He also expressed concern with labeling the current application as a modification to a previous plan, referring to the less intensive review that he felt a modification would receive as compared to a new application for the site. Mr. Nerney stated that the application is receiving a full review by both staff and Commission, noting that the “modification” terminology does not necessarily result in a lesser review. He explained that a determination was made early on in the process that this application would not fall within the category of just an administrative review.

In response to a question from Ms. Gould regarding timing, Mr. Evans stated that continuing the application until September 13 would not be problematic since the applicant still needs to appear before and receive approval from the Inland Wetlands Commission.

In response to a question from Mr. Rudolph regarding reasons for the proposed site changes, Mr. Evans stated that in his opinion the revisions provided improved parking with easier access for senior residents, a larger and more effective drop-off area, a greater front setback, and an overall aesthetically improved site plan. He indicated that the building could be relocated again back to its original position (albeit with a great deal of effort/expense) if the Commission felt strongly that the previous plan was more desirable.

Mr. Bayer asked if anything in the new proposal might make the next structure more difficult to build at some point in the future. Mr. Evans stated that there is no substantial issue in that regard per the applicant’s engineers.

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



Mr. Nerney noted that the Commission will need a letter from the applicant granting an extension of the time to keep the public hearing open. Mr. Evans agreed.

Mr. Nabulsi asked if the applicant would stake the site showing a rough outline of the proposed building. Mr. Evans agreed.

Mr. Rudolph asked if the Commission could also have something to reflect where the building footprint was to have been located per the original plan. Ms. Poundstone suggested that staff work all of this out with Mr. Evans.

Mr. Nabulsi stated that there appeared to be some advantages to consolidating the parking area and not extending it as far north into the site as was originally proposed, referring in particular to less intensive development impacts on the land. Mr. Evans concurred.

There being no further comments from the Commission or the public, at 8:49 P.M. the Public Hearing was continued until September 13, 2010.

**5. SP#190I, Teachers Insurance and Annuity Association of America, 10 Westport Road, To allow for the construction of 197 additional parking spaces**

Ms. Poundstone called the Public Hearing to order at 8:49 P.M., seated members Bayer, Gould, Nabulsi, Osterberg, Poundstone, Pratt, and Rudolph, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Mr. Bayer read the legal notice dated July 13, 2010. He referred to a 3-page Planning and Zoning Staff Report dated July 22, 2010.

Present were Clarissa Cannavino, attorney; Eric Lindquist, Tighe & Bond, engineer; and Kate Throckmorton, landscape architect; on behalf of the applicant.

Ms. Cannavino briefly reviewed posted plans for the subject site. She stated that the applicant is in the process of preparing a response to the Planning and Zoning Staff Report dated July 22, 2010. She also advised the Commission that the applicant would be requesting a continuance of the application since they are required to meet with the Inland Wetlands Commission as well.

In response to questions from the Commission regarding the applicant's need for additional parking, Ms. Cannavino explained that approximately one-third of the property is currently vacant, and the applicant is having difficulty marketing the buildings due to insufficient parking on the site.

Ms. Gould questioned the alleged insufficiency of parking on the site, noting that approximately 40% of existing parking spaces were empty during her visits to/observations of the site. She also questioned the cited marketing issue, noting that if such a problem currently exists, it would seem that it should have existed some years ago as well.

Mr. Lindquist reviewed the proposed parking plan, along with grading impacts and drainage, noting that proposed drainage plans will improve overall drainage on the site.

Ms. Throckmorton reviewed the landscaping plan for the site, noting that the applicant is proposing more than double the amount of landscaping that is required under the regulations. She explained further that the attempt is to maintain the wooded feeling of the site and to minimize areas of lawn. She stated that landscaping for the express purpose of screening is not being proposed since the site is well removed from adjacent owners, noting that it is greater than 500 feet in all directions to any residential areas, and the natural topography further separates it from the surrounding neighbors.

In response to questions from the Commission as to what the need for this specific number of parking spaces (i.e. 197) was based upon, Ms. Cannavino stated that the applicant would analyze the parking situation and prepare a breakdown of parking needs prior to the next meeting. She noted that the Hansen House was previously used as a cafeteria and, as such, she did not believe it ever generated a parking requirement for the site. She referenced the Hansen House in the context of a possible future conference center use, referring to the applicant's recent hearing involving conference center uses in the DE-10 zone. Ms. Poundstone advised the applicant that the Commission would be looking very closely at the representations made by the applicant in the course of that hearing.

Ms. Gould noted that 10 Westport Road is almost 40 years old and has been fully occupied and successfully operated for a good portion of those 40 years. She asked for clarification as to what is different now versus some years ago when the parking was considered adequate. Ms. Cannavino stated that commercial office space is different now, utilizing smaller cubicles to accommodate a greater number of employees. She felt that parking needs are also greater today and to be competitive the applicant requires additional parking on the site.

Ms. Pratt felt that the subject application seems to run counter to current trends where people are being encouraged to do less driving, less commuting, and to utilize more public transportation. She questioned whether the applicant had given any thought to the option of providing shuttle buses for employees to/from train stations. She suggested that the applicant give some thought to such an option as opposed to requesting such a large

increase in parking on the site.

Concerns were expressed by several members of the Commission regarding the distance from 10 Westport Road to a large portion of the proposed new parking and the impracticability of pedestrians traversing that distance back and forth each day, particularly when parking is currently available in a covered garage located closer to the building. Mr. Lindquist computed the distance, noting that it measures approximately 500 feet from the center area of the farthest parking field to the building at 10 Westport Road.

Mr. Bayer requested some evidence from the applicant confirming its inability to market the site, i.e. evidence as to what efforts the applicant has made, what difficulties have been encountered, what the industry standards are, etc.

In response to a question from Mr. Rudolph regarding the possible use of permeable material rather than paved surface, Mr. Lindquist stated that permeable materials are more practical/usable when working with a flatter terrain than what is available on the subject site.

Mr. Lindquist also reviewed proposed lighting for the site, noting that two photometric analyses were provided at 2.5 and 1.0 foot-candles, respectively, for Commission review.

Mr. Nerney noted that the applicant needs to provide a letter granting an extension of the time to keep the public hearing open.

Ms. Gould requested that the applicant provide more information at the next meeting incorporating 20 Westport Road into the plans so that the total site impacts of traffic, parking, etc. can be considered/reviewed by the Commission. She also requested some historic background information on both sites.

Ms. Gould again questioned the advisability of the proposed parking in light of the fact that the garage, which is located closer to 10 Westport Road than some of the proposed parking, had 3 totally unused levels during her visit(s) to the site.

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

Jack Smythe, Raymond Lane, asked to see the plans since he was unable to see them during the applicant's presentation.

There being no further comments from the Commission or the public, at 9:16 P.M. the Public Hearing was continued until September 13, 2010.

**REGULAR MEETING**

- A.** Ms. Poundstone called the Regular Meeting to order at 9:16 P.M., seated members Bayer, Gould, Nabulsi, Osterberg, Poundstone, Pratt, and Rudolph, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

**B. APPROVAL OF MINUTES**

**1. July 12, 2010 – Regular Meeting**

**MOTION** was made by Mr. Nabulsi, seconded by Mr. Bayer, and carried (5-0-1) to approve the minutes of July 12, 2010 as drafted. Ms. Pratt abstained. Ms. Gould was not present at time of vote.

**C. SITE DEVELOPMENT PLAN REVIEW**

**D. ACCEPTANCE OF NEW APPLICATIONS**

**E. PENDING APPLICATIONS**

**1. SP#332A, Polito, 490 Danbury Road, To allow professional offices for non-resident occupants and residential apartments**

Ms. Gould stated that she was quite disturbed by the subject application. She noted that it was to be a private residence per a prior approval and she felt that it has been misused since then. She stated that she was disappointed to see the extensiveness of use of both buildings on the site. She felt that the subject application misses the point of an apartment over an office, noting that in both buildings the office is miniscule.

Mr. Bayer stated that it is a question of whether the application complies with regulations. He stated that he was not persuaded by the applicant's comparisons with other properties in Town. He also felt that the second, alternate parking plan proposed by the applicant does not meet zoning regulations.

Mr. Nabulsi felt that the application does not comply with zoning regulations because the applicant is not able to justify the issue of having greater than one principal building on the site. He felt that this point was a non-starter for the application and he stated that he would deny the application on that basis.

Commissioners Rudolph and Osterberg concurred. Mr. Rudolph expressed concern that the Commission would be establishing an undesirable precedent with respect to Section 29-5.C.6 of zoning regulations by allowing greater than one principal building on the site. He did not see any rationalization for granting the application under the Town's zoning regulations.

Mr. Nerney noted that the Commission has up to 65 days to take action on the application once it has been closed. It was the consensus of the Commission that staff should draft a resolution of denial for vote at the next meeting on September 13, 2010.

**2. SP#258D, Wilton retirement Housing, 435 Danbury Road, 16 additional congregate housing units**

Ms. Pratt noted for the record that she had listened to the recording of the previous meeting. Mr. Bayer recused himself from the discussion and left the meeting room.

The Commission briefly reviewed draft Resolution #0710-11P. A minor modification was made to condition #8 of the resolution.

MOTION was made by Mr. Nabulsi, seconded by Mr. Osterberg, and carried unanimously (6-0) to adopt as amended Resolution **#0710-11P** for **SP#258D**, effective July 29, 2010.

**WHEREAS**, the Wilton Planning and Zoning Commission has received Special Permit application **#258D** from Wilton Retirement Housing, LLC to allow the construction of sixteen (16) additional units of congregate housing for property located at 435 Danbury Road, in a Single Family Residential (R-2A) District, Assessor's Map #47, Lot #14-1, 8.917± acres, owned by Wilton Retirement Housing, LLC and shown on the plans entitled:

Vicinity Map-Prepared for Wilton Retirement Housing Limited Liability Company, Prepared by Douglas R. Faulds, land surveyor, dated March 1, 2010, at a scale of 1"=100'.

Property Survey-Prepared for Wilton Retirement Housing Limited Liability Company, Prepared by Douglas R. Faulds, land surveyor, dated March 1, 2010, at a scale of 1"=50'.

Property Survey-Prepared for Wilton Retirement Housing Limited Liability Company, Prepared by Douglas R. Faulds, land surveyor, dated January 22, 2010, at a scale of 1"=40'.

Topographic Survey-Prepared for Wilton Retirement Housing Limited Liability Company, Prepared by Douglas R. Faulds, land surveyor, dated March 12, 2010, revised March 29, 2010, at a scale of 1"=40'.

Parking Grading Plan-Prepared for Greens At Cannondale, Prepared by John W. Block and Joseph A. Canas Jr., engineers, dated May 5, 2010, last revised June 21, 2010, at a scale of

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1"=30', sheet #C-1.00.

Drainage & Utility Plan-Prepared for Greens At Cannondale, Prepared by John W. Block and Joseph A. Canas Jr., engineers, dated May 5, 2010, last revised June 21, 2010, at a scale of 1"=30', sheet #C-2.00.

Sedimentation & Erosion Control-Prepared for Greens At Cannondale, Prepared by John W. Block and Joseph A. Canas Jr., engineers, dated May 5, 2010, last revised June 21, 2010, at a scale of 1"=30', sheet #C-3.00.

S&E Notes and Narrative-Prepared for Greens At Cannondale, Prepared by John W. Block and Joseph A. Canas Jr., engineers, dated May 5, 2010, at a scale of 1"=30', sheet #C-3.10.

S&E Details-Prepared for Greens At Cannondale, Prepared by John W. Block and Joseph A. Canas Jr., engineers, dated May 5, 2010, not to scale, sheet #C-3.20.

Details-Prepared for Greens At Cannondale, Prepared by John W. Block and Joseph A. Canas Jr., engineers, dated May 5, 2010, not to scale, sheet #C-4.00.

Details-Prepared for Greens At Cannondale, Prepared by John W. Block and Joseph A. Canas Jr., engineers, dated May 5, 2010, not to scale, sheet #C-4.10.

Title Sheet-Prepared for Greens At Cannondale, Prepared by Wesley Stout Associates, LLC, landscape architects, dated June 16, 2010, sheet #T-1.

Overall Site Plan-Prepared for Greens At Cannondale, Prepared by Wesley Stout Associates, LLC, landscape architects, dated March 31, 2010, last revised July 12, 2010, at a scale of 1"=30', sheet #SP#1.0.

Layout, Planting & Lighting Plan-Prepared for Greens At Cannondale, Prepared by Wesley Stout Associates, LLC, landscape architects, dated March 31, 2010, last revised July 12, 2010, at a scale of 1"=30', sheet #SP#2.0.

Grading Plan-Prepared for Greens At Cannondale, Prepared by Wesley Stout Associates, LLC, landscape architects, dated March 31, 2010, last revised June 16, 2010, at a scale of 1"=30', sheet #SP#3.0.

Landscape Demolition Plan-Prepared for Greens At Cannondale, Prepared by Wesley Stout Associates, LLC, landscape architects, dated March 31, 2010, last revised June 16, 2010, at a scale of 1"=30', sheet #SP#4.0.

Site Details-Prepared for Greens At Cannondale, Prepared by Wesley Stout Associates, LLC, landscape architects, dated March 31, 2010, last revised June 16, 2010, not to scale, sheet #SP#5.0.

First Floor Plan-Prepared for The Greens At Cannondale, Prepared by Ronald A. Kluchin, architect, dated February 8, 2010, last revised July 6, 2010, at a scale of 1/16"=1'-0", sheet #A-1.

Second Floor Plan-Prepared for The Greens At Cannondale, Prepared by Ronald A. Kluchin, architect, dated February 8, 2010, last revised July 6, 2010, at a scale of 1/16"=1'-0", sheet #A-2.

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Half Story Floor Plan-Prepared for The Greens At Cannondale, Prepared by Ronald A. Kluchin, architect, dated April 13, 2010, last revised July 6, 2010, at a scale of 1/16"=1'-0", sheet #A-3.

Roof Plan-Prepared for The Greens At Cannondale, Prepared by Ronald A. Kluchin, architect, dated April 13, 2010, last revised June 28, 2010, at a scale of 1/16"=1'-0", sheet #A-4.

Exterior Elevations-Prepared for The Greens At Cannondale, Prepared by Ronald A. Kluchin, architect, dated February 8, 2010, last revised June 28, 2010, at a scale of 1/8"=1'-0", sheet #A-5.

Right/East Elevation and Left/West Elevation-Prepared for The Greens At Cannondale, Prepared by Ronald Kluchin Architects, architects, not dated, at a scale of 1/8"=1'-0", sheet #P-1.

Rear/North Elevation-Prepared for The Greens At Cannondale, Prepared by Ronald Kluchin Architects, architects, not dated, at a scale of 1/8"=1'-0", sheet #P-2.

**WHEREAS**, the Planning and Zoning Commission has conducted a public hearing on June 14, 2010, June 28, 2010 and July 12, 2010 to receive comment from the public and has fully considered all evidence submitted at said hearing; and

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

**NOW THEREFORE BE IT RESOLVED** effective July 29, 2010 that the Wilton Planning and Zoning Commission **APPROVES** the Special Permit #258D to allow the construction of sixteen (16) additional units of congregate housing for property located at 435 Danbury 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 site plan shall be completed within five (5) years of the effective date of this resolution. This five-year period shall expire on July 29, 2015.
3. The applicant shall provide copies of approval from the Aquarion Water Company and the Wilton Water Pollution Control Authority granting approval for the provision of water and sewer. Said authorization shall be submitted to the Wilton Planning and Zoning Department staff prior to the issuance of the initial zoning permit.
4. Prior to the issuance of a zoning permit, the revised Affordable Housing Compliance Plan for 20% of the 16 approved housing unit, totaling four (4) additional affordable housing units shall be submitted and approved by Town Counsel and recorded in the land records, bringing the total number of affordable housing units in this development to twenty two (22).
5. Based upon current parking demand, the Commission finds it appropriate to waive two

- (2) on-site parking spaces. Such waiver is granted in accordance with Section 29-8.B.13.a. of the zoning regulations subject to the filing of either a suitable legal instrument or a bond prior to the issuance of a zoning permit.
6. A bond estimate for site work shall be provided by the applicant to the Town Planner, which shall include, but not be limited to sedimentation and erosion controls, grading, drainage, paving, landscaping, seeding, and 10% contingency. The applicant shall furnish to the Town a bond with proper surety, in form and amount satisfactory to the Commission's land use counsel and Wilton's Town Planner, prior to the issuance of any zoning permit.
  7. The proposed elevator shall be modified so as to accommodate stretchers utilized by emergency service personnel. Prior to receiving a zoning permit, plans depicting said modification shall be submitted to the Commission's staff for review and approval.
  8. Any alteration of floor plans, dividing of space, reconfiguration of bedrooms or change in the number of housing units, shall be subject to the review and approval of the Planning and Zoning Commission.
  9. For public safety reasons, planned parking adjacent to the proposed generator shall be designated and restricted for employee use only. The applicant shall install instructional signs, to the satisfaction of the Commission's staff, alerting the public of such parking restriction.
  10. Prior to the issuance of a certificate of zoning compliance, the engineer of record shall submit a signed and sealed letter and as-built plan verifying that the subsurface drainage and the detention system are in accordance with the engineering plans submitted to the Planning and Zoning Commission.
  11. Prior to receiving a certificate of zoning compliance, the applicant shall submit an as-built survey depicting all site improvements, including building setbacks, site and building coverage, height and number of stories of the building and a delineation of all parking improvements.
  12. Prior to receiving a certificate of zoning compliance, a stop sign shall be erected at the proposed southerly crosswalk.
  13. All utilities shall be located underground, the installation of which shall be verified prior to receiving a certificate of zoning compliance.
  14. The emergency generator and air conditioning units shall comply with noise standards set forth in Section 29-9.H.7. of the zoning regulations. The applicant shall provide documentation of such compliance prior to the issuance of a zoning certificate of compliance.
  15. There shall be no construction activities on the site on Sundays or major holidays. All construction related activities must be performed between 7:30 a.m. and 6:00 p.m. Monday through Friday and between 8:00 a.m. and 6:00 p.m. on Saturdays. This condition does not apply to interior finish work performed within a fully-enclosed building.
  16. A copy of this resolution shall be given to the construction manager and shall be available on site during construction.



17. Mechanical equipment and refuse containers shall be screened from view on all sides.

Submittal of revised plans and application:

18. 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 July 29, 2015."
- b. "For conditions of approval for Special Permit #258D, see Resolution #0710-11P."

- END RESOLUTION -

**3. SP#223E, Zackiewicz, 39 Danbury Road (Unit #11), Operation of package store**

Ms. Pratt noted for the record that she had listened to the recording of the previous meeting.

Mr. Bayer expressed concern that although the proposed package store might have different hours of peak usage as compared with other tenants that exist on the site currently, the requested parking waiver would apply to all future tenants on the site, no matter the nature of the businesses at that time.

Ms. Pratt had the same concern. She questioned whether parking would still be an issue if the premises were utilized as office space. She also asked whether a denial now due to inadequate parking essentially makes the subject space unleaseable in general. Mr. Nerney cited the example of a shoe store, which would have the same parking requirement as a package store, although he explained that a shoe store would not have to go through the Special Permit process and would be considered an as-of-right use in that location.

Mr. Nerney noted that the applicant had previously made an error that was not picked up by the Town, nor was it appealed by any party.

Mr. Nabulsi summarized his concerns as follows. He noted that the applicant had provided the Commission a complete parking study at the time the Moore Rehabilitation Center was approved some years ago with a 4-parking space waiver. He felt that a traffic study is essential in connection with the current application involving an 8-parking space waiver, noting that such a study would allow the Commission to better understand how the site is operating today with its current tenant configuration. It was his opinion that

any other applicant would need to provide such documentation to receive such a waiver.

Ms. Poundstone agreed, noting that the Commission needs a better and more up-to-date traffic study in connection with the subject application.

Ms. Gould felt that a decision was made by the Commission in 2006 that existing parking on the site would be adequate. She noted that the same type of use (i.e. retail) is currently being proposed for Unit #11 as was there at that time in the form of a hardware store. She stated that she has checked the site frequently at different times of the day and has noted many empty parking spaces in the area of the subject premises virtually all day long. She did not feel there is a shortage of parking anywhere on the site.

Mr. Rudolph concurred, noting that the Town needs to get the site off its vacant rolls. He felt that the only crowded area of the site is the Dunkin' Donuts location, which in his opinion is due to inadequate parking space depth and not an inadequate number of parking spaces. He felt that the requested parking space waiver would not create any additional problems for the site.

Ms. Pratt was not comfortable with the fact that the currently proposed business could change in the future and the Commission would not have the ability to review the parking situation again.

Mr. Bayer noted that it appeared to be the applicant's miscalculation of square footage in connection with the Moore Rehabilitation Center application some years ago that resulted in an incorrect/understated parking space waiver request for the site at that time. He felt that this was not an error on the part of the Commission but rather resulted from bad information provided by the applicant.

Mr. Nabulsi noted that this issue was clearly raised during the hearing and thus the applicant had full knowledge of the Commission's concerns in this regard.

The Commission briefly reviewed draft Resolution #0710-12P.

MOTION was made by Mr. Bayer, seconded by Mr. Osterberg, and carried (5-2) to adopt as drafted Resolution **#0710-12P** to **Deny Without Prejudice SP#223E**. Commissioners Rudolph and Gould opposed.

The application was thus denied.

**WHEREAS**, the Wilton Planning and Zoning Commission has received a Special Permit application **SP#223E** from Krzysztof Zackiewicz d/b/a Wilton Spirits for approval to allow the establishment of a 2,731.7 square foot retail package store, for property located at 39 Danbury

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Road, Unit #11; in a General Business “GB” District, Assessors Map#84, Lot#33, consisting of 3.491 acres owned by Wilson Properties I, LLC and shown on the plans entitled:

Cover Sheet- Prepared for Wilton Spirits, LLC, Prepared by Richard M. Tomasetti, architect, dated May 7, 2010, scale as noted, sheet #A-0.0.

Lower Level Plan- Prepared for Wilton Spirits, LLC, Prepared by Richard M. Tomasetti, architect, dated May 7, 2010, scale 1/4”=1’-0”, sheet #A-1.0.

First Floor Plan- Prepared for Wilton Spirits, LLC, Prepared by Richard M. Tomasetti, architect, dated May 7, 2010, scale 1/4”=1’-0”, sheet #A-1.1.

Proposed Layout Plan- Prepared for Moore Center For Rehabilitation Application For Special Permit, Prepared by Tighe & Bond, engineers, dated June 12, 2006, last revised November 30, 2006, scale as noted, sheet #L0-01.

**WHEREAS**, the Wilton Planning and Zoning Commission has conducted a public hearing on June 14, 2010 and June 28, 2010 to receive comment from the public and has fully considered all evidence submitted at said hearing; and

**WHEREAS**, the Wilton Planning and Zoning Commission has considered a request to waive 4 on-site parking spaces, in addition to a prior waiver of 8 parking spaces, resulting in a total waiver request of 12 parking spaces;

**NOW THEREFORE BE IT RESOLVED** that the Wilton Planning and Zoning Commission **DENIES WITHOUT PREJUDICE** Special Permit #223E to allow the establishment of a 2,731.7 square foot retail package store for the following reason:

The property consists of a mix of retail uses, a distribution warehouse facility and a physical rehabilitation center; contained within two separate buildings and interconnected by parking areas throughout the 3.5 acre site. The Wilton Planning and Zoning Commission find a lack of evidence to support the request for further reductions of the on-site parking space requirements. Specifically, no evidence as to the availability of excess parking and/or the distribution and location of available parking spaces was provided during the hearing. This results in a number of unanswered safety concerns that the Commission believes must be properly addressed prior to acting favorably on the application.

-END RESOLUTION-

**4. SP#45P, The Lake Club, Inc., 175 and 195 Thayer Pond Road, Add lighting to tennis courts 7 & 8**

The Commission discussed the application. Mr. Nabulsi stated that he was struck by how

wooded the area is and how nestled into a screened area the tennis courts actually are. He did not feel that there would be any impact on surrounding neighbors from the incremental lighting proposed, although he felt that some of the other issues raised by neighbors (not necessarily germane to the subject application) were troubling.

After a brief discussion, it was the general consensus of the Commission that staff should prepare a draft resolution of approval for vote at the next meeting, including conditions of use and timing restrictions as discussed during the hearing. The Commission also requested that staff include verbiage in the resolution encouraging the applicant to follow through with other issues raised by neighbors and discussed during the hearing that were not part of the subject application per se but which the applicant had indicated a willingness to address. The Commission asked that the resolution also urge that enforcement be considered by the Town in the future if any conditions included in this approval and in prior approvals are not being adhered to by the applicant.

**5. SP#351, Kim & Song Properties, LLC and Song Wilton Properties, LLC, 151 Old Ridgefield Road, Take-out restaurant**

The Commission briefly reviewed draft Resolution #0710-13P.

MOTION was made by Mr. Bayer, seconded by Mr. Osterberg, and carried unanimously (7-0) to adopt as amended Resolution **#0710-13P** for **SP#351**, effective July 29, 2010.

**WHEREAS**, the Wilton Planning and Zoning Commission has received a Special Permit application (**SP#351**) from Kim and Song Properties LLC / Song Wilton Properties, LLC (applicant) for authorization to allow the establishment of a 1,405 square foot takeout restaurant for property located at 151 Old Ridgefield Road, in the Wilton Center “WC” District, Assessor’s Map #73, Lot #26, consisting of .83 acres owned by Kim and Song Properties LLC / Song Wilton Properties, LLC and shown on the plans entitled:

First Floor Plan - Prepared for Steve’s Bagels & Café, Prepared by Joseph Cugno, Architect of Cugno Architecture, dated April 27, 2010, scale as noted, sheet #A1.

**WHEREAS**, the Wilton Planning and Zoning Commission has conducted a public hearing on July 12, 2010 to receive comment from the public and has fully considered all evidence submitted at said hearing; and

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

**NOW THEREFORE BE IT RESOLVED** that the Wilton Planning and Zoning Commission **APPROVES** Special Permit #351 to allow the establishment of a 1,405 square foot take out restaurant, effective July 29, 2010 subject to the following conditions:

1. This Resolution does not replace requirements for the applicant to obtain any other permits or licenses required by law or regulation by the Town of Wilton, such as, but not limited to: Zoning Permit, Sign Permit, Building Permit, Certificate of Zoning Compliance; or from the State of Connecticut or the Government of the United States. Obtaining such permits or licenses is the responsibility of the applicant.
2. In accordance with Section 8-3.(i) of the Connecticut General Statutes, all work or physical improvements required and/or authorized by the approved Site Plan shall be completed within  
  
five years of the effective date of this resolution. This five-year period shall expire on July 29, 2015.
3. The applicant shall file a Land Record Information Form with the Town Clerk (form to be provided by the Planning and Zoning Department) prior to the issuance of a zoning permit.
4. No additional dumpsters shall be allowed on the premises without the approval of either the Planning and Zoning Commission or the Commission's staff.
5. The dumpster shall be serviced so as to maintain appropriate sanitary conditions.
6. No parking of delivery vehicles shall be allowed on Old Ridgefield Road.
7. All exterior signage and window signs shall adhere to the approved signage program adopted by the Planning and Zoning Commission on February 25, 2010 (Resolution #0210-3Z). The applicant shall obtain a sign permit from the Zoning Enforcement Officer prior to installation of any signage.
8. No alcoholic beverages shall be served in conjunction with the business.
9. The installation of rooftop mechanical equipment shall be prohibited unless otherwise authorized by the Planning and Zoning Commission.

**Submittal of revised plans and application:**

10. 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. 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. "Pursuant to Section 8-3.(i) of the Connecticut General Statutes, all work in connection with this Special Permit shall be completed within five years after the approval of the plan. Said five-year period shall expire on July 29, 2015."

b. "For conditions of approval for Special Permit #351, see Resolution **#0710-13P**

-END RESOLUTION-

**6. REG#10322, O'Brien Design, 118 Old Ridgefield Road, Amendment to Zoning Regulations Section 29-6.B.3.i to allow more residential units in GB zoning district within 1000 feet from a train station**

Ms. Pratt noted for the record that she had listened to the recording of the previous meeting.

The Commission discussed the application.

Ms. Gould felt that such regulation modifications should be handled by the Commission. She suggested that the matter be referred to the Regulations Committee for its consideration.

Mr. Osterberg stated that he would like to see the Regulations Committee draft a regulation that would not be so narrow in its application, something that would fit in the zoning regulations overall, as well as conform with the spirit of the Plan of Conservation and Development.

Mindful of the Commission's obligation to consider the application before it, Ms. Poundstone suggested that the Regulations Committee take up the matter between now and the Commission's first meeting in September and, at that time, recommend either approval, denial, or amending the subject application.

It was the general consensus of the Commission that increased housing density in the area of train stations is consistent with the Town's Plan of Conservation and Development.

Mr. Rudolph, as Chair of the Regulations Committee, agreed to set up a meeting for the Committee to discuss the matter as soon as possible.

**7. SP#324A, Wilton Commons, 21 Station Road, Modifications to previously approved plans for senior housing**

Tabled.

**8. SP#190I, Teachers Insurance and Annuity Association of America, 10 Westport Road, To allow for the construction of 197 additional parking spaces**

Tabled.

**F. COMMUNICATIONS**

**1. Discussion pertaining to allowable size of temporary signs**

Mr. Nerney reviewed details of the matter, noting that the Commission is being asked to determine the allowable size of temporary signs for non-profit organizations. He explained that a question arose as to whether such signs should be allowed to be somewhat larger than what is allowed for for-profits since for-profit businesses already have signs.

It was the consensus of the Commission to continue the matter until September 13, 2010.

**2. Druzhinin/Voitkevich, 55 Pine Ridge Rd, Discussion pertaining to calculation of Har-Tru tennis courts toward site coverage**

Mr. Nerney referred to a package dated July 19, 2010 from Alexei Druzhinin and Tatiana Voitkevich. He explained that the applicants had been issued a permit to increase the size of their house subject to removal of some driveway pavement in order to compensate for the additional site coverage from the expanded house footprint. One possibility was for the applicants to replace the removed driveway pavement with gravel or paver blocks set

in stone dust. He explained that, historically, driveways have not been counted toward site coverage when surfaced in gravel or Belgian block (if not mortared in) and all tennis courts have been calculated at 50% of coverage. Mr. Nerney stated that the applicants are requesting permission to exclude from site coverage the entire surface of their Har-Tru tennis court which they feel is a highly permeable surface (closer to being a grass court) and superior in that regard to any paver blocks.

Mr. Bayer noted that there is no specific interpretation in the zoning regulations for grass courts versus other types of tennis courts.

Ms. Gould noted that probably 90% of tennis courts in the Town are Har-Tru surfaced. She felt that exempting such surfaces from the calculations for site coverage would have very far-reaching effects and would ultimately affect how land is developed in the Town.

A discussion ensued and it was the general consensus of the Commission that the current policy of counting 50% of tennis court square footage towards site coverage should continue, notwithstanding the materials that are utilized in the construction of the courts.

MOTION was made by Mr. Bayer, seconded by Ms. Gould, and carried (6-1) to uphold the current zoning policy of counting towards site coverage 50% of the entire tennis court square footage, notwithstanding the material of which it is made. Ms. Pratt opposed.

Thus the request was denied.

**3. Lucci Electric, Inc., Request for administrative approval of Special Permit to relocate from 681 Danbury Road to 2 Pimpewaug Road**

Mr. Nerney referred to a letter dated July 21, 2010 from Christopher J. Reeb to the Town Planner. He explained that Lucci Electric is requesting administrative approval to move its business from its current location at 681 Danbury Road to 2 Pimpewaug Road, an adaptive use site. He noted for the record that the aforementioned letter (and original agenda) mistakenly indicated 238 Danbury Road as the new location instead of 2 Pimpewaug Road.

Ms. Poundstone felt that the administrative approval process would be appropriate but she stressed that company vehicles should be screened properly and there should be no outside display of electrical supplies/materials.

Ms. Gould felt that it would be a very appropriate use for this adaptive use site, noting that it is an historic house which has been in the Gregory family for over 150 years.

It was the consensus of the Commission that the requested Special Permit should be



handled/approved administratively.

**G. REPORT FROM CHAIRMAN**

**1. Reports from Committee Chairmen**

**H. REPORT FROM PLANNER**

**I. FUTURE AGENDA ITEMS**

- 1. SP#352, Wood, 104 Olmstead Hill Road, Accessory dwelling unit/pool house [P.H. September 13, 2010]**
- 2. SP#293A, Splash Wilton, LLC, 382 Danbury Road, Conversion of two detailing bays to oil change bays [P.H. September 13, 2010]**

**J. ADJOURNMENT**

MOTION was made by Ms. Poundstone, seconded by Ms. Pratt, and carried unanimously (7-0) to adjourn at 10:28 P.M.

Respectfully submitted,

Lorraine Russo  
Recording Secretary