

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

WILTON PLANNING & ZONING COMMISSION MINUTES DECEMBER 13, 2010 REGULAR MEETING

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

ABSENT:

ALSO

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

Ms. Poundstone called the meeting to order at 7:15 P.M.

NOMINATIONS

1. Chairman

MOTION was made by Mr. Wilson, seconded by Mr. Rudolph, and carried unanimously (9-0) to nominate and elect Sally Poundstone as Chairman of the Planning and Zoning Commission.

2. Vice-Chairman

MOTION was made by Ms. Poundstone, seconded by Mr. Bayer, and carried unanimously (9-0) to nominate and elect John Wilson as Vice-Chairman of the Planning and Zoning Commission.

3. Secretary

MOTION was made by Ms. Poundstone, seconded by Mr. Wilson, and carried unanimously (9-0) to nominate and elect Doug Bayer as Secretary of the Planning and Zoning Commission.

PUBLIC HEARINGS

1. SP#353, Polito/ROPO, LLC, 490 Danbury Road, To allow professional offices for non-resident occupants and residential apartments in Building #1 and to allow for adaptive use in Building #2

Ms. Poundstone called the Public Hearing to order at 7:18 P.M., seated members Ayers, Bayer, Gould, Hulse, Nabulsi, Poundstone, Pratt, Rudolph, and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. She noted that the hearing was continued from a previous date.

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

Mr. Healy referenced the list of properties with multiple principal buildings that was submitted by the applicant several weeks ago, and he indicated that he was available for further questions from the Commission.

Mr. Nabulsi referenced Section 29-10.A.9 of zoning regulations (Special Permit Standards for Approval) and asked the applicant how the proposed use would be appropriate in light of the aforementioned Section, referring in particular to the surrounding properties and neighborhood, the intensity of the proposed use, and the types of uses proposed in relation to the immediate neighbors.

Mr. Healy stated that the special permit uses proposed are allowed in the residential zone. He noted that in the area of the high school and north, there isn't another sole single family use with almost no exceptions. He referenced the list of properties provided by the applicant delineating the number of properties in Town with multiple buildings/apartments and he felt that the subject application is consistent with the special permit uses applied for and would not be too intense a usage for the site.

In response to a question from Mr. Nabulsi regarding the anticipated number of residents on the site, Mr. Healy was unable to provide a specific number, although he noted that the two apartments in the historic house would consist of only 650 and 965 square feet respectively, and two of the three apartments in the new building would be slightly larger, thus not likely to attract larger-sized families. He noted that Route 7 handles 28+/- thousand cars per day and he felt that the proposed apartments would provide work force housing for singles and smaller families that cannot afford some of the existing higher-priced rentals in Town.

Mr. Nabulsi also asked how the site as proposed would lend itself to family recreational activities. Mr. Healy noted that there is a substantial back yard area and the property is close to Allen's Meadows, the Wilton YMCA, as well as other Town recreational locations/facilities.

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

There being no further comments from the Commission or the public, at 7:23 P.M. the Public Hearing was closed.

2. CHZ#10325, RBS Partners, LLC, 251, 255, 257, 259 Danbury Road, Request to change zone from R-1A and GB to DRB

Ms. Poundstone called the Public Hearing to order at 7:23 P.M., seated members Ayers, Bayer, Gould, Hulse, Nabulsi, Poundstone, Pratt, Rudolph, and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. She noted that the hearing was continued from a previous date.

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

Mr. O'Brien addressed an issue raised by Mr. Rudolph at the previous hearing regarding an applicant's right to change the zone of a neighboring property. He asked Town Planner Nerney to address the matter.

Mr. Nerney confirmed that anyone can apply for a zone change, noting that permission of the property owner is not in fact required, although the property owner is given notice of the proposed zone change and may of course object. He noted that the ultimate decision is in the hands of the Commission which has the right to amend its zoning map from time to time.

Ms. Poundstone asked if anyone in the audience wished to speak for or against the application. She recalled that the President of Crowne Pond Homeowners' Association had expressed a desire at the last hearing to speak to the application. Since this individual was not present in the audience, Ms. Poundstone continued the hearing at 7:26 P.M. for a short while to give him an opportunity to speak should he arrive later in the meeting.

3. SUB#904, Vollmer, 137 Olmstead Hill Road, 4-lot subdivision

Ms. Poundstone called the Public Hearing to order at 7:26 P.M., seated members Ayers, Bayer, Gould, Hulse, Nabulsi, Poundstone, Pratt, Rudolph, and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. She noted that the hearing was continued from a previous date. Mr. Bayer referred for the record to a memorandum dated December 10, 2010 from Michael Ahern to Daphne White.

Present were J. Casey Healy, attorney and Holt McChord, engineer; on behalf of the applicant.

Mr. Healy noted that the applicant had met with P&Z and DPW staff since the last meeting and, as a result, modifications were incorporated into the plan, including replacement of a previously proposed rain garden with an underground detention system on Lot 1; additional drainage accommodations on the common driveway and the northeastern wetlands area; and provision of a plan note indicating that the applicant will consult with the Town's Tree Warden in the event that an existing tree leaning in toward Olmstead Hill Road might have to be removed.

In response to a question from Mr. Nabulsi regarding the intended removal of one of the rain gardens, Mr. Healy explained that the Director of Public Works preferred the more traditional/conservative drainage approach for this particular application, given the proximity of the proposed rain garden to an adjoining property as well as the sloping topography in that area of the site.

Mr. McChord noted that while rain gardens are effective, he speculated that the Director of Public Works' concern with this application is likely due to the Town's recent involvement with litigation in connection with an underground detention system located close to an adjoining property in Town.

Mr. Nabulsi asked whether the applicant had given any further thought to concerns expressed by the Inland Wetlands and Conservation Commissions regarding the applicant's proposed open space configuration and ownership.

Mr. Healy stated that the applicant did consider their concerns but did not see the logic in attempting greater open space connectivity since the existing nearby open space parcel is publicly owned and the proposed open parcel would be privately owned. He explained further that Lot 3 ownership of the proposed open space parcel makes sense since Lot 3 has the only direct view of the man-made pond, and therefore all maintenance costs associated with the pond should logically be the obligation of Lot 3. Ms. Gould noted further that Lot 3 will also pay taxes on the open space parcel as currently proposed.

Mr. Nerney expressed concern with reconciling the open space aspect of the application with Section 4.5.3 of Subdivision Regulations requiring that open space either be conveyed to a non-profit land conservation trust/corporation; be conveyed to each lot owner in the subdivision in the form of an undivided interest in the open space land; or be deeded to the Town. He noted further that there is no ability to navigate around the pond given the proposed open space configuration and if undivided interests were conveyed to each of the property owners, per subdivision regulations, a provision for a common easement would probably be necessary to allow access to the open space parcel.

The Commission discussed Sections 4.5.3 and 4.5.4 of Subdivision Regulations in greater detail, including the question of Commission discretion with respect to interpretation of the aforementioned sections. Referencing Section 4.5.4.2, Mr. Nabulsi noted that since the area is not "largely internal to the subdivision" and thus not particularly appropriate for joint ownership by all four lot owners, the applicant could convey the open space parcel to the Town or to Wilton Land Trust. Ms. Gould questioned the inherent value of such an action, given the resulting loss of taxes to the Town as well as the increased liability that the Town would incur. She felt that the Commission needs to examine and possibly revise this section of the Subdivision Regulations going forward.

Mr. Bayer noted that there seems to be no provision in the Subdivision Regulations whereby ownership of an open space parcel can be held by one parcel alone.

Mr. Nerney called the Commission's attention to the last paragraph of Section 4.5.2 stating that "where potential small open space areas of land are of such size, location and/or character so as not to meet the requirements of Section 4.5.1. . . , a conservation restriction . . . shall be proposed to satisfy the open space requirement." He noted that, in light of the foregoing, if the Commission was to find the subject parcel to be of such small size, shape, general character, etc., then the open space portion could be incorporated into Lot 3 and could be restricted with a covenant to not be developed.

The applicant was amenable to that option and the Commission favored that interpretation/option as well.

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

There being no further comments from the Commission or the public, at 7:56 P.M. the Public Hearing was closed.

2. CHZ#10325, TBS Partners, LLC, 251, 255, 257, 259 Danbury Road, Request to change zone from R-1A and GB to DRB

Ms. Poundstone reopened the hearing at 7:57 P.M. and asked again if anyone in the audience wished to speak for or against the application.

There being no further comments from the Commission or the public,
MOTION was made by Ms. Ayers, seconded by Mr. Wilson, and carried (9-0) to close the Public Hearing at 7:58 P.M.

4. SP#355, Enterprises of Wilton, LLC, 5 River Road, Fast food store without drive-in facility

Ms. Poundstone called the Public Hearing to order at 7:58 P.M., seated members Ayers, Bayer, Gould, Hulse, Nabulsi, Poundstone, Pratt, Rudolph, and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Mr. Bayer read the legal notice dated November 30, 2010 and referred for the record to a memorandum dated December 7, 2010 from Christian Calemno to Wilton Planning and Zoning Commission, with four attachments; and a 3-page Planning and Zoning Staff Report dated November 30, 2010.

Present were Adam Kessner, applicant; and Christian Calemno, architect.

Mr. Kessner explained details of the application, noting that the proposed use would be a self-serve frozen yogurt store.

Mr. Calemno reviewed proposed floor plans, noting that interior seating would accommodate a maximum of 10 customers and there would be two exterior tables as well. He stated that there would be some additional minor alterations, including door handles, a new trash location and exterior signage modifications.

Mr. Nerney explained that the applicant would occupy approximately 25% of the former Swoozies space. He also noted that no changes are proposed to the building except for signage, which the applicant wishes to illuminate. He stated that he would forward the application to the Village District Consultant Committee for its review/input, noting that the Committee would probably want consistency in signage with the Athlete's Foot, which is also proposing a tenancy at the same location. Mr. Kessner stated that he would be fine with whatever the Village District Consultant Committee approves.

In response to further questions from the Commission, Mr. Calemno stated that the operation is not a franchise; they would be required to adhere to Department of Health regulations; and deliveries would occur on the southeast corner of the parking lot, which he felt was the safest location.

Mr. Wilson advocated installation of a fence in the area where the exterior tables will be located. He felt that the drop-off and proximity to the street would pose a safety hazard to children. Mr. Kessner stated that he would give the suggestion some thought.

Mr. Calemno also addressed the issue of trash bins, noting that a bin is proposed inside at the doorway and another could be located outside between the window and the door if the Commission so desired. Ms. White suggested that the applicant utilize the same style trash can as is being used elsewhere in the Center.

It was the consensus of the Commission that the applicant should meet with the Village District Consultant Committee and minutes/comments from the meeting should be subsequently forwarded to the Commission.

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

There being no further comments from the Commission or the public, at 8:16 P.M. the Public Hearing was closed.

5. SP#356, Kent District Spirits, LLC, Units #11 & #12, 39 Danbury Road, Operation of a package store

Ms. Poundstone called the Public Hearing to order at 8:16 P.M., seated members Ayers, Bayer, Gould, Hulse, Nabulsi, Poundstone, Pratt, Rudolph, and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Mr. Bayer read the legal notice dated November 30, 2010 and referred for the record to a 3-page Planning and Zoning Staff Report dated December 7, 2010; a memorandum dated December 9, 2010 from Michael Ahern to Daphne White; and a 3-page response letter dated December 9, 2010 from J. Casey Healy to Planning and Zoning Commission.

Present was Clarissa Cannavino, attorney; and Paul Furgal, traffic consultant; on behalf of the applicant.

Ms. Cannavino reviewed details of the application, noting that the proposed retail package business would encompass 3000 square feet of the 4300 square feet of former hardware store space. She explained that a waiver of five parking spaces was granted in 2006 and the applicant is now seeking an additional 5-space waiver, resulting in a total parking waiver of 10 spaces. She indicated that no shopping carts are proposed for the site.

She referenced a parking study that was recently conducted by Tighe & Bond on Saturday, November 6, 2010 and Tuesday, November 23, 2010. Per their study, she stated that there is ample parking on the site, noting that there were 24 parking spaces available at peak time on Saturday and 39 spaces available at peak time on Tuesday.

Mr. Furgal confirmed that the available parking spaces noted above were located around the front building, not in the rear Moore Rehabilitation Center area, and he felt that there is plenty of available parking if one considers the site as a whole.

In response to a question from Mr. Hulse, Ms. Cannavino indicated that only one other tenant space is currently vacant.

Mr. Bayer expressed concern that parking space waivers are forever. He asked if there is sufficient parking on the site no matter what retail use might come to the subject location in the future.

Mr. Furgal could not provide a definitive answer to the question, which he felt was open-ended, noting that parking depends upon the demands of the individual retail business.

Ms. Cannavino noted that retail use is not broken down any further within the regulations. She emphasized the different peak demands of retail versus office use, noting that retail use is less intense during typical office hours, and thus the justification for parking space waivers in such mixed-use types of venues.

The question arose as to whether the Commission could grant a parking waiver for the subject use only, and thus have an opportunity to re-evaluate when a future tenant moves in to the space.

Mr. Nerney was unaware of any existing regulation that would provide such an option to the Commission. However, he felt that there would not be much variation in parking needs among retail uses such as a package store, dress shop or shoe store, for example, as compared with restaurants, take-out businesses, and uses of that type which would likely generate more intense parking requirements but which would require another special permit application/review by the Commission in any event.

In response to questions from the Commission and referring to submitted Table 2, Mr. Furgal noted that the greatest parking occupancy rate anytime during the two days charted was 89% in Section C of the front building at 11:00 A.M. on Saturday, November 6th. It was also noted that the study dates included the Tuesday before Thanksgiving and the Saturday before Election Day, which could have impacted parking conditions on the site.

Ms. Gould noted for the record that the five parking spaces in front, as well as six spaces located on the side of the building to the north, have never had more than one car in each area during any of her visits to/observations of the site. She noted further that there was always plenty of parking available there when it was Wilson's and then Seymour's hardware stores.

Mr. Nerney explained that the applicant had made an inadvertent error in calculating its requested parking waiver during the Moore Rehabilitation Center application. He stated that the premises had operated as a hardware store in the past, and he felt that the Commission should not try to separate out types of retail uses within the retail category. He noted further that the subject application does not actually result in any loss of parking on the site.

Ms. Poundstone felt that the applicant had demonstrated a willingness to provide the

Commission with the information it had requested.

Ms. Cannavino noted for the record that the subject application satisfies the Town's regulations for a package store, referring in particular to required distances from schools, churches, etc.

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

There being no further comments from the Commission or the public, at 8:45 P.M. the Public Hearing was closed.

6. REG#10326, Amendments to Sections 29-8.A.2.b & 29-8.A.7.c pertaining to temporary signage regulations

Ms. Poundstone called the Public Hearing to order at 8:46 P.M., seated members Ayers, Bayer, Gould, Hulse, Nabulsi, Poundstone, Pratt, Rudolph, and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. Mr. Bayer read the legal notice dated November 30, 2010 and referred for the record to an emailed communication sent December 8, 2010 from Floyd Lapp (South Western Regional Planning Agency) to Robert Nerney.

Ms. Poundstone advised the Commission that HVCEO and SWRPA were both notified as required by statute.

Several Commissioners raised the issue of what really constitutes signage, questioning in particular examples such as banners without text, a person holding a sign, and boxes/packaging with product identification stacked up against or close to a store window.

Ms. Poundstone noted that the Commission needs to adopt regulations that are both enforceable and enforced.

Mr. Nerney noted that the Town does have regulations restricting coverage of a window area for the purpose of temporary signage to no greater than 25%. He stated that outside signage has been more of a problem recently than inside. He felt that there needs to be a balance between aesthetics and recognizing the needs of the business community, referring in particular to the current difficult economic environment and business owners' ongoing attempts to attract customers.

Ms. Poundstone expressed hope that the Commission would adopt the proposed regulations this evening.

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

There being no further comments from the Commission or the public, at 9:01 P.M. the Public Hearing was closed.

REGULAR MEETING

- A.** Ms. Poundstone called the Regular Meeting to order at 9:01 P.M., seated members Ayers, Bayer, Gould, Hulse, Nabulsi, Poundstone, Pratt, Rudolph, and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

B. APPROVAL OF MINUTES

1. November 22, 2010 – Regular Meeting

MOTION was made by Mr. Wilson, seconded by Mr. Rudolph, and carried (9-0) to approve the minutes of November 22, 2010 as drafted.

C. SITE DEVELOPMENT PLAN REVIEW

D. ACCEPTANCE OF NEW APPLICATIONS

1. REG#10327, Amendment to Section 29-5.B.10 pertaining to affordable housing in DRD, THRD, and CRA-10 multi-family districts.

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 January 10, 2011.

2. REG#10328, Kevin O'Brien, Amendment to Section 29-6.B.3.i pertaining to dwelling units located within 1000 feet from train station

3. SP#357, Rolling Hills Country Club, 333 Hurlbutt St, Lighting on four existing tennis courts

MOTION was made by Ms. Poundstone, seconded by Mr. Wilson, and carried unanimously (9-0) to accept applications **REG#10328** and **SP#357**, and set a public hearing date for both for January 24, 2011.

E. PENDING APPLICATIONS

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

Mr. Nerney explained that the Inland Wetlands Commission (IWC) recently approved Phase 2 only of the subject application, but did not approve the area closest to the 10 Westport Road building (known as Phase 1) due to grades and proximity to a watercourse in that area. He noted that this approval runs somewhat counter to what the Planning and Zoning Commission seemed to be considering. He referenced a letter from Franklin Wong, Chairman of IWC, to Michael Farrell, with attached Resolution #1210-64WET, outlining the decision/rationale of the IWC.

Mr. Nerney stated that the Planning and Zoning Commission has several options available: 1) approve the application as proposed or Phase 1 only, as previously considered, but in either case the applicant would not be able to obtain a building permit for the Phase 1 portion due to IWC denial of that portion of the application; 2) deny the application based on IWC action, in which case the applicant could come back before the Commission with a modified application/plans mirroring the IWC-approved plan; 3) approve Phase 2 only, similar to the recent IWC approval. He acknowledged that a denial of any portion of the application always bears the risk of a legal appeal on the part of the applicant, and he expressed some concern that approving just the Phase 2 portion without requiring submission of a new special permit application for just that portion of the site puts the Commission somewhat in the role of designer. He noted that the Commission could wait until the January 10th meeting to make a final decision.

Ms. Poundstone suggested denial without prejudice in light of the IWC decision, in which case the applicant could come back with a modified application mirroring the IWC-approved plan.

In light of that recommendation, Mr. Nerney felt it would be best to wait until the next meeting so that advice of Counsel can also be obtained. In response to questions from the Commission, Mr. Nerney noted that the IWC report can be considered by the Commission when making its decision as it is a significant part of the subject application and is considered an inter-agency referral

Mr. Wilson asked that applicant's counsel be asked to reconsider the possibility of withdrawing the subject application and submitting a modified application to mirror the plan approved by IWC.

It was the consensus of the Commission to continue the application until January 10, 2011, with the understanding that Town Counsel would be consulted regarding the wording of the resolution.

2. SP#353, Polito/ROPO, LLC, 490 Danbury Road, To allow professional offices for non-resident occupants and residential apartments in Building #1 and to allow for adaptive use in Building #2

Resolutions of denial and approval were distributed among the Commissioners for their review.

In reviewing the resolution of denial, Mr. Nabulsi questioned whether the resolution would be equally effective if reason #3 were dropped from the resolution.

Mr. Nerney felt that it would be important and helpful to include reason #3. He referred to the Preamble to "Adaptive Use of Historic Buildings" (Section 29-5.C.5 of zoning regulations), questioning whether construction of a large contemporary building next to an existing smaller historic structure diminishes in any way the overall historic character associated with the parcel.

Both Commissioners Bayer and Nabulsi expressed concerns with the strength of the wording of reason #3 (particularly the reference to the applicant having "extinguished its rights to an adaptive use"), since they felt that the Town had essentially approved/authorized the parcel in its

current configuration and they felt that to somehow suggest that the applicant is no longer entitled to the status quo is problematic.

Mr. Nerney and Ms. White noted that the historic structure was previously approved as an accessory structure and not as adaptive use.

Mr. Bayer questioned whether anyone on the Commission was in favor of approving the application, noting that it does provide additional affordably-priced housing along Route 7, which he felt was somewhat consistent with the Town's Plan of Conservation and Development, and he referenced the submitted examples of properties which the applicant felt were similar to the subject parcel.

No other Commissioner was in favor of approving the application. Mr. Nabulsi agreed that it seemed to be consistent with what the Town would like to see along Route 7, but he felt that the regulations do not support the applicant's proposal as submitted.

Ms. Gould expressed some concern that a denial of the application could potentially result in the destruction of the smaller historic building on the site.

It was the general consensus of the Commission that multiple principal buildings on one lot were problematic.

After further discussion about reason #3 on the draft resolution of denial and the strength of the language therein, it was the consensus of the Commission to revise the language in reason #3 with the understanding that a vote would be taken at the Commission's next meeting on January 10, 2011.

3. CHZ#10325, TBS Partners, LLC, 251, 255, 257, 259 Danbury Road, request to change zone from R-1A and GB to DRB

The Commission briefly reviewed draft resolution of approval **RES#1210-1MAP**.

MOTION was made by Mr. Bayer, seconded by Ms. Pratt, and carried unanimously (9-0) to adopt as drafted Resolution **#1210-1MAP** for **CHZ#10325**, effective January 1, 2011.

WHEREAS, the Wilton Planning and Zoning Commission accepted application **#10325** from Kevin O'Brien for a zone change to a Design Retail Business (DRB) District, for property located at 251, 255, 257 and 259 Danbury Road, Assessor's Map #73, Lots #2, #3, #4 and #5, and 0.964 acres; and owned by TBS Partners, LLC and the State of Connecticut; and as shown on plans entitled:

Vicinity Sketch- Prepared for Zone Change, Prepared by Douglas R Faulds, land surveyor, dated September 28, 2010, scale 1"=100'.

Property Survey- Prepared for Zone Change, Prepared by Douglas R Faulds, land surveyor, dated September 28, 2010, scale 1"=20'.

WHEREAS, the Planning and Zoning Commission has conducted a public hearing on November 22, 2010 and December 13, 2010 to receive comment from the public and has fully considered all evidence submitted at said hearings;

WHEREAS, the Planning and Zoning Commission has determined that the zone change is consistent with the Plan of Conservation and Development and is in accordance with the comprehensive plan and;

WHEREAS, the Planning and Zoning Commission has determined that the zone change is consistent with an established land use pattern of primarily commercial development along the west side of Danbury Road in this vicinity and further finds that the requested “DRB” designation mirrors the existing level and intensity of commercial development in this area, including the parcels under consideration.

NOW THEREFORE BE IT RESOLVED that the Wilton Planning and Zoning Commission **APPROVES** application #10325 effective January 1, 2011 for the following reasons:

1. The Commission finds the proposed zone change to be compatible with the adjacent zones to the north, west and south of the property.
2. The location of U.S. Route 7 and power lines maintained by the Connecticut Light and Power Company, result in the property being less useful for residential purposes.
3. The proposed conversion of a small piece of property from a General Business “GB” district to the Design Business Retail “DRB” district, results in the establishment of a consistent pattern of zoning along the west side of U.S. Route 7

- END RESOLUTION -

4. SUB#904, Vollmer, 137 Olmstead Hill Road, 4-lot subdivision

Tabled.

5. SP#355, Enterprises of Wilton, LLC, 5 River Road, Fast food store without drive-in facility

The Commission requested staff to prepare a resolution of approval for vote at the next meeting, subject to conditions as noted during the public hearing, including signage, lighting, fencing and trash receptacles.

6. SP#356, Kent District Spirits, LLC, Units #11 & #12, 39 Danbury Road, Operation of a package store

The Commission requested staff to prepare a resolution of approval, including addressing the five space parking waiver, for vote at the next meeting.

7. REG#10326, Amendments to Sections 29-8.A.2.b & 29-8.A.7.c pertaining to temporary signage regulations

The Commission briefly discussed the application as proposed. Minor changes were incorporated into the proposed verbiage. Staff was instructed to write the final resolution of approval **RES#1210-6REG**, which follows.

MOTION was made by Mr. Bayer, seconded by Mr. Rudolph, and carried unanimously (9-0) to approve application **REG#10326** as amended, effective January 1, 2011.

WHEREAS, the Wilton Planning and Zoning Commission accepted application #10326 for amendments to Sections 29-8.A.2.b. (8); 29-8.A.2.b. (9); 29-8.A.7.c. (2) and 29-8.A.7c. (3) of the Zoning Regulations of the Town of Wilton pertaining to temporary signs; and

WHEREAS, the Planning and Zoning Commission conducted a public hearing on December 13, 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 regulation amendment, as proposed, carefully balances the needs of non-profit and business entities with the objective of maintaining a safe and attractive community environment.

NOW THEREFORE BE IT RESOLVED that the Wilton Planning and Zoning Commission **APPROVES** application #10326 effective January 1, 2011 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.

Delete Section 29-8.A.2.b (8)

~~Temporary sign: a sign which announces a business opening, a festival, a bazaar, a special event, a tag sale or a political campaign.~~

Delete Section 29-8.A.7.c (2)

~~Temporary signs, including banners and A-frame signs, provided that: (a) a temporary permit has been issued by the ZEO indicating the nature, size, location and tenure of the signs; (b) the permit shall be valid for a period not to exceed 30 days; (c) the signs shall be removed within forty eight hours after the event; (d) such signs shall not be illuminated; and (e) A-frame or other temporary non-banner type signs shall not~~

exceed 16 square feet in area and temporary banner signs shall not exceed 45 square feet in area and (f) only one temporary sign, whether a banner or an A-frame, shall be permitted for each applicant at each location at any one time.*

Add to Section 29-8.A.2.b. (8)

Temporary Commercial Sign: A sign, such as a banner, single panel or double panel (A-frame) sign, used on a short-term basis for the purpose of advertising on-site business activities; including an initial business opening, sale, transitory event or the termination of business activity.

Add to Section 29-8.A.2.b. (9)

Temporary Non-Commercial/Non-Profit Sign: A sign, such as a banner, single panel or double panel (A-frame) sign intended for use by a tax exempt group organized under Section 501 of the Internal Revenue Code as amended and maintained on a temporary basis to announce a transitory non-profit event. Temporary Non-Commercial/Non-Profit signs do not include signs protected under laws governing political speech.

Add to Section 29-8.A.7.c. (2)

Temporary Commercial Sign, one sign per business tenant when located on a commercially-zoned parcel or on any parcel possessing legal frontage on Danbury Road, subject to adherence with the following provisions: (a) Such signs shall only be allowed following the issuance of a sign permit from the Zoning Enforcement Officer; (b) Signage shall be situated and restricted to the parcel on which the business activity is located; (c) An application request shall include written authorization from the owner of the property on which the sign is to be located; (d) Banners shall not exceed an area of 45 square feet and single or double panel signs shall not exceed an area of 16 square feet; (e) Subject to the issuance of a permit for each occasion, an applicant may erect up to three (3) temporary commercial signs within any calendar year, provided that no more than one (1) sign is maintained at any given time, each permissible occasion is limited to a period of not more than fourteen (14) days and a minimum of thirty (30) days is maintained between each issued permit; (f) A temporary commercial sign shall not be located within the public right-of-way (including, street, sidewalk, public utility poles or landscaped shoulder) nor maintained in a manner that obstructs vehicular or pedestrian visibility or results in any other unsafe condition; (g) No temporary commercial sign shall be situated and maintained within fifty (50) linear feet of a similar type sign and (h) Such signs shall not be illuminated and shall be removed from public view immediately following termination of permit.

Add to Section 29-8.A.7c. (3) and recodify following provisions

Temporary Non-Commercial/Non-Profit Signs. A non-profit organization, as defined in these regulations, may display not more than 20 signs throughout Wilton for a period of not more than 14 days for any sponsored non-profit event. Banner signs shall not exceed 45 square feet in area and single or double panel signs shall not exceed 16 square feet in area. Such signage shall be

subject to written authorization from the owner of the property on which the sign is erected. Temporary Non-Commercial/Non-Profit Signs shall be removed no later than 48 hours following an event. No more than one sign shall be displayed on any given parcel.

- END RESOLUTION -

F. COMMUNICATIONS

1. Athlete's Foot retail establishment, 5 River Road, modifications to building

Mr. Nerney explained that the application does not involve any usage changes, but rather just internal modifications in connection with the change in tenancy. He explained that the Village District Consultant Committee has reviewed the application and requested a slight shift upward in location of the proposed signage as well as a change to its proposed illumination.

Ms. Poundstone stressed the importance of harmony in shapes and color within the shopping complex as a whole, and Mr. Wilson stated that he would like some consistency in font as well.

Mr. Nerney stated that he would pass along these suggestions to the Village District Consultant Committee.

2. Georgetown Community Association (Pat Hegnauer), Winter indoor farmers' market at the Gilbert and Bennett School

Mr. Nerney noted that he spoke with Assistant Town Counsel Pat Sullivan, as requested by the Commission, and while she indicated that the Commission may interpret its own regulations, she cautioned that all possible Town-wide ramifications of such a proposal (e.g. possible similar events at Merwin's Meadows, Montessori School, etc.) be considered, as well as what the proposed event is as opposed to who is proposing it (i.e. would the impacts from a commercial use on the site be any different). Mr. Nerney noted further that the Town's special event permits are time limited to no more than 10 days per each event, twice per year.

In light of existing special event permit regulations, Mr. Nabulsi questioned the basis upon which the Commission could possibly approve the subject application. Ms. Poundstone noted further that the site is located in a residential area and Ms. Ayers noted that parking is also limited. Mr. Nerney raised the question of whether there is any difference between selling vegetables versus art, for example. Ms. Gould questioned whether it could be considered analogous to the Garden Club's management of Old Town Hall.

It was the general consensus of the Commission that, based upon its careful review and consideration, the proposed use does not fall under the category of a temporary event and

therefore is deemed not permissible within the special permit event regulations.

Mr. Nabulsi felt that it would be worthwhile to consider adoption of some other type of special event permit regulation which would extend for a certain duration and could perhaps be renewed periodically.

Ms. Poundstone suggested that the matter be referred to the Regulations Committee for its consideration.

3. GRA Guttman Realty Advisors, 111 Danbury Road, proposed seasonal farming and fishing operation

Mr. Guttman stated that while he plans to submit a formal application to the Commission, he would appreciate some guidance from the Commission regarding the areas of the application upon which he should focus. He explained that he would like to offer trout fishing for a fee and noted that he has already received approval for a lease from the State of Connecticut.

He explained further that while no permanent site improvements are proposed, planned modifications include a floating dock, sub-surface aeration, split rail fencing, hiking trails, and temporary service trailers. He stated that the proposed use would be for eight months of the year and would be recreational in nature, noting that there would not be any fish offered for sale.

Ms. Gould emphasized the issue of security, referring to a number of deaths which have occurred in the area over the years.

G. REPORT FROM CHAIRMAN

1. Reports from Committee Chairmen

H. REPORT FROM PLANNER

I. FUTURE AGENDA ITEMS

J. ADJOURNMENT

MOTION was made by Mr. Wilson, seconded by Mr. Hulse, and carried unanimously (9-0) to adjourn at 10:06 P.M.

Respectfully submitted,

Lorraine Russo
Recording Secretary