

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

## WILTON PLANNING & ZONING COMMISSION MINUTES JANUARY 10, 2011 REGULAR MEETING

**PRESENT:** Chairwoman Sally Poundstone, Vice Chairman John Wilson, Secretary Doug Bayer, Commissioners 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.

### PUBLIC HEARINGS

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

Ms. Poundstone called the Public Hearing to order at 7:15 P.M., seated members 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 December 23, 2010. He referred for the record to a memorandum dated December 29, 2010 from Michael Ahern to Daphne White; a response document dated December 29, 2010 from Housatonic Valley Council of Elected Officials (HVCEO); and a 2-page Planning and Zoning Staff Report dated January 6, 2011.

Present were Jerry Effren, Greyrock of Wilton, LLC, applicant; and Steve Grushkin, attorney on behalf of the applicant.

Mr. Effren reviewed a brief history of the site, noting that the original application was approved in January, 2007; building permits were obtained in March, 2008; and the site

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was officially shut down/stabilized in July, 2008 due to the recent economic downturn. He explained that in order to be economically viable, a development must be priced to sell out within 18 months, and he noted that the real estate market is down approximately 30% from 2006. He distributed a brochure of renderings of the approved development, with included site plan.

Mr. Wilson recused himself from the hearing.

Mr. Grushkin stated that while the applicant understands the need and desire for affordable housing, it sometimes just doesn't work because of the lack of synergy between affordable housing and the type of development that is being proposed. He explained that having to set aside and sell 20% of developed units for \$375K - \$450K when other units in the development are priced at \$1.2 - \$1.3 million, and where the average sales price in the Town is \$800K-\$850K, just doesn't work or make sense.

Mr. Grushkin referred to page 59 of the Town's Plan of Conservation and Development, noting that "62 of the 162 affordable units in Wilton will lose their affordability restrictions between 2016 and 2020." He also cited from the same document that "it is difficult to build new affordable housing due to environmental impacts, traffic concerns, and concerns often raised by neighbors, so it is critical that Wilton work to retain the affordability of these existing housing units."

Mr. Grushkin also referred to item #2 in the Planning and Zoning Staff Report, which referenced alternative options for affordable housing as set forth in the Connecticut Statutes (e.g. a "fee in lieu of" provision whereby an applicant may pay into an affordable housing trust fund in lieu of providing affordable housing in the new development itself).

In light of the foregoing references, he suggested incorporating a condition into Wilton affordable housing regulations so that a developer might have some flexibility to build/develop housing as he sees fit, while still making provision to increase the Town's affordable housing stock. One option he suggested is to require a developer to purchase smaller off-site homes, bring them up to code, and then sell them at affordable housing rates, with the potential to incorporate affordable housing restrictions in perpetuity at the Town's discretion. He emphasized again the difficulty of building homes in the million-dollar price range while being obligated to set aside affordable housing units for \$400K+/- within the same development.

Ms. Poundstone noted that when the Greyrock project was approved, careful consideration was given to the application and many options were considered. She noted further that the public had opportunity to speak at that time, and the applicant accepted all conditions of approval. She questioned whether the applicant's proposed amendment modification is solely due to the worsening economic situation.

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Mr. Grushkin stated that the economic situation was not the justification for the subject application, noting that the applicant would not expect the Commission to change its regulations due to a 6, 12 or 18-month downturn in the economy. He stated that the regulations, as currently written, work for multi-family types of dwellings but not for single-family types of homes due to costs of construction/development. Mr. Effren added that the formulas utilized to calculate affordable housing rates for large cluster homes result in far greater costs to developers than those associated with condominiums.

Referencing the option of purchasing and improving existing off-site smaller homes, Mr. Grushkin stated that such a requirement would force developers to preserve smaller homes in the community, and would reduce the number of tear-downs and subsequent construction of much larger homes on such parcels.

Mr. Rudolph stated that there was not sufficient information provided by the applicant on the 2-page amendment application submitted, noting that it is not clear what the basis of the application is and why the applicant is not filing a new set of plans to meet its current economic needs. He stated that the affordable housing component was presented by the applicant as one of the prime bases for the original approval, noting that the applicant today is taking a completely opposite approach in that regard. He stated that he would like to see the resolution of approval and minutes of discussions pertaining to the original application from Greyrock.

Ms. Poundstone agreed that such additional information/documentation would be very helpful.

Ms. Gould noted that although she was not on the Commission when this original application was approved several years ago, she was involved with the original drafting of affordable housing 30 years ago. She explained that the idea was to give a density bonus to incent developers to provide affordable housing which could be somewhat smaller than, and not offer all of the same amenities as, similar market-priced units in the development. She asked whether the subject applicant was, in fact, given a density bonus in exchange for providing affordable housing in the subject development. She noted further her belief that it is time for the Town to review its affordable housing regulations.

Mr. Nerney explained that the applicant had sought and obtained a change of zone for the subject parcel from Residential 1-acre (R-1A) zoning to Design Residential Development (DRD), which permits up to 3 units per acre. He noted that the 10-acre parcel received approval to develop 20 units, equating to approximately 2 units per acre. He noted further that there is nothing in the regulations that specifically references a density bonus.

Ms. Gould asked whether the understanding at the time of approval was that the affordable units would be built at a less expensive building standard than the market-based units. Mr. Effren explained that all of the units, regardless of eventual selling

price, must be built according to State building code standards.

Mr. Nabulsi noted that it was the applicant's choice to take what was a single-family zoned property and change its zone to support a 20-unit DRD development with an affordable housing component. He noted further that he could not find anything in the subject application, as submitted, that references any of the affordable housing options the applicant is now proposing.

Mr. Grushkin stated that the applicant would be happy to withdraw the subject application if, in lieu, it could meet with staff with an eye towards developing affordable housing options that would be appropriate not only for this applicant but for future developers in Town as well. He stated that the applicant would be happy to then come forth with a more detailed application for the Commission's review.

Mr. Effren noted that possible options could include off-site purchases and/or contributions to a general housing trust fund. He also referenced development of energy-efficient units per guidance of the Plan of Conservation and Development. Mr. Grushkin felt that where a development unit's selling price would be greater than the average sales price of housing stock in Town, then a developer should be exempt from the affordable housing requirement as it is *currently* written. However, he felt that the Commission would have to fill in the blanks as to what an appropriate alternative(s) would be under such circumstances.

Mr. Effren distributed a "Wilton Market Data" packet indicating average sales prices over the past two years of single-family homes as compared to condominiums. He noted that the discrepancies were significant.

Mr. Bayer acknowledged that while the previously approved application made economic sense at the time it was approved, there might be some merit in looking at other alternatives for affordable housing in Town. He felt, however, that the quality of off-site affordable housing would be an important consideration to the Town, noting that it would not want a million-dollar unit replaced by a \$200K off-site house. He felt that some specific parameters would have to be stipulated in connection with a qualifying off-site house (i.e. size of house, size of lot, etc.).

Mr. Grushkin stated that it was not the intent of the legislature to have affordable housing standards far exceed those of an average homeowner in a community. Mr. Effren also noted that the Town is losing taxing potential in connection with these lower-priced affordable units that are currently required in these more expensive developments.

Mr. Bayer recalled that the site was originally approved as a single-family residential parcel with a gigantic roadway leading up to the site, and after that approval was obtained this application was then submitted. He asked if the applicant would be back before the

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Commission with material changes to the project if some relief were in fact granted. Mr. Effren stated that he would not be back with any material changes.

Ms. Gould expressed interest in the concept of developing other affordable housing options, noting that there used to be many small starter homes in Town that have been lost to larger developments over the years. Ultimately, though, she felt that it would be better for the Commission to write such regulations rather than an applicant.

Mr. Bayer felt that it would be good for the site to be built, noting that if the applicant could provide some sort of broader affordable housing relief it might be worth the Commission's time to pursue/consider such an option. He stated that a more detailed application could serve as a basis for such a discussion.

Mr. Grushkin withdrew the application on behalf of the applicant with the understanding that the applicant would continue to explore the options discussed and would submit an application specifically detailing alternative affordable housing options. He thanked the Commission for its time, effort and guidance.

Mr. Rudolph asked that the applicant incorporate minutes and approvals from the original application as part of its new application.

There being no further comments from the Commission or the public, at 8:18 P.M. the application was withdrawn.

**REGULAR MEETING**

A. Ms. Poundstone called the Regular Meeting to order at 8:18 P.M., seated members 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. December 13, 2010 – Regular Meeting**

MOTION was made by Mr. Bayer, seconded by Ms. Gould, and carried unanimously (8-0) to approve the minutes of December 13, 2010 as amended.

**C. SITE DEVELOPMENT PLAN REVIEW**

**D. ACCEPTANCE OF NEW APPLICATIONS**

**1. SP#358, Anda, 76 Sturges Ridge Road, Accessory dwelling unit**

MOTION was made by Ms. Poundstone, seconded by Mr. Wilson, and carried unanimously (8-0) to accept the application and set a public hearing date for February 14, 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 referenced a discussion from the last meeting, noting that the thought at that time was to deny the application outright and have the applicant submit a subsequent application after working out the wetland-related issues with the Inland Wetlands Commission (IWC). He reminded Commissioners that the IWC only approved Phase 2 of the application due to wetlands impacts associated with Phase 1. He stated that he had since spoken to Assistant Town Counsel Pat Sullivan, who thought that another Commission option would be to approve the application, but limit improvements to just the Phase 2 portion of the application in consideration of the IWC decision. To that end, he noted that staff had drafted two possible resolutions for the Commission to consider this evening: 1) a resolution of denial and 2) a resolution to approve Phase 2 only.

Mr. Bayer raised the possibility of approving the entire application as submitted (i.e. Phase 1 and Phase 2).

Mr. Nerney stated that such an option is possible, although he noted that at the last meeting it seemed that the Commission was inclined to find in favor of the IWC advisory report that was forwarded to the Planning and Zoning Commission, and to try to work in concert with the IWC decision.

In response to a question from Ms. Gould regarding ramifications of an outright denial, Mr. Nerney noted that the applicant is anxious to begin construction of at least some portion of the proposed site modifications. He explained that an appeal has already been brought by the applicant to the Inland Wetlands Commission, noting that if the Planning and Zoning Commission (PZC) were to vote in favor of an outright denial it is likely that a similar appeal would be brought forward to it as well. He thought that a partial approval might stave off such an appeal and perhaps look better in the eyes of the court as well.

Mr. Rudolph noted that it would be advantageous to the Town for the property to be as

marketable as possible, and he questioned whether the IWC denial of Phase 1 was adequate grounds for a similar denial by the PZC. He felt that the Town needs to give the applicant a chance to rent the premises.

Ms. Gould stated that she did not believe the site is significantly under-parked, as asserted by the applicant, and she was also not convinced that the distance from the office building to Phase 2 parking would be very attractive to any future lessee of the site. She questioned how the IWC denial of Phase 1 parking would impact a PZC approval.

Mr. Nerney explained that if the PZC were to approve both Phases 1 and 2, the application would still be administratively denied when the applicant applies for a building permit since IWC approval is required as part of the permitting process.

Mr. Nerney noted for the record that the Commission is required by State statute to take action this evening.

Ms. Gould felt strongly that the PZC should be working hand-in-hand with its co-Commissioners and thus she was not in favor of approving both phases of the application in light of the IWC denial of Phase 1.

Mr. Bayer was not in favor of approving only Phase 2 parking given the Commission's clear preference for Phase 1 over Phase 2 parking throughout all of its hearings.

Mr. Nabulsi agreed with Mr. Bayer, noting that he would be willing to approve the entire application (Phases 1 and 2), but would vote against a Phase 2 approval only.

Mr. Wilson noted that there are times when the charge of the PZC does not line up with that of the IWC.

Mr. Bayer suggested approving both Phases 1 and 2 of the application, with the understanding that if the applicant determines Phase 2 to be unnecessary, then the applicant would be required to come back before the Commission to request removal of the requirement to build Phase 2. With such an approval/verbiage, it was noted that if the IWC does not reverse its decision regarding Phase 1 construction, then the applicant would not be able to build anything.

**MOTION** was made by Mr. Bayer, seconded by Mr. Nabulsi, and carried (7-1) to approve **Resolution #0111-1P** for **SP#190I**, effective January 31, 2011, as amended to approve both Phases 1 and 2 of the application, with a condition that the applicant be permitted to come back before the Commission to seek removal of the requirement to build Phase 2 parking if the applicant determines that Phase 2 parking is not necessary. Ms. Gould opposed for reasons heretofore noted.

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**WHEREAS**, the Wilton Planning and Zoning Commission (Commission) has received a Special Permit application (**SP#190I**) from Atty. J. Casey Healy submitted on behalf of Teacher's Insurance Annuity Association of America, to establish 197 surface parking spaces depicted in two phases, more specifically described as "Phase 1" and "Phase 2", for property located at 10 Westport Road; located in a Design Enterprise District (DE-10) Zoning District, Assessor's Map #56, Lot #43-1, totaling 32.549 acres; owned by Teacher's Insurance Annuity Association of America and shown on the plans entitled:

Property Survey, Prepared for Teachers Insurance and Annuity Association of America  
Prepared by Douglas R. Faulds, land surveyor, dated June 3, 2010, at a scale of 1"=80', sheet # not noted.

Topographic Survey, Prepared for Teachers Insurance and Annuity Association of America  
Prepared by Douglas R. Faulds, land surveyor, dated June 3, 2010, at a scale of 1"=40', sheet # not noted.

Vicinity Map, Prepared for Teachers Insurance and Annuity Association of America  
Prepared by Douglas R. Faulds, land surveyor, dated June 3, 2010, at a scale of 1"=100', sheet # not noted.

Cover Sheet and Location Map, Prepared for 10 Westport Road  
Prepared by Erik W. Lindquist and John W. Block, engineers, dated June 16, 2010, revised September 7, 2010, at a scale of 1"=1000', sheet # not noted.

Overall Site Layout Plan, Prepared for 10 Westport Road  
Prepared by Erik W. Lindquist and John W. Block, engineers, dated June 16, 2010, last revised September 7, 2010, at a scale of 1"=80', sheet # C-1.0.

Site Layout Plan, Prepared for 10 Westport Road  
Prepared by Erik W. Lindquist and John W. Block, engineers, dated June 16, 2010, last revised September 7, 2010, at a scale of 1"=30', sheet # C-2.0.

Grading and Drainage Plan, Prepared for 10 Westport Road  
Prepared by Erik W. Lindquist and John W. Block, engineers, dated June 16, 2010, last revised September 7, 2010, at a scale of 1"=30', sheet # C-3.0.

Sedimentation and Erosion Control Plan, Prepared for 10 Westport Road  
Prepared by Erik W. Lindquist and John W. Block, engineers, dated June 16, 2010, last revised September 7, 2010, at a scale of 1"=30', sheet # C-4.0.

S & E Notes, Narrative and Details, Prepared for 10 Westport Road  
Prepared by Erik W. Lindquist and John W. Block, engineers, dated June 16, 2010, last revised September 7, 2010, at a scale of 1"=30', sheet # C-4.1.



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Lighting Plan, Prepared for 10 Westport Road

Prepared by Tighe&Bond, engineers, dated June 16, 2010, last revised September 7, 2010, at a scale of 1"=30', sheet # C-5.0.

Alternate Lighting Plan, Prepared for 10 Westport Road

Prepared by Tighe&Bond, engineers, dated June 16, 2010, last revised September 7, 2010, at a scale of 1"=30', sheet # C-5.1.

Details Prepared for 10 Westport Road

Prepared by Erik W. Lindquist and John W. Block, engineers, dated June 16, 2010, last revised September 7, 2010, at a scale as noted, sheet # C-6.0.

Details Prepared for 10 Westport Road

Prepared by Erik W. Lindquist and John W. Block, engineers, dated June 16, 2010, last revised September 7, 2010, at a scale as noted, sheet # C-6.1.

Landscape Plan, Prepared for 10 Westport Road

Prepared by Katherine E Throckmorton, landscape architect, dated June 16, 2010, last revised September 8, 2010, at a scale of 1"=30', sheet # LP-1.

**WHEREAS**, the Commission opened and conducted a public hearing beginning on July 26, 2010, continuing to meetings held on September 13, 2010, September 27, 2010, October 12, 2010 and October 25, 2010; and

**WHEREAS**, the Commission received testimony from the applicant and staff documenting conditions of deficient parking and conditions of non-conformity with regard to compliance with Town zoning regulations governing the number of required parking spaces serving the office park complex; and

**WHEREAS**, the Commission finds the application consistent with the 2010 Plan of Conservation and Development with regard to advancing the long range economic interests of Wilton; specifically allowing the office park to function in an economically viable and competitive manner; and

**WHEREAS**, the Commission was presented with several alternative options for parking expansion and finds the subject proposal, as presented, to be the least disruptive in terms of topographic alteration, tree clearing and neighborhood impact; and

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

**NOW THEREFORE BE IT RESOLVED** that the Wilton Planning and Zoning Commission

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**APPROVES** Special Permit #190I to establish one hundred ninety-seven (197) surface parking spaces described as “Phase “1” and “Phase 2”, effective January 31, 2011 and 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 January 31, 2016.
3. Any modification to or deviation from the approved plan, including but not limited to the deletion of Phase 2, shall be subject to the Wilton Planning and Zoning Commission’s approval.
4. 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.

### **GENERAL CONDITIONS**

5. There shall be no construction activities on the site on Sundays or on major holidays. All construction related activities must be performed between 7:00 A.M. and 6:00 P.M. Monday through Friday and between 8:00 A.M. and 6:00 P.M. on Saturdays.
6. A copy of this resolution shall be given to the construction manager and shall be available on site during construction.
7. Erosion control measures shall be strictly enforced. The vehicular access points shall be swept clean of all dirt and debris at the end of each day.
8. All proposed light fixtures shall be reviewed and approved by Planning and Zoning staff. All light fixtures shall have no visible light sources or filaments as specified in the Zoning Regulations. All exterior lighting shall be extinguished by 10:00 P.M., except security and safety lights needed for the office building and the parking garage.
9. A bond estimate for all site work shall be provided by the applicant to the Town Planner, which shall include, but not be limited to sedimentation and erosion controls, drainage, grading, paving, curbs, sidewalks, retaining walls, landscaping, seeding, lighting and a 10% contingency. The applicant shall furnish to the Town a bond with proper surety, in form and

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amount satisfactory to the Commission's land use counsel and the Town Planner, before a zoning permit can be issued.

10. Tree protection shall be provided for all trees to be saved, adjacent to and within areas described as Phase 1 and Phase 2.
11. The applicant shall submit a photometric as-built lighting plan demonstrating compliance with town zoning regulations. Said plan shall be submitted prior to the issuance of a Certificate of Zoning Compliance.
12. Prior to the issuance of zoning compliance, the applicant shall provide an “as-built” subsurface plan, prepared, signed and sealed by a Connecticut-licensed engineer, verifying that the subsurface drainage system was installed as specified on the approved Grading and Drainage Plan, Sheet # C-3.0. The “as-built” subsurface plan shall include the Phase 2 parking area and adjacent sidewalk and for the wheelchair accessible parking area.

**Submittal of revised plans and application:**

13. Prior to the issuance of a zoning permit, 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. "According 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 January 31, 2016."
  - b. "For conditions of approval for Special Permit #190I, see **Resolution #0111-1P**"

- End 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**

Withdrawn.

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

The Commission briefly reviewed Resolution #0111-1S.

MOTION was made by Ms. Gould, seconded by Mr. Nabulsi, and carried unanimously (8-0) to adopt as drafted Resolution #0111-1S for SUB#904, effective January 31, 2011.

**WHEREAS**, the Wilton Planning and Zoning Commission has received a **Subdivision** application **SUB#904** from Scott E. and Patricia Vollmer, for a four-lot subdivision located on 137 Olmstead Hill Road, in an R-2A District, Assessor's Map #77, Lot #13, 11.149 acres, owned by Scott E. and Patricia Vollmer and shown on the plans entitled:

Vicinity Map prepared for Scott E. Vollmer and Patricia Vollmer, prepared by Douglas R. Faulds, land surveyor, dated August 10, 2010, at a scale of 1"=100'.

Property Survey prepared for Scott E. Vollmer and Patricia Vollmer, prepared by Douglas R. Faulds, land surveyor, dated August 10, 2010, at a scale of 1"=40'.

Subdivision prepared for Scott E. Vollmer and Patricia Vollmer, prepared by Douglas R. Faulds, land surveyor, dated August 10, 2010, last revised November 20, 2010, at a scale of 1"=40'.

Data Accumulation Plan - Existing Conditions Plan prepared for Scott E. Vollmer and Patricia Vollmer, prepared by Douglas R. Faulds, land surveyor, dated August 10, 2010, last revised November 20, 2010, at a scale of 1"=40'.

Site Development Plan prepared for Scott E. Vollmer and Patricia Vollmer, prepared by Holt W. McChord, engineer, dated August 11, 2010, last revised December 8, 2010, at a scale of 1"=40', sheet #SE-1.

Construction Notes and Details prepared for Scott E. Vollmer and Patricia Vollmer, prepared by Holt W. McChord, engineer, dated August 11, 2010, last revised December 8, 2010, scale as noted, sheet #DT1.

Septic System Notes and Details prepared for Scott E. Vollmer and Patricia Vollmer, prepared by Holt W. McChord, engineer, dated August 11, 2010, last revised December 8, 2010, scale as noted, sheet #DT2.

Wetland Mitigation, Enhancement and Long-term Management Plan prepared for Scott E. Vollmer and Patricia Vollmer, prepared by Jay Fain & Associates, LLC, environmental consultant, dated September 15, 2010, scale of 1"=40', sheet #L-1.

**WHEREAS**, the Planning and Zoning Commission has conducted a public hearing on

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November 22, 2010 and December 13, 2010 to receive comment from the public and has fully considered all evidence submitted at said hearing; and

**WHEREAS**, the Inland Wetlands Commission has rendered a favorable report to the Planning and Zoning Commission has given due consideration to the consensus of the Inland Wetlands Commission; and

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

**NOW THEREFORE BE IT RESOLVED** effective January 31, 2011 the Wilton Planning and Zoning Commission **APPROVES** the four-lot subdivision subject to the endorsement and filing of the record Subdivision Map, and subject to the following conditions:

**A. GENERAL CONSIDERATIONS**

1. It is the responsibility of the applicant to obtain any other permits or licenses required by law or regulation. Governing bodies which may have jurisdiction include the Town of Wilton; the State of Connecticut or the United States Government.
2. No equipment or material shall be deposited, placed or stored in any wetland or water course, on or off site unless specifically authorized by an Inland Wetlands Permit.
3. Housing numbers shall be as follows:

Lot 1 shall become 133 Olmstead Hill Road, (Map#77, Lot#13-1)  
Lot 2 shall become 135 Olmstead Hill Road, (Map#77, Lot#13-2)  
Lot 3 shall remain 137 Olmstead Hill Road, (Map#77, Lot#13)  
Lot 4 shall become 131 Olmstead Hill Road, (Map#77, Lot#13-3)

**B. CONDITIONS PERTAINING TO ALL LOTS**

4. All utilities shall be installed underground.
5. Development shall not alter the existing natural site grading and drainage patterns of adjoining properties. Runoff caused by new development, during and after construction, shall be minimized and diverted to natural drainage patterns.
6. Driveways shall be clearly marked to facilitate rapid identification by emergency vehicles.
7. Fuel oil tanks shall only be located above ground or within a basement.
8. The applicant shall employ all reasonable measures to ensure that use of any explosives during construction of any lot does not damage neighboring properties.
9. All existing stone walls and existing trees and shrubs shall be preserved to the fullest extent possible.
10. To ensure public safety, clear access of the driveway shall be maintained at all times

during construction. Construction equipment shall not be parked or stored on or within any public right-of-way.

11. Any change deemed significant in the discretion of the Planning and Zoning Department staff in the build-out of each lot or location and design of infrastructure improvements associated with this application shall be subject to the review and approval of the Commission.
12. The applicant, contractor and Planning and Zoning Department staff shall have a pre-construction meeting in order to ensure compliance with Planning and Zoning Commission requirements. Said meeting shall be conducted prior to the commencement of any site work including tree cutting and/or land clearing; the results of which shall be to the full satisfaction of the Planning and Zoning Department staff.
13. Unless otherwise approved by the Planning and Zoning Department staff, all site disturbance shall be performed in a manner as indicated on the grading plan.
14. There shall be no construction activities on the site on Sundays or holidays. The hours of construction shall be within the hours of 7:00 am and 5:00 pm Monday through Friday and 8:00 am and 5:00 pm on Saturdays. Such restrictions shall not apply to interior work performed within individual houses.
15. A copy of this resolution shall be given to the project manager of each lot and shall be available on site during construction.

**C. PRIOR TO FILING OF FINAL SUBDIVISION MAP**

16. The Final Subdivision Plan shall be revised to include the following:
  - a. The address designation within each approved lot as specified herein.
  - b. The note: “Subdivision #904 for conditions of approval see Resolution #0111-1S.
  - c. A note shall be updated to include the Health Department certification block pursuant to Section 3.315 of the Subdivision Regulations.
  - d. The subdivision map shall be filed within 90 days following expiration of the appeal period, unless the applicant obtains an extension from the Planning and Zoning Commission.
  - e. The applicant shall provide the Planning and Zoning Department with an electronic copy of the subdivision plan prior to the recording of said plan with the Town Clerk.

**D. SUBSEQUENT TO FILING OF THE FINAL SUBDIVISION MAP**

17. The applicant shall, within thirty (30) day of the filing of the Final Subdivision Plan, submit the following:
  - a. Eight (8) paper prints of the filed subdivision plan with the Town Clerk’s notations. Said prints shall be signed and embossed by all the appropriate

consultants/engineers.

- b. The record subdivision map shall indicate all watercourses and wetlands on all of the lots and shall delineate the limit of disturbance on each lot.
- c. A Mylar reduction of the approved Subdivision Plan at a scale of 1"=800'.
- d. Four (4) copies of all other plans and documents as specified herein. Said plans and documents shall bear the seal, signature and license number of the registered professional(s) responsible for preparing appropriate sections of the plans and documents.

**E. PRIOR TO THE ISSUANCE OF A ZONING PERMIT**

18. The site plan for all lots shall be in accordance with the applicant's approved site development plans entitled: Site Development Plan prepared for Scott E. Vollmer and Patricia Vollmer, prepared by Holt W. McChord, engineer, dated August 11, 2010, last revised December 8, 2010, at a scale of 1"=40', sheet #SE-1.
19. Prior to obtaining a zoning permit for the re-development of any lot, the applicant shall submit a site plan for review by the Commission's staff. Each site plan shall include a tree and stone wall preservation plan. Such plan shall locate trees with a diameter (caliper) over 16" within the buildable area and 10" diameter (caliper) within the setback areas and the location of stone walls. The plan shall explain why any such tree or stone wall is not being preserved, and shall explain alternate plans that have been considered. All trees and stone walls included in the tree and stone wall preservation plan must be protected during the construction phase and thereafter.
20. *The Grant of Fire Cistern Easement, the Rain Garden Landscape Maintenance Agreement, and the Declaration of Driveway and Utility easements and Maintenance Agreement* shall all be subject to review and approval by the Town's Counsel and staff and the documents shall all be filed with the Town Clerk prior to the issuance of a zoning permit. In lieu of a *Declaration of Open Space Restrictions*, the applicant shall provide a *Grant of Conservation* restricting the rear portion of Lot #3 to conservation use only; subject to review and approval by Wilton's Town Counsel. The *Grant of Conservation* shall be modified to reflect that the ownership of the open space is to belong solely to the owner of Lot 3 and all development shall be restricted and designated for conservation purposes only.
21. The proposed storm drainage (including the rain gardens and outlet swales) for all lots shall be in accordance with the applicant's approved site development plans referenced in the condition above, the storm water analysis and the site plan entitled: Site Development Plan prepared for Scott E. Vollmer and Patricia Vollmer, prepared by Holt W. McChord, engineer, dated August 11, 2010, last revised December 8, 2010, at a scale of 1"=40', sheet #SE-1.
22. Any change or alteration to planned drainage improvements shall be subject to the review and approval of Planning and Zoning Commission and/or Planning and Zoning Department staff.
23. A bond estimate for all site work shall be provided by the applicant to the

Commission's staff, which shall include, but not be limited to sedimentation and erosion controls, tree protection, storm water drainage (including rain gardens and outlet swales), grading, fire cistern, permeable pavers, driveway accessway, retaining walls, seeding and a 10% contingency. Such amount shall be approved by the Commission's staff. The bond shall be in a form and amount with proper surety satisfactory to the Commission's Land Use Counsel and shall be submitted prior to any site disturbance.

24. All disturbed areas, including areas where trees are to be removed, shall be clearly delineated through the use of either silt or construction fencing prior to the commencement of any site activity. Delineation of such areas shall be performed by a licensed surveyor and approved by staff prior to the commencement of any site work and prior to the issuance of a zoning permit.
25. The Planning and Zoning Department reserves the right to require a storm water analysis for each lot to be developed. Said plan shall be prepared and stamped by a professional engineer and submitted and approved by the Planning and Zoning Department prior to the issuance of a Zoning Permit. All drainage designs shall conform to standards set forth in the town's zoning regulations and subdivision regulations.

**F. PRIOR TO THE ISSUANCE OF A CERTIFICATE OF ZONING COMPLIANCE**

26. All new utilities for each lot shall be installed underground prior to the issuance of a certificate of zoning compliance.
27. All lot corners shall be pinned and verified by the applicant's Land Surveyor and shall be submitted prior to obtaining zoning compliance for each lot.
28. An as-built plan showing the location of the installed storm water system, including the rain gardens and outlet swales or approved alternative designs, as depicted on the approved site development plan, shall be submitted prior to zoning compliance for each lot. The engineer of record shall inspect the construction process and, upon completion, provide a letter and an as-built plan locating the storm water system and certifying the functionality of such system.
29. Prior to the issuance of a zoning certificate of compliance, a document outlining the procedures for the maintenance of the storm water system and rain gardens shall be submitted to the Planning and Zoning Department for review and approval. Said document shall be recorded in the land records for each lot.

-END RESOLUTION-



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

The Commission briefly reviewed Resolution #0111-3P.

MOTION was made by Ms. Gould, seconded by Mr. Wilson, and carried unanimously (8-0) to adopt as drafted Resolution **#0111-3P** for **SP#355**, effective January 31, 2011.

**WHEREAS**, the Wilton Planning and Zoning Commission has received a Special Permit application (**SP#355**) from Adam Kessner/Enterprises of Wilton, LLC (applicant) for authorization to allow the establishment of a 667 square foot fast-food yogurt shop for property located at 5 River Road, in the Wilton Center “WC” District, Assessor’s Map #73, Lot #25, consisting of 7.625 acres owned by Wilton Shopping Center, Limited Partnership c/o Sparrow Management and shown on the plans entitled:

Improvement Location Survey - Prepared for Wilton Shopping Center Limited Partnership, Prepared by Robert L. Lissel Jr., land surveyor, dated January 5, 2006, revised February 8, 2006, scale 1”=40’, no sheet #.

First Floor Plan & Equipment Schedule - Prepared for Swizzles Wilton LLC, Prepared by R.S. Granoff, Architects, architects, dated November 3, 2010, revised December 2, 2010, scale ¼”=1’, sheet #A1.

Front Elevation and Sign Detail - Prepared for Swizzles Wilton LLC, Prepared by R.S. Granoff, Architects, architects, dated November 3, 2010, scale as noted, sheet #A2.

**WHEREAS**, the Wilton Planning and Zoning Commission has 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**, 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 #355 to allow the establishment of a 667 square foot fast-food restaurant, effective January 13, 2011 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 January 13, 2016.

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. Prior to the issuance of a zoning permit the applicant shall revise the plans to reflect the lighting, signage and entry doorway hardware reviewed and recommended by the Village District Consultant Committee. In addition, the revised plans shall also include six to seven 2-3' tall shrubs to match existing shrubs in the planting bed adjacent to the stone wall and staircase to prevent pedestrian access over the wall.
5. The applicant shall locate and maintain a refuse container, similar in design to existing refuse containers used at Wilton Shopping Center. The refuse container shall be located in close proximity to the exterior doorway.
6. No additional dumpsters shall be allowed on the premises without the approval of either the Planning and Zoning Commission or the Commission's staff.
7. The dumpster shall be serviced so as to maintain appropriate sanitary conditions.
8. No parking of delivery vehicles shall be allowed on River Road or on the site's main access drive off of River Road.
9. No alcoholic beverages shall be served in conjunction with the business.
10. The installation of rooftop mechanical equipment shall be prohibited unless otherwise authorized by the Planning and Zoning Commission.

**Submittal of revised plans and application:**

11. 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 January 13, 2016."

b. "For conditions of approval for Special Permit #355, see Resolution **#0111-2P**

-END RESOLUTION-

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

The Commission briefly reviewed Resolution #0111-4P.

MOTION was made by Ms. Gould, seconded by Mr. Wilson, and carried (7-1) to adopt as drafted Resolution #0111-4P for SP#356, effective January 31, 2011. Mr. Bayer opposed due to his opposition to the applicant's requested parking waiver.

**WHEREAS**, the Wilton Planning and Zoning Commission has received a Special Permit application **SP#356** from Kent District Spirits, LLC for approval to allow the establishment of a 3,000 square foot retail package store, for property located at 39 Danbury Road; 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/Legends, Drawing List Abbreviations & Symbols- Prepared for Kent District Spirits, LLC, Prepared by James G. Rogers 3rd, architect, dated October 26, 2010, not to scale, sheet #C1.0.

Lower Level Plan- Prepared for Kent District Spirits, LLC, Prepared by James G. Rogers 3rd, architect, dated October 26, 2010, scale 1/4"=1', sheet #A1.0.

First Floor Plan- Prepared for Kent District Spirits, LLC, Prepared by James G. Rogers 3rd, architect, dated October 26, 2010, scale 1/4"=1', sheet #A1.1.

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 1"=20', sheet #LO-01.

Proposed Layout Plan (w/ parking location key)- Prepared for Moore Center For Rehabilitation Application For Special Permit, Prepared by Tighe & Bond, engineers, dated June 12, 2006, received December 13, 2010, scale 1"=20', sheet #LO-01.

**WHEREAS**, the Wilton Planning and Zoning Commission has 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**, 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 #356 to allow the establishment of a 3,000 square foot retail package store, effective January 13, 2011 subject to the following conditions:

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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 January 13, 2016.
3. The approval for this special permit shall be filed with the Town Clerk's office using the Land Record Information Form prior to the issuance of a zoning permit.
4. The Planning and Zoning Commission approves the waiver of five parking spaces, under the provision in Section 29-8.B.2.c. of the Zoning Regulations. A separate waiver of five parking spaces was previously approved by the Planning and Zoning Commission, under Section 29-8.B.2.c. of the Zoning Regulations, and is noted in Resolution #0706-5P, Special Permit #223D. Based on this resolution and the past resolution, the total number of waived on-site parking spaces totals ten (10).
5. The drop curb shall be installed and the crosswalk re-aligned prior to the issuance of a certificate of compliance.
6. The missing wheelchair accessible signage behind the applicant's building shall be installed prior to the issuance of a certificate of compliance.
7. The basement of this part of the building (unit #11 and a portion of unit #12) shall be used solely for the storage of products to be sold in the retail package store.
8. The applicant shall ensure that all hand held shopping baskets are collected and stored inside the retail package store.
9. No additional dumpsters shall be allowed on the premises without the approval of either the Planning and Zoning Commission or the Commission's staff.
10. Delivery vehicles shall be made at the lower level behind the building in the loading space. No parking of delivery vehicles shall be allowed in the parking spaces fronting on Danbury Road or within the access-way fronting on Danbury Road.
11. The existing lighting and building façade shall not be modified unless otherwise authorized by the Planning and Zoning Commission and/or the Planning and Zoning staff.

12. All signage shall be maintained in strict accordance with zoning regulations and prior to installation, signage shall be subject to review by the Planning and Zoning staff and to the issuance of a sign permit from the Zoning Enforcement Officer.
13. The hours of operation shall be conducted in accordance with the Connecticut General Statutes and all applicable ordinances of the Town of Wilton, specifically between the hours of 9:00 a.m. and 8:00 p.m., Monday through Saturday. In instances where any conflict may exist; the more restrictive provision shall apply.
14. The installation of rooftop mechanical equipment shall be prohibited unless otherwise authorized by the Planning and Zoning Commission.
15. There shall be no outdoor storage of any products, including the storage of recyclable containers. Any indoor storage of recyclable containers shall be conducted in accordance with all applicable State and local health code requirements.

**Submittal of revised plans and application:**

16. 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 January 13, 2016."

b. "For conditions of approval for Special Permit #356, see **Resolution #0111-3P.**"

-END RESOLUTION-

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

Withdrawn.

**F. COMMUNICATIONS**

**G. REPORT FROM CHAIRMAN AND COMMISSION MEMBERS**

**H. REPORT FROM PLANNER**

**I. FUTURE AGENDA ITEMS**

- 1. REG#10328, Kevin O'Brien, Amendment to Section 29-6.B.3.i pertaining to dwelling units located within 1000 feet from train station [P.H. January 24, 2011]**
- 2. SP#357, Rolling Hills Country Club, 333 Hurlbutt St, Lighting on four existing tennis courts [P.H. January 24, 2011]**

**J. ADJOURNMENT**

**MOTION** was made by Mr. Wilson, seconded by Mr. Rudolph, and carried unanimously (8-0) to adjourn at 8:55 P.M.

Respectfully submitted,

Lorraine Russo  
Recording Secretary