

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

**WILTON PLANNING & ZONING COMMISSION MINUTES  
MARCH 14, 2011 REGULAR MEETING**

**PRESENT:** Chairwoman Sally Poundstone, Vice Chairman John Wilson, Commissioners John Gardiner, Marilyn Gould, Chris Hulse, Bas Nabulsi, Dona Pratt, and Michael Rudolph

**ABSENT:** Doug Bayer (notified intended absence)

**ALSO**

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

**PUBLIC HEARINGS**

- 1. SP#359, Standard Petroleum of CT, 287 Danbury Road, Modifications to existing service station and replacement of underground fuel storage tanks within an aquifer protection district**

Ms. Poundstone noted that the subject application was withdrawn at the request of the applicant.

- 2. SP#360, Plan B Retail Design, 920 Danbury Road, Expand existing shopping center**

Ms. Poundstone noted that the subject application would be continued until March 28, 2011 at the request of the applicant.

- 3. CHZ#11329, Gueron, Extend Cannon Crossing Overlay District (CXD) on underlying R-2A Zone for property known as Assessor's Map 34, Lot 42**

**and**

- 4. REG#11330, Gueron, Amendments to Sections 29-2.B.13 and portions of Section 29-6 to establish additional regulatory criteria for the Cannon Crossing (CXD) District**

Ms. Poundstone called the Public Hearing to order at 7:16 P.M., seated members Gardiner, Hulse, Poundstone, Pratt, Rudolph, and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. She noted that applications CHZ#11329 and REG#11330 would be heard concurrently.

Ms. Gould arrived and was seated at 7:16 P.M.

Mr. Wilson, acting as Secretary in the absence of Secretary Bayer, read the legal notice for both applications, dated February 28, 2011. He referred for the record to a 2-page memorandum dated March 7, 2011 from David L. Ingram, MD to Planning and Zoning Commission, with attachments; a letter dated March 9, 2011 from Walter B. Cromweel and Carolyn Wheeler to Planning & Zoning Commission; a letter dated March 14, 2011 from Annie Kosh to Planning and Zoning Committee; a memo received March 14, 2011 from John D. Rich to Planning and Zoning Board; a letter dated March 11, 2011 from Robert Marschke to All Commissioners; a letter dated March 14, 2011 from Douglas Cutler, Architect, to Planning and Zoning Commission; a letter dated March 14, 2011 from Jim Saxe to P&Z Commissioners; a 3-page Planning and Zoning Staff Report dated March 10, 2011; an email sent March 11, 2011 from Charlotte Taverna to Bob Nerney; an email sent March 11, 2011 from Emma Lisa Lesica to Bob Nerney; an email sent March 13, 2011 from Rosemary Araldi to Bob Nerney; a letter dated March 10, 2011 from Paula Belknap (Cannondale Animal Clinic) to Planning and Zoning Commission; an email sent March 14, 2011 from Sarah Gioffre to Bob Nerney; a memo received March 14, 2011 from Karla B. King to Wilton P&Z; and a memo received March 14, 2011 from Charles H. King, Jr. to Wilton P&Z. Mr. Wilson also referenced two "Protest Petitions" regarding applications CHZ#11329 and REG#11330, signed by opposing neighbors.

Addressing the aforementioned "Protest Petitions", Town Planner Nerney explained that if greater than 20% of geographic landowners protest a zone change, then a super majority vote of the Commission is required for action. He noted that staff would calculate the geographic area involved/associated with the signatories of the petitions to determine whether a super majority vote will be necessary, and report back to the Commission on the matter.

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Present were Clarissa Cannavino, attorney; Bill Richter, planning consultant; Kate Throckmorton, landscape architect; and Bob Faesy, surveyor; on behalf of the applicant.

Ms. Cannavino requested that CHZ#11329 and REG#11330 be heard concurrently. She briefly described the applications, noting that the applicant wishes to expand the Cannon Crossing Overlay (CXD) District, which was created in 2007, over an additional R-2A lot known as Map 34, Lot 42; and also proposes zoning regulation amendments to provide support for the growth and rehabilitation of the Cannondale Village area.

Mr. Richter of Richter and Cegan, Inc. reviewed planning issues in connection with the two applications.

Mr. Nabulsi arrived and was seated at 7:25 P.M.

Mr. Richter reviewed the present overlay (CXD) district configuration of the Cannondale Village area, noting that the existing underlying zones include General Business (GB), Design Retail Business (DRB) and Residential (R-2A). He explained that the applicant is proposing to extend the CXD overlay to include the subject R-2A parcel consisting of 2.956+/- acres and to develop additional regulatory criteria for the CXD district to support future growth of the Cannondale Village area.

Mr. Richter first reviewed the purpose of the existing CXD overlay district, citing in particular the maintenance/enhancement of the distinctive character, landscape and historic structures of Cannondale, the conservation/preservation of existing buildings/sites, and the encouragement of the orderly development of the area. Within the context of the Town's Plan of Conservation and Development, he felt that the Town now has the opportunity to enhance the Cannondale area "in a manner that is compatible with the community vision and that will complement and relate to existing buildings in Cannondale Village."

He explained that development within the overlay is now limited to the restrictions inherent in the underlying zones and therefore may not be flexible enough to provide the future transition and economic viability of Cannondale Village. He felt that the CXD regulations, as currently written for the area, "are limited by the lack of specific density and dimensional requirements addressing the future Cannondale Village development and character."

Mr. Richter stated that the proposed CXD regulations would actually promote more smaller-scaled uses, noting in particular that uses greater than 10,000 square feet would now be subject to site plan and special permit approvals, whereas the underlying DRB and GB zones are currently subject to such approvals at a GFA of 20,000 square feet. He noted further that proposed new yard requirements will essentially eliminate any nonconformities with respect to existing structures and will promote future treescape

frontages.

In summary, Mr. Richter felt that the proposed redefinition of the CXD District is consistent with the Town's Plan of Conservation and Development, provides flexibility for development, enhances the village character of Cannondale, allows economic viability for the Village, protects the transition to the residential areas and reflects sound planning practices.

Commissioners indicated that they had questions regarding the hydrology of the site and the development capacity of the site overall. Mr. Nerney explained that while the subject application is not specifically a site development plan, Commissioners may still query the applicant regarding the overall carrying capacity of the site and the appropriateness of proposed uses, etc.

In response to a question pertaining to the proposed allowance of larger-scaled bed and breakfasts (B&B) in the area (specifically, 12 rooms versus the previously permitted 5 rooms), Mr. Richter felt that the character of the Village lends itself to larger-sized B&B's which would also promote economic viability in the area. He noted for the record that an increase in guest rooms does not necessarily result in the need for a larger dining room on the premises.

In response to questions from Ms. Gould, Mr. Richter reviewed front, side and rear setbacks, noting that the front setback along Cannon Road would be 20 feet, the rear setback to the north would be a minimum of 20 feet, except where it adjoins a residential parcel where it would require 50 feet, and the minimum side setbacks along Route 7 frontage and the interior eastern boundaries of the area would be 10 feet.

Mr. Wilson expressed concerns with the proposed increases in height and permitted coverages for the area. Ms. Gould stated that she hoped the applicant would be able to deal realistically with development of this property, keeping many aspects in mind, including environmental, economic, health/safety, etc.

Ms. Cannavino noted that any application would be forwarded to the Fire Department and would therefore be required to comply with all fire/safety regulations.

Mr. Richter briefly reviewed issues raised in the Planning and Zoning Staff Report, although he noted that a formal response would be submitted for the next meeting.

Ms. Pratt addressed item #8 regarding potential excessive massing of buildings and the proposed allowance of up to three stories/42 feet in height, particularly as this would impact preservation/enhancement of the historical aspects of the Cannondale area. Mr. Richter noted that the proposed changes have actually downsized potential impacts in both the GB and DRB zones. Ms. Cannavino stated that the purpose is to revitalize the

area, noting that residential uses will also be tied into the proposed development of the area. She felt that the subject application is very consistent with the vision of the Town's Plan of Conservation and Development and she stated that this will be apparent when the site development plan is submitted.

Ms. Cannavino stated that the applicant will submit a formal response to the Planning and Zoning Staff Report at the next meeting.

The issue of seven dwelling units per acre was raised (item #7 of the Staff Report). Commissioners noted that such a designation could potentially result in over 70 dwelling units for the overall 10+ acre Village area. Mr. Richter felt that such a density level is appropriate for residential uses adjoining a train station, although he noted that the applicant's intended plan for the site would leave existing buildings intact, thus resulting in significantly less than 70 dwelling units for the entire site.

Ms. Pratt felt that certain portions of the site might be better served by a 3-story construction as compared with other areas where such a construction height would be excessive. In that regard, she questioned the function of the current Village District Consultant Committee (VDCC), specifically as to whether it would have the authority to deny a building height of this magnitude if it felt that it was excessive for the particular area of the site proposed.

Mr. Nerney explained that the VDCC, as currently defined, has more of a design perspective oversight and would not be able to restrict underlying bulk criteria if such criteria were approved for the district. He stated that he would be hesitant to deny a height component based on a VDCC opinion alone, emphasizing that it is important that whatever is established/approved for the Village area is reflective of the community's needs and of what the Commission would like to see for the area. Ms. Pratt questioned whether the proposed regulations could be adjusted in some way to reflect different development criteria within the site itself, noting that she would be reluctant to give approval for a 42-foot/3-story height, as proposed, for the entire area.

Mr. Rudolph noted a discrepancy between the submitted "perimeter survey" map and the "vicinity sketch". Ms. Cannavino acknowledged the discrepancy and explained that the vicinity sketch did not accurately reflect a lot line reconfiguration that had occurred. She stated that the perimeter survey correctly reflects the property configuration.

Mr. Richter noted that the height requirement could be permitted within the Special Permit regulations rather than as-of-right, if the Commission prefers. Addressing the density component, he noted that residential uses are regulated via the Special Permit process and therefore would be subject to greater Commission oversight/approval. He noted for the record that the applicant's overall plan for the site involves only 24 dwelling units.

Ms. Gould noted that the proposed regulations must be considered from the perspective of what could potentially be developed on the site and not from the perspective of what this particular applicant is currently proposing for the site. She stated that she prefers that the Commission write its own regulations and implement its own zone changes, noting that it can certainly utilize some of an applicant's proposals in those regards but the final rewrite/zone modifications should preferably be done by the Commission.

The question arose as to whether the Commission could modify an applicant's proposal, as long as resulting modifications are less intensive than what was legally noticed originally, or alternatively, if the application must first be withdrawn or denied and another application submitted to reflect the modifications as proposed by the Commission. Mr. Nerney felt that the preferred method is to withdraw the current application and submit a new modified application reflecting such modifications. Ms. Cannavino was of the belief that the Commission can make modifications to an applicant's proposal as it sees fit as long as the modifications are less intensive than legally noticed; however, she indicated that she would research the matter further to be certain.

Ms. Pratt expressed concern with the hydrology of the area and how that could impact proposed development for the area.

Ms. Poundstone requested that the applicant provide additional information in that regard at the next hearing.

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

David Kahal, 43 Cannon Road, stated that he lives directly across the river from Cannondale Village. He expressed concerns regarding maintaining consistency of the character of the neighborhood and the need for some degree of certainty as to how the Village will eventually be developed. He indicated that although he is not so naive as to believe zoning regulations would not change/evolve over the years, he felt that such rules should not change in an instant to meet the needs of a particular project/applicant, with even further vagueness as to the specific details of the intended project. He felt that the proposed revisions to the CXD Overlay District (which he supported when it was first created since it provided protections that the community desired) essentially represent a request to rezone the R-2A zone, i.e. to relax the rules significantly under the guise of an overlay ostensibly designed to protect the underlying properties.

Mr. Kahal read from Sec. 8-2m of state statutes (and distributed a copy to Commissioners), noting in particular that "flexible zoning districts . . . shall not establish in a residential zone a zone that is less restrictive with respect to uses than the underlying zone of the flexible zoning district." He concluded by stating that the Commission must

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reject the subject applications because an overlay district cannot be used as a mechanism for making existing regulations less restrictive and therefore the subject applications violate state statutes.

Harry Clark, 68 Cannon Road, distributed into the record a letter of opposition dated March 14, 2011 from Jim Johnston and Sharon Romer to Planning and Zoning, and a chart entitled “Comparison of Zoning Regulations, Existing and Proposed”. He expressed concern with the concept of Commission flexibility, whereby the application could be modified by the Commission and subsequently approved. He preferred that any modifications be addressed via submission of a revised application, along with the necessary legal re-noticing that would be required.

Mr. Clark read from prepared remarks of opposition (which he subsequently entered into the record). He expressed concerns with the proposed setbacks and bulk and area requirements, noting that they provide for a more intense use of the property than would any of the underlying zones and, in some cases, are the same as Wilton Center regulations, which he felt is an area with vastly different characteristics and requirements. He expressed particular concern with the proposed allowance of 3-story/42-foot building heights, given the Village’s proximity to residential homes and its current adaptive use buildings. He felt that the applicant has drawn up a set of regulations custom-made to satisfy his particular purpose and to maximize his personal financial gain. He stated that there is no reason to change the regulations, especially since the Zoning Board of Appeals exists as a vehicle for obtaining exceptions to certain regulations. He felt that the regulation/zone modifications as proposed by the applicant will create disharmony across the entire district and will be inappropriate for the area.

Steven Jones, 200 Pimpewaug Road, stated that zoning is designed to preserve the community and to prevent unreasonable development and, as such, is extremely important. He felt that it is inappropriate to rezone the area, particularly since the applicant had already received a zone change back in 1992. He stated that the area should remain zoned for a small Village and be respectful of the existing historic residences.

Shawn Kahal, 43 Cannon Road, expressed concern with the proposed increase to the permitted number of rooms in a Bed and Breakfast establishment. She felt that such a proposal should be a special application in and of itself since it would be in the best interest of the community, as well as the Town, to decide this particular item separately.

Steven Georgeou, 63 Cannon Road, urged the Commission to deny both applications. He cited environmental issues which he felt would just worsen with the proposed intensity of development, and he expressed concerns with traffic patterns along Cannon Road, which he felt have already worsened since the widening of Route 7 and would be further exacerbated by a condo complex in the area. He stated that the Cannondale Village is a very unique and special area in the Town and he felt that zoning should not be modified

based on the needs of a particular applicant. He requested that the hearing be continued to give opposing neighbors time to hire experts to represent their interests.

Jennifer Longmire, 49 Cannon Road, noted for the record that the Mitchells residing at 90 Cannon Road were omitted from the list of notified neighbors within 500 feet of the subject parcel's property lines. Mr. Nerney expressed concern regarding the omission and indicated that he would check with Town Counsel regarding the matter. Ms. Cannavino indicated that she would look into the matter as well.

Ms. Longmire expressed concerns with the proposed maximum dwelling unit size of 3000 square feet, proposed height of 42 feet/3-stories, and proposed increase to twelve Bed and Breakfast guest rooms, all of which she felt were not consistent with the charm and quaint character of the area. She felt that it is critically important for the Commission to consider the ultimate impacts of the development density that is being proposed, noting in particular the potential for 70 condo units in the future. She also requested that the Commission hold additional meetings, as promised several years ago, to further discuss development options for the Cannondale Village area.

Ms. Gould requested that staff calculate the buildable area of the site, taking into account environmental restrictions/constraints as well as zoning setbacks.

There being no further comments from the Commission or the public, at 8:51 P.M. the Public Hearing was continued until March 28, 2011.

## **REGULAR MEETING**

- A. Ms. Poundstone called the Regular Meeting to order at 8:51 P.M., seated members Gardiner, 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. February 28, 2011 – Regular Meeting**

MOTION was made by Mr. Wilson, seconded by Mr. Hulse, and carried (8-0) to approve the minutes of February 28, 2011 as drafted.

## **C. SITE DEVELOPMENT PLAN REVIEW**



**D. ACCEPTANCE OF NEW APPLICATIONS**

**E. PENDING APPLICATIONS**

1. **SP#359, Standard Petroleum of CT, 287 Danbury Road, Modifications to existing service station and replacement of underground fuel storage tanks within an aquifer protection district**

Withdrawn.

2. **SP#360, Plan B Retail Design, 920 Danbury Road, Expand existing shopping center**

Tabled.

3. **CHZ#11329, Gueron, Overlay Cannon Crossing District (CXD) on underlying R-2A Zone for property known as Assessor's Map 34, Lot 42 and**

4. **REG#11330, Gueron, Amendments to Sections 29-2.B.13 and portions of Section 29-6 to establish additional regulatory criteria for the Cannon Crossing (CXD) District**

Tabled.

**F. COMMUNICATIONS**

1. **SP#355, Adam Kessner (Swizzles, LLC), 5 River Road, Request for administrative approval of sign modifications**

Mr. Nerney reviewed details of the proposed signage modifications, noting that the applicant wishes to modify its previously approved signage. He explained that since the original sign was light pink in color the applicant felt it would not be very visible against the brick-colored façade. As a result, the applicant wishes to darken a portion of the sign and add its corporate logo as well. He noted that the applicant submitted two alternative designs, which were included in Commissioners' packages. He explained that both options were reviewed by the Village District Consultant Committee (VDCC), as required in the Wilton Center zone, and the VDCC prefers the second option, but with white or lighter colored letters in the second line.

After a brief discussion, it was the consensus of the Commission to leave the final decision in the hands of staff.

**2. Discussion pertaining to appointment of PZC's SWRPA representative**

Mr. Nerney explained that Amy Harris, Planning and Zoning's appointed SWRPA representative, has indicated that she needs to resign for personal reasons. It was noted that since Ms. Harris was nominated by the Democratic Town Committee (DTC), perhaps the DTC would like to propose an alternative candidate. Mr. Gardiner advised Commissioners that the Democratic Nominating Committee is currently in the process of looking for a replacement. Ms. Poundstone suggested putting the matter on the agenda again for the next meeting.

Mr. Nabulsi expressed concern that the Town be properly represented during this interim period.

**3. Discussion pertaining to Farmers' Market at Wilton Historical Society, 224 Danbury Road**

Present were Kathy Leeds, Wilton Library; and Tory Clancy, Wilton Chamber of Commerce.

Ms. Leeds noted for the record that the Historical Society representative was unable to be present this evening but supports the proposed Farmers' Market relocation to the Wilton Historical Society site.

Ms. Leeds explained that the previous Farmers' Market location at the Wilton Library has proved to be inadequate for many reasons, including poor visibility from the street, a lack of shade, and an inability to accommodate additional vendors due to a shortage of space on the site. After considering numerous sites in Town, she noted that the group is recommending use of the Wilton Historical Society grounds, which she felt would be especially appropriate in light of the synergy of the proposed use, and the site's wonderful visibility.

In response to questions regarding parking, Ms. Leeds stated that at least 15 parking spaces are available and she added that customer turnover is generally quick, providing a very gradual stream of people. It was noted that another Farmers' Market had previously utilized the site for a short period of time, but it involved just one large tent two times per week, whereas the subject proposal would involve a number of individual vendors and would operate once per week during the months of May through September.

Mr. Nerney contrasted the subject proposal with another proposal reviewed by the Commission some months ago in connection with a Farmers' Market at the Gilbert and Bennett (G&B) school site. He noted that the main difference is that the G&B site was not operating under an adaptive use permit whereas the Wilton Historical site is zoned for

adaptive use. As a result, there is greater flexibility in permitting a non-residential use on the subject site and, further, he felt that the proposed use could be seen as an extension of the museum use itself.

Ms. Poundstone expressed some concern for the residential properties located in close proximity behind the subject parcel, referring in particular to children, school bus routes, and potential traffic impacts on the neighborhood.

Ms. Leeds noted that the Historical Society has indicated that it would not schedule any special programs during the Farmers' Market hours of operation so as not to add to traffic/parking impacts in the area.

Ms. Leeds also noted that other sites had been considered, including Allen's Meadows, Zion's Hill, the Baptist Church, etc. but the subject site is considered the preferred choice because it provides greater oversight ability. She explained that the Wilton Historical Society would have on-site responsibility during hours of operation, but the Library would continue its on-going administrative role at all other times.

The issue of parking was raised and the question of whether Our Lady of Fatima's parking lot across Route 7 could be utilized by vendor trucks during the Market's operational hours after products have been unloaded. Ms. Leeds indicated that they would check with the Church/School and they could also speak with the Police Department regarding parking/traffic impacts in the neighborhood.

Mr. Nabulsi questioned what authority the Commission could draw upon to authorize such a use (other than by temporary special event permit). He did not want the Commission to be perceived as being inconsistent with respect to the previous Farmers' Market application for the Gilbert and Bennett (G&B) site.

Mr. Nerney explained that the subject site is operating under an adaptive use permit, which provides more flexibility in use as compared with the G&B site. However, he noted that the Commission would still want to consider impacts such as traffic, parking, etc. He thought that the Commission could perhaps look at it as an ancillary supportive type use to the museum. In that regard, Ms. Poundstone also cited an agrarian link to the barn.

Mr. Nabulsi recommended that the Commission authorize an administrative review as long as the proposed use is supportable in connection with the adaptive use permit and as ancillary to the museum use, and as long as safety and health issues are also adequately addressed.

It was the consensus of the Commission to authorize the administrative review per Mr. Nabulsi's suggestion.

Ms. Poundstone suggested that the applicant contact the immediately surrounding neighbors as soon as possible to assure that there is no opposition to the Farmers' Market use as proposed.

**G. REPORT FROM CHAIRMAN**

**1. Reports from Committee Chairmen**

Mr. Rudolph suggested postponing the opening of applications SP#361 and SP#362 in light of the heavy upcoming agenda schedules. Mr. Nerney indicated that staff would look into the matter and contact the applicant as long as statutory deadline requirements permit such a rescheduling.

**H. REPORT FROM PLANNER**

**I. FUTURE AGENDA ITEMS**

1. **SP#361, ROPO, LLC, 490 Danbury Road, Professional offices and residential apartments in Building #1, and professional office in Building #2**  
[P.H. postponed to April 11, 2011]
2. **SP#362, ROPO, LLC, 490 Danbury Road, Adaptive use of Building #2 for professional offices** [P.H. postponed to April 11, 2011]
3. **SP#363, Cugno/McMenemy, 67 Belden Hill Road, For additions/alterations within setbacks on a historically/architecturally significant residence per Section 29-5.C.8 of zoning regulations** [P.H. April 11, 2011]

**J. ADJOURNMENT**

MOTION was made by Ms. Poundstone, seconded by Ms Pratt, and carried unanimously (8-0) to adjourn at 9:35 P.M.

Respectfully submitted,

Lorraine Russo  
Recording Secretary