

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

## **WILTON PLANNING & ZONING COMMISSION MINUTES MARCH 28, 2011 REGULAR MEETING**

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

Ms. Poundstone called the meeting to order at 7:16 P.M. and seated members Bayer, Gardiner, Gould, Hulse, Nabulsi, Poundstone, Pratt, Rudolph, and Wilson. She scrambled the Public Hearings agenda to first address items #2 (CHZ#11329) and #3 (REG#11330).

2. **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**
3. **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 advised Commissioners and members of the audience that the attorney for the applicant requested another continuance of the subject hearings until April 11, 2011.

Mr. Bayer referred for the record to a letter dated March 28, 2011 from J. Casey Healy to Planning and Zoning Commission, requesting a continuance until April 11, 2011; a letter dated March 14, 2011 from Arthur Levitan to Mr. Nerney, Ms. Poundstone and All

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Commissioners; an emailed communication sent March 16, 2011 from Ed Papp to Bob Nerney; a letter dated March 14, 2011 from Alice Levin to Planning and Zoning Commission; and a letter dated March 24, 2011 from Christopher Wigren to Planning and Zoning Commission.

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

There being no further comments from the Commission or the public, at 7:18 P.M. the Public Hearing was continued until April 11, 2011.

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

Ms. Poundstone called the Public Hearing to order at 7:18 P.M., seated members Bayer, Gardiner, 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 were Chuck Bomely, Plan B Retail Design; Remo Tartaglia, property owner; and Mark Caraluzzi, owner of Caraluzzi's Supermarket.

Mr. Bayer noted for the record that he had listened to the recording of the hearing from February 28, 2011.

Mr. Bomely briefly reviewed details of the application, noting that the proposed 3500 square-foot addition to the rear of the existing structure would not be increasing the amount of impervious coverage on the site and would comply with all setback and parking requirements. In fact, he explained that the proposed plan would provide slightly more parking than is required by regulations and would actually lessen the amount of impervious area on the site currently, due to additional landscaped islands proposed for the parking lot.

Mr. Bomely stated that he wished to respond to questions/issues raised in the Planning and Zoning Staff Report and by Commissioners at the last hearing. With respect to item #1 pertaining to shopping cart corrals, he felt that maintaining their location at the top of the parking aisle would provide better control due to the slope of the parking field.

Mr. Wilson expressed concerns with traffic flow on the site, which he felt posed some safety issues and could be improved. Mr. Bomely stated that the parking lot configuration is fairly typical, although he noted that the applicant has proposed the addition of a number of landscaped islands within the parking lot to help divert traffic and

restrict cars from cutting through empty parking stalls. In response to concerns expressed by several Commissioners regarding certain narrow travel ways within the site, he stated that the lot has proper aisle widths, although he acknowledged that a “choke” point does exist near the southwest corner of the building where the aisle/roadway width narrows to approximately 22 feet, where 24 feet is considered standard.

Ms. Gould stated that she understood the concerns expressed, citing her 36 years of personal experience with the lot, but she felt that it is the responsibility of drivers to be vigilant and to drive in a responsible manner.

Mr. Rudolph raised the possibility of one-way traffic routing around the site as a means of addressing the circulation issues. Mr. Bomely stated that one-way traffic restrictions are difficult to enforce with straight-in parking. Ms. Gould noted that cars frequently turn into the site from Route 7 at a high rate of speed. Mr. Bomely thought that perhaps a speed bump could address that concern. Mr. Tartaglia, property owner, felt that speed humps are better than speed bumps in such a situation. Ms. Gould suggested another possibility of a one-way traffic restriction in only the initial first lane, citing a similar restriction that is currently in place in front of Staples on Route 7. Mr. Bomely was reluctant to commit to such a site modification, noting that some corrective work may be occurring on the site in the near future in connection with a possible new tenant.

Mr. Bayer referred to the “Form B – Zoning Data” form submitted by the applicant, noting that both the existing and proposed gross floor area (GFA) and building footprint are greater than 30,000 square feet. He referred to Section 29-6.B.3.a of zoning regulations, noting that one of the allowed Special Permit uses within the General Business (GB) District includes “all Permitted Site Plan uses with a GFA greater than 20,000 square feet with a maximum size of 30,000 square feet for retail business including outdoor display if any.” He asked what authority the Commission has to approve the proposed plan in light of this apparent nonconformity in size, and/or whether a variance had previously been granted or is currently required to address this issue.

Staff researched the question of previous variances for the site and it was determined that none of the variances granted in the past included a variance for a GFA of greater than 30,000 square feet.

Mr. Nerney referred to Form B data, noting that the application is compliant with respect to building coverage and floor area ratio. He noted further that while the maximum site coverage permitted is 80%, the applicant is actually proposing to reduce its existing nonconforming site coverage from 89.4% to 87.9%.

Ms. Poundstone raised the issue of loading spaces, questioning in particular whether the proposed additional square footage would result in increased truck deliveries to the site, thereby necessitating more than the two loading spaces which currently exist on the site.

Mr. Bomely explained that generally the same number of trucks can accommodate the additional product load. Ms. Poundstone also referenced submitted letters from surrounding neighbors complaining about delivery/truck noise in the early morning hours. Mr. Bomely stated that while it may take a few minutes longer to unload the additional products, it is generally engine idling, start-up, etc. that generates the noise. He speculated that neighbor complaints were probably related to trash handling, and he did not feel that there would be any additional noise impacts on the site in connection with the proposed site modifications.

In response to questions from Ms. Gould regarding the proposed expansion, Mr. Bomely stated that the former stove shop would become a sales/retail area for the supermarket, resulting in approximately 4700-4800 square feet of additional retail space when taking into account the proposed rear addition as well.

Ms. Pratt noted that the site provides 11 parking spaces more than what is required by regulations and she questioned whether some of the extra spaces could possibly be removed in favor of providing safer travel areas throughout the site. Mr. Nerney explained that extra parking spaces often provide some flexibility to property owners with respect to the needs/uses of possible new future tenants.

Commissioners Rudolph and Bayer again questioned the existing and proposed GFA square footage numbers and how these numbers can work in light of what appears to be a 30,000 square foot limitation in the GB zoning regulations. Mr. Nerney noted that the point is well-taken and may be something that was overlooked by staff. He referenced the Gateway and Stop and Shop plazas in Town, which exceed that limit, but he acknowledged that their zoning designations are not the same.

The Commission discussed the intent of the regulation (Section 29-6.B.3.a) and whether the 30,000 square foot limitation applies to individual tenant space or to overall building area when occupied by multiple tenants. Mr. Bomely noted for the record that while the overall GFA and building footprint are over 30,000 square feet, the supermarket space alone would consist of just under 30,000 square feet, as proposed, and thus he did not feel there would be any non-compliance with respect to Section 29-6.B.3.a of the regulations. He noted further that the 37,000+ square footage number refers to total area of all stores in the shopping center and not to just retail space, which he felt was relevant to the issue.

Mr. Bayer noted for the record that he was not sure at this time how regulation 29-6.B.3.a should be interpreted, noting that he personally needed more time to study the matter further. He cited the example of a 50,000-60,000 square foot building where individual tenant uses are all less than 20,000 square feet, and he questioned whether the wording of the aforementioned regulation would imply that a Special Permit would not be required under such circumstances.

Ms. Poundstone felt that it is important to look at all of this very closely. Commissioners Rudolph and Pratt requested that the applicant provide a clear square footage breakout of the space occupied by Caraluzzi's, as well as all other spaces/stores in the shopping complex, including square footage devoted to outdoor display, as referenced in the regulations.

Mr. Rudolph requested a history of all Zoning Board of Appeals variances granted as well as prior issuances of Certificates of Occupancy for the site. Mr. Nerney noted that prior variances were for a propane tank that was to be located in the northeast corner of the site and for a finished slope dating back to 1969.

Mr. Bayer asked the applicant to provide its rationale as to how its proposal fits within the regulations as noted heretofore.

Ms. Pratt requested that administrative office space be broken out separately as well.

Mr. Wilson asked how the movie theater building in Wilton Center was treated from a zoning perspective, since it includes retail and office space as well. Mr. Nerney thought that all the distinct uses were considered separately for purposes of regulation compliance. He thought that same methodology was also used for the Stop and Shop building when People's Bank was located adjacent to the supermarket as opposed to its current location inside the market.

Mr. Bomely continued reviewing the applicant's responses to staff/Commission, per letter dated February 28, 2011 from Appledore Engineering.

Mr. Nerney noted that the applicant's renderings indicate two wall signs where only one is permitted by regulations. Mr. Bomely stated that the applicant is aware of the signage restriction. Addressing the issue of paving, Mr. Nerney recommended an entire pavement overlay given the existing condition of the site. Mr. Bomely stated that the applicant intends to cut/heat seal and have proper repairs made to the parking lot pavement. He stated that the existing paving is not in bad shape, noting that the work was completed about 8 years ago and has an anticipated life expectancy of about 20-25 years.

Addressing the issue of New Jersey barriers in front of the exchange gas tanks, Mr. Bomely explained that these were required by the Fire Department, although he noted that the Fire Marshal indicated he would entertain alternative options (e.g. bollards of some substance or decorative items such as concrete planters) if such options satisfied required safety precautions. He stated that the applicant could commit to pursue this issue further with the Fire Marshal, but he hoped it would not hold up approval of the application.

Addressing item #15 pertaining to ponding of water in the parking lot behind the building, Mr. Bomely indicated that the applicant has made some adjustments to the

topography in that area to address the issue. Regarding screening of roof top equipment, Mr. Bomely stated that the applicant would screen if necessary, although he felt that nothing of substance would be added to the roof top.

Addressing noise considerations, Mr. Bomely stated that the applicant could commit to full compliance with allowable decibel levels per both State and local noise regulations.

In response to a question from Mr. Bayer and addressing item #18 of the Planning and Zoning Staff Report regarding a possible rear setback issue, Ms. White explained that due to a jog in the property line at a critical area of the site, it was determined that a setback variance would not be required.

Regarding items #6 and #9 of the Staff Report pertaining to traffic flow and directional signage, Mr. Bomely stated that the applicant would be addressing these issues again at the next meeting on April 11, 2011. Mr. Nerney emphasized the need for directional signage on the site for safety reasons.

Addressing item #10 pertaining to proposed site lighting, Mr. Bomely stated that photometrics and cut sheets were previously submitted, noting that the proposed lighting would improve parking lot illumination. In particular, he noted that the applicant is proposing use of 25-foot poles with full cut-off fixtures.

Regarding truck delivery routes, Ms. Pratt noted that the Commission had requested additional details in that regard, referring in particular to how the trucks would turn around on the site. Mr. Bomely stated that the requested materials were previously submitted as part of the small set of drawings.

Mr. Rudolph asked for clarification as to how the semi trucks come into/negotiate the site. Mr. Caraluzzi, present in the audience, stated that they come in off Route 7 and are able to go around the bank and negotiate around the back of the building.

Addressing item #21 regarding a planting plan, Mr. Bomely noted that a landscaping plan was submitted with the last package. Ms. White referenced the applicant's proposal of columnar pear trees, which she noted tend to be narrow and non-spreading. She stated that the regulations require use of shade trees, and noted that she has a list of shade trees that she could share with the applicant. Mr. Bomely stated that the applicant could review the list and reconsider its choice.

Mr. Bayer asked whether a future change in use, with the same number of square feet, would require the applicant to come back before the Commission. Mr. Nerney felt that an argument could be made to require that the applicant appear before the Commission under those circumstances.

Mr. Rudolph stated that he would like additional copies of the aforementioned delivery truck routing plan, as well as a directional signage plan.

It was the consensus of the Commission to continue the subject hearing to provide the applicant with additional time to provide the information/materials requested.

Mr. Bomely stated that the applicant would agree to extend the deadline to close the hearing and would email staff a written agreement to that effect tomorrow.

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 8:40 P.M. the Public Hearing was continued until April 11, 2011.

## **REGULAR MEETING**

- A. Ms. Poundstone called the Regular Meeting to order at 8:40 P.M., seated members Bayer, 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. March 14, 2011 – Regular Meeting**

MOTION was made by Ms. Gould, seconded by Mr. Wilson, and carried (8-0-1) to approve the minutes of March 14, 2011 as amended. Mr. Bayer abstained.

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

## **D. ACCEPTANCE OF NEW APPLICATIONS**

1. **SP#364, ECS Transportation, 390-392 Danbury Road, Restaurant use (coffee shop)**
2. **SP#365, Building Blocks Early Learning Center, LLC, 59 Danbury Road, Refitting of portion of interior for child day care center**
3. **SDP, Nash/Logan (Signature Style), 134 Old Ridgefield Road, Front wall signage**

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**MOTION** was made by Ms. Poundstone, seconded by Mr. Wilson, and carried unanimously (9-0) to accept the applications and set a public hearing date of May 9, 2011 for applications SP#364 and SP#365; and a discussion date of April 11, 2011 for the Site Development Plan (Signature Style signage).

Mr. Nerney noted that the Site Development Plan (Signature Style signage) for 134 Old Ridgefield Road would be formally referred, as required, to the Village District Consultant Committee for its review prior to the April 11, 2011 meeting.

### **E. PENDING APPLICATIONS**

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

Tabled.

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

Tabled.

- 3. 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. Discussion pertaining to appointment of PZC's SWRPA representative [Status Update]**

Mr. Gardiner noted that the Democratic Nominating Committee is hoping to fill the vacancy soon. He hoped to have a name for the Commission by the next meeting.

- 2. 426 Danbury Road, Question of storage of trees as adaptive use**

Ms. Poundstone referred to a letter dated March 23, 2011 from David E. Allen to Robert J. Nerney, with attached email also sent March 23, 2011, regarding a request for guidance from the Commission in connection with a possible Special Permit application for the storage of trees at 426 Danbury Road, an adaptive use property.

Ms. Gould stated that the Commission should first determine whether the proposed use falls into the jurisdiction of adaptive use. Citing Section 29-5.C.5 of zoning regulations,



she noted that the purpose of the adaptive use designation is “to enhance and preserve the exterior and interior integrity of the structures; enhance and preserve the aesthetic appearance of the remainder of the property; and maintain the general character of the neighborhood”. In this regard, she felt that the proposed use does not satisfy that criteria. She also cited Section 29-5.C.5.c (Eligible Uses for Adaptive Use), noting in particular that eligible uses include business, professional or business that do not affect the residential appearance or conflict with the character of the area. Overall, she felt that the proposed use does not fit in with the regulatory criteria as established for adaptive use.

Ms. Poundstone asked if anyone in the audience wished to speak.

David Allen stated that he was representing Dr. Reza, who is the owner of 426 Danbury Road. He explained that Dr. Reza wishes to lease a portion of the existing sport shop to a retail flower and garden center. He noted that the garden center would also utilize a portion of the outdoor rear property for the storage of trees/shrubbery.

Richard Carville, owner of Sarah’s Flowers in Norwalk, explained further that his plan is to store plantings/shrubbery outside on the grassy area behind the Dempsey property, noting that the proposed use would be more like that of a garden center.

In response to questions from the Commission, Mr. Carville stated that a propane-powered fork lift would likely be needed/utilized on the site. Since he already has an existing client base, he noted that high visibility of the landscaping products is not critical to his business. He also indicated that he would likely plant a row of evergreens to provide some screening for the plant materials.

Ms. Gould stated again that the issue of prime importance is whether the proposed use is compatible with the adaptive use designation and, if so, then a site plan would be required.

Ms. Poundstone noted that the proposed use appears to be quite different from the description provided in the applicant’s letter to the Commission. She noted further that the Commission was not prepared nor could it give a response this evening to determine the suitability of the proposed use, but in any case a site plan would be required.

Mr. Nerney confirmed that much additional information would be required from the applicant in connection with such a use, including the size of the business, the type/quantity of equipment to be used on the site, whether delivery trucks would be utilized, etc., as well as submission of a formal site plan.

Ms. Poundstone stated that the applicant could confer with staff to determine if he wishes to invest in a site plan or not.

**3. SUB#904, Vollmer, Extension of deadline to file subdivision Mylar from April 28, 2011 until July 27, 2011**

Mr. Nerney referred to a letter dated March 23, 2011 from J. Casey Healy to Planning and Zoning Commission requesting an extension of the deadline to file the subdivision Mylar for the Vollmer property at 137 Olmstead Hill Road from April 28, 2011 to July 27, 2011. He explained that the matter is fairly straightforward, noting that state statutes allow for up to two 90-day extensions of the deadline to file.

MOTION was made by Ms. Gould, seconded by Mr. Wilson, and carried unanimously (9-0) to extend the deadline to file the subdivision Mylar for the subject property from April 28, 2011 until July 27, 2011 as requested.

**G. REPORT FROM CHAIRMAN**

**1. Reports from Committee Chairmen**

**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. Gould, seconded by Mr. Hulse, and carried unanimously (9-0) to adjourn at 9:05 P.M.

Respectfully submitted,

Lorraine Russo  
Recording Secretary