

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

## WILTON PLANNING & ZONING COMMISSION MINUTES SEPTEMBER 14, 2011 SPECIAL 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; Lorraine Russo, Recording Secretary; members of the press; and interested residents.

### SPECIAL AGENDA ITEM:

#### 1. Discussion Pertaining to Zoning Regulations Amendments

Ms. Poundstone called the Public Hearing to order at 7:15 P.M., seated members Gardiner, Hulse, Nabulsi, Poundstone, Rudolph, and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

Ms. Poundstone referred to a draft document dated/emailed by Mr. Nabulsi to Commissioners September 14, 2011, and which was provided in printed form to all Commissioners prior to the meeting.

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

Mr. Nabulsi referenced the aforementioned document, noting that it is aimed at creating discretionary opportunity for developers to place all or some affordable units off-site but does not address any other affordable housing alternatives, such as a payment option for example.

The issue of a 20-year affordability period was raised by Mr. Wilson who expressed concern that the rolling expiration dates of affordable units throughout Town makes it difficult to ever satisfy and lock in the state affordable housing percentage goal. He proposed a longer timeframe of 30 years.

Commissioners appreciated the point raised by Mr. Wilson, but also noted that unanticipated issues/concerns are likely to arise over a 30-year period (which they felt was a very long timeframe) that might affect future regulatory considerations pertaining to affordable housing. The issue was addressed again later in the evening and a determination was then made to modify the affordability time period from 20 years to 30 years.

Ms. Gould indicated that she wished to engage in an in-depth philosophical discussion regarding affordable housing prior to discussing details of the proposed draft regulations before the Commission this evening. She stated that the rise in cost of land is the predominant factor affecting the cost of housing and she felt that the actions of land use bodies, i.e. government, drives that cost of land. She continued by noting that when the Town gives benefits to certain land owners, it creates wealth/value. Although she felt that it may have been appropriate in the past to extract some of that value and funnel it back into the community via a density bonus, she did not believe the Town needs to continue to require it under such broad circumstances.

Ms. Pratt arrived and was seated at 7:25 P.M.

Ms. Gould objected to the requirement that affordable units be of an equivalent size/construction quality as market rate units, noting that this results in market-rate unit buyers in a development paying for those additional costs. She also objected to the use of the phrase “single property with two or more dwelling units” in the definition of the term “multi-family”, since she felt this could result in ambiguities and potentially impact small residential property owners.

Mr. Nerney noted that the proposed regulation addresses only DRD, THRD and CRA-10 Multi-Family Residential Districts and would therefore not apply to single family R-1A and R-2A residential zones. Mr. Nabulsi also noted that Section 29-5.D of zoning regulations (Area and Bulk Requirements) does not appear to stipulate a minimum threshold for number of units in the aforementioned multi-family zoning districts.

The issue of the equivalency requirement of affordable housing units was discussed further. Using the example of a development with \$1 million market-rate units, Mr. Hulse felt that a better use might be achieved by utilizing a dollar value approach whereby a developer could perhaps provide two \$500,000 off-site affordable units in lieu of building a \$1 million affordable on-site unit. Addressing the on-site option, Mr.

Rudolph did not feel it appropriate to permit a developer to construct a \$300,000 home in a development where \$1 million market-rate homes were being constructed.

Mr. Nabulsi urged the Commission not to lose sight of the fact that a developer who avails himself of this affordable housing provision is also benefiting from a density bonus on the site.

Ms. Gould felt that a developer should be given the opportunity to decline the affordable housing option and thus not benefit from the density bonus if he so chooses.

Mr. Hulse discussed the concept of developing specific standards (e.g. good quality furnace, efficient septic, roof-age limitations, insulation minimums, up-to-date electrical, etc.) which all affordable units could be required to satisfy. The Commission also discussed another option of requiring that affordable units be indistinguishable in external appearance from market-rate units, while still permitting non-equivalent size/construction quality with respect to interiors. However, the Commission acknowledged that such approaches would be subjective in nature and would likely result in numerous regulatory, enforcement and liability issues for the Town.

Addressing the option of off-site affordable housing units, Mr. Nerney suggested that perhaps a more discretionary approach could be taken whereby the Commission might evaluate properties on a case-by-case basis so as not to pin itself down with respect to specific pre-defined criteria.

Mr. Rudolph expressed concern with the Town mandating certain requirements and standards, noting that it would be better for the Town from a liability perspective to allow such matters to be mandated by the market, the building inspector, the bank issuing the mortgage, etc.

Referring to Mr. Hulse's dollar value approach, Mr. Nabulsi raised a concern with a situation where a developer might receive approval for a development prior to acquiring the necessary off-site affordable properties. He cautioned about subsequent buyer/seller dollar manipulations that could potentially occur in the marketplace upon purchase of the required units which could distort the overall objective/intent of the Commission. Ms. Gould suggested the option of not approving a development until all required affordable properties are identified. Mr. Nabulsi stated that he would rather see the Commission focused on either bedrooms or square feet as the trade-off as suggested by Mr. Gardiner earlier in the discussion.

Ms. Pratt addressed the concept of allowing a developer to construct different price level homes for market-rate and affordable units within the same development. She felt that a varied range of pricing might actually provide a desirable mix of age as well as income groups, and result in a desirable level of diversity within a development. She also

suggested the possible formation of an Affordable Housing Commission which could review various options and determine the appropriateness/compatibility of various alternative housing options.

In light of the foregoing discussion, Mr. Nabulsi raised the possibility of excluding the THRD and CRA-10 zones from the discussion and focusing on the DRD zone alone where currently the maximum density permitted per acre is 3 units. He suggested the option of permitting 3 units/acre in the DRD zone if a 20% affordable housing component is also included, but allowing only 2 units per acre without an affordable housing component. There seemed to be a general consensus of approval for such a proposal.

Ms. Gould next addressed the Property Manager designation. She questioned the practicality of such a designation, particularly in small developments where she felt it would be more difficult to implement and maintain. Mr. Nerney noted that there are non-profit agencies which can be hired to oversee management properties and which capture a certain percentage of proceeds when a property is eventually sold, noting in particular that the Town had used a company by the name of Fairfield 2000 in that capacity in the past.

Mr. Wilson emphasized the need for some sort of board/commission, e.g. an Affordable Housing-type Commission (which he noted is utilized by many other municipalities), if the Town decides to pursue some of the aforementioned options.

As noted previously, there was a consensus at this time to increase the affordability time period from 20 years to 30 years.

Addressing Section 29-5.B.10.o (Change of Income or Qualifying Status), Ms. Gould suggested that an income averaging methodology be utilized to address situations where the income of an affordable housing tenant occupant changes in a particular year so as to exceed the qualifying maximum income permitted. She referred in particular to occupations that rely heavily on bonuses, commissions, etc. where income levels can result in wide swings from one year to another. It was the general consensus of the Commission to permit a 3-year averaging period for purposes of calculating income in those situations.

The question was raised as to whether some of the required time periods for proper notification, in cases of change in income or qualifying status, should be revised. After a brief discussion, it was determined that since these requirements have not posed a problem in the past, no modifications to the regulations need be proposed at this time.

Mr. Hulse raised another possibility whereby developers might contribute a specified cash amount to an affordable housing fund which could subsequently be used to subsidize certain rental units in Town. Ms. Gould added that if such an option were to be utilized, the funds could perhaps be used to offset senior taxes or senior rental units.

In conclusion, Ms. Poundstone noted that the Commission had laid out some significant issues this evening and would resume consideration of these issues again at the next special meeting scheduled for October 3<sup>rd</sup>. She expressed hope that by the end of that meeting the Commission would be ready to move forward with a plan for a formal regulation change application and public hearing, and hopefully would also be able to begin consideration of adaptive use and Cannondale regulations, which she noted would be handled by Ms. Gould and Ms. Pratt.

**G. REPORT FROM CHAIRMAN**

Ms. Poundstone suggested that a social evening be planned for some time end of November or early December to recognize members who will be ending, or recently ended, their tenure on the Commission and perhaps to welcome new members. She indicated that she would be putting together a proposal and would get back to the Commission in the near future.

**J. ADJOURNMENT**

MOTION was made by Ms. Poundstone, seconded by Mr. Wilson, and carried unanimously (8-0) to adjourn at 9:11 P.M.

Respectfully submitted,

Lorraine Russo  
Recording Secretary