

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

## **WILTON PLANNING & ZONING COMMISSION MINUTES JULY 9, 2012 REGULAR MEETING**

**PRESENT:** Chairman John Wilson, Vice Chairman L. Michael Rudolph, Secretary John Gardiner, Commissioners Lori Bufano, Marilyn Gould, Chris Hulse, Bill McCalpin, Peter Shiue, and John Weiss

**ABSENT:**

### **ALSO**

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

### **PUBLIC HEARINGS**

#### **1. SP#378, Wilton Shopping Center LP, 5 River Road, Outdoor seating for Bon Appetit**

Mr. Wilson called the Public Hearing to order at 7:16 P.M., seated members Bufano, Gardiner, Gould, Hulse, McCalpin, Rudolph, Shiue, Weiss, and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest. He noted that the hearing was continued from a previous date.

Present was Edward Schenkel, Gregory and Adams, attorney.

Mr. Schenkel referenced a response package from J. Casey Healy, dated July 9, 2012, noting that he would address outstanding issues raised during the June 25<sup>th</sup> hearing as well as comments received from the Village District Design Advisory Committee (VDDC). In particular, he noted that 1) the proposed awning color has been changed from Sunset Orange to Tuscan (he distributed and entered into the record a "PreConstraint 502" color brochure indicating same); 2) tiling in the outside patio area would consist of a light tan 12 x 12-inch size tile (he passed around a sample tile for Commission review);

3) the awning will be able to support hanging plants and the applicant is not opposed to such a requirement; 4) the number of proposed lamp posts has been reduced from 4 to 2, each of which will be positioned at the 2 outside corners of the canopy and will be the official lamp post style of Wilton Center; 5) there will be 4 mounted light fixtures as well.

Commissioners questioned the number of seats proposed (indoor and outdoor) as well as the total square footage of the expanded restaurant. Mr. Schenkel noted two typos on the submitted response package pertaining to number of seats proposed, noting that the correct numbers are as follows: 35 indoor seats in the expanded area of the restaurant, 24 existing indoor seats, and 16 outdoor seats, totaling 75 seats in all. He addressed the issue of square footage, noting that the expanded restaurant area would encompass 1010 square feet; the existing space is 1222 square feet; and the proposed patio area is 273 square feet; totaling 2505 square feet in all.

In response to questions relating to parking adequacy on the site, Mr. Nerney explained that one parking space is required for every 250 square feet, noting that required parking is not calculated based on numbers of tables/seats. Mr. Schenkel referenced the “Revised Parking Table” included in the applicant’s response package dated July 9, 2012, indicating that 357 parking spaces are available on the site where only 349 spaces are required.

Commissioners Wilson and Gould felt that the required number of parking spaces seemed low for the perceived needs of the site. Mr. Shiue observed that since there is a mix of retail and restaurant uses on the site (with their varied hours of peak usage), the required parking ratio of 1/250 square feet tends to average out the relative needs of the overall site. Ms. Gould felt that the Commission needs to reconsider parking requirements/regulations for the area.

Mr. Weiss questioned proposed patio lighting, noting a proposed awning height of 9 feet and pole heights of 12 feet, which he felt would result in illumination of the outside awning surface rather than the dining area beneath. He suggested the possible use of additional wall fixtures to address the issue.

Mr. Nerney concurred, encouraging the use of recessed lighting under the canopy. He also questioned the ornate decorative, and less functional, feel of the proposed light poles which he felt might conflict with the overall contemporary feel of the Center.

Mr. Wilson also expressed concern regarding the visibility of the filament in the proposed light fixtures.

Mr. Schenkel stated that he would discuss lighting alternatives with his client.

It was the consensus of the Commission to continue the hearing until July 23, 2012, given

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the outstanding lighting concerns and the fact that the Commission is still awaiting a report from the VDCC. The applicant concurred.

Mr. Gardiner referred for the record to a 4-page response letter from J. Casey Healy to the Commission, dated July 9, 2012, with attachments.

Mr. Wilson asked if anyone in the audience wished to speak for or against the application.

There being no further comments from the Commission or the public, at 7:35 P.M. the Public Hearing was continued until July 23, 2012.

**REGULAR MEETING**

- A. Mr. Wilson called the Regular Meeting to order at 7:35 P.M., seated members Bufano, Gardiner, Gould, Hulse, McCalpin, Rudolph, Shiue, Weiss, and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

**B. APPROVAL OF MINUTES**

**1. June 25, 2012 – Regular Meeting**

MOTION was made by Ms. Gould, seconded by Ms. Bufano, and carried (9-0) to approve the minutes of June 25, 2012 as drafted.

**C. SITE DEVELOPMENT PLAN REVIEW**

**D. ACCEPTANCE OF NEW APPLICATIONS**

- 1. SP#379, Rolling Hills Country Club, Inc., 333 Hurlbutt Street, Amend Special Permit to allow employee housing for 8 in existing residence on Club's property**

It was the consensus of the Commission to schedule a public hearing for **SP#379** on September 10, 2012

**E. PENDING APPLICATIONS**

**1. SP#377, Rolling Hills Country Club, Inc., 333 Hurlbutt Street, Amend Special Permit to allow employee housing in existing residence on Club's property**

Mr. Wilson stated that the applicant requested that application **SP#377** be withdrawn and he noted that Town Planner Nerney indicated that it is traditional for the Commission to routinely accept such a request.

Mr. Rudolph felt that after the Commission takes time to hear an application and engages in extensive discussion back and forth with the applicant, attempting to resolve/negotiate various outstanding issues, and then subsequently closes the hearing, a withdrawal of said application should only be with the consent/approval of the Commission. He felt that routinely permitting such withdrawals allows an applicant to put forth a proposal, obtain the feelings of the Commission, then withdraw, and start the process all over again (even a number of times if the applicant so desires), essentially placing the Commission in the capacity of an advisory board which he noted it is not. He likened the hearing/decision process more to a courtroom situation where such a withdrawal, after both sides rest, is not the general practice.

Ms. Gould felt that the requested withdrawal was appropriate, noting that the applicant clearly understood, after extensive discussions and feedback from the Commission, what its ultimate decision would likely be.

Mr. Nerney noted further that if an applicant is not allowed to withdraw under such circumstances, then the Commission would likely deny the application, which could potentially put the Town at risk for future litigation if an appeal of the decision were ever initiated.

Commissioners Hulse and Wilson agreed with Mr. Rudolph's feelings/concerns on the matter.

Mr. Weiss stated that he had no objection to granting a withdrawal under such circumstances since an applicant's subsequent proposal would likely better reflect the comments/wishes of the Commission as expressed during the course of the first application process.

Ms. Gould did not feel that the Commission could penalize an applicant by not accepting its withdrawal request since it has always been the practice of the Commission to permit such withdrawals in the past. It was her opinion that if the Commission wished to change its practice in that regard, then it should be stated clearly as such in the regulations.

Mr. Nerney suggested that an opinion of Counsel be obtained, noting that it not so much a regulatory matter as it is a point of order.

It was the consensus of the Commission to accept the applicant's withdrawal with respect to the subject application and to request an opinion of Counsel on such withdrawals for future reference.

**2. SP#378, Wilton Shopping Center LP, 5 River Road, Outdoor seating for Bon Appetit**

Tabled.

**F. COMMUNICATIONS**

**G. REPORT FROM CHAIRMAN**

Mr. Wilson noted that First Selectman Bill Brennan would like the Commission to put together a Sign Committee to work on developing a comprehensive signage plan for the Town. Mr. Wilson indicated a willingness to meet two times during the month of August in connection with the matter. He asked if anyone was willing to volunteer for the Committee. Commissioners Bufano, Gould and McCalpin volunteered to serve.

**H. REPORT FROM PLANNER**

**I. FUTURE AGENDA ITEMS**

**J. ADJOURNMENT**

MOTION was made by Mr. Hulse, seconded by Mr. Weiss, and carried unanimously (9-0) to adjourn at 7:51 P.M.

Respectfully submitted,

Lorraine Russo  
Recording Secretary