

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

**WILTON PLANNING & ZONING COMMISSION
PUBLIC HEARING/REGULAR MEETING
MINUTES – MARCH 23, 2009**

PRESENT: Chairwoman Sally Poundstone, Commissioners Alice Ayers, Doug Bayer, Marilyn Gould, Eric Osterberg, Dona Pratt, Michael Rudolph and John Wilson.

ABSENT: Commissioner Bas Nabulsi (excused absence)

ALSO

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

PUBLIC HEARINGS
(None)

REGULAR MEETING

**A. CALL TO ORDER
SEATING OF MEMBERS**

Ms. Poundstone called the Regular Meeting to order at approximately 7:19 P.M., and seated members Ayers, Bayer, Gould, Osterberg, Poundstone, Pratt, Rudolph and Wilson, and referred to Connecticut General Statutes Section 8-11, Conflict of Interest.

B. APPROVAL OF MINUTES

- 1. February 9, 2009 – Regular Meeting**
- 2. February 9, 2009 – Regulations Subcommittee**
- 3. February 23, 2009 – Regular Meeting**
- 4. February 24, 2009 – Special Meeting (Hanson House Tour)**
- 5. March 9, 2009 – Plan of Conservation and Development Meeting**

Ms. Poundstone noted that the minutes of February 9th and February 23rd were held over pending clarification of a comment attributed to Commissioner Nabulsi, and since he is not present they will continue to hold them until the next meeting.

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- MOTION was made by Mr. Rudolph, seconded by Mr. Bayer, and passed (3-0) to approve the minutes of the February 9, 2009 Regulations Subcommittee meeting.
- MOTION was made by Ms. Ayers, seconded by Ms. Pratt, and passed (5-0-3, with Ms. Gould, Mr. Osterberg and Mr. Wilson abstaining) to approve the minutes of the February 24, 2009 Special Meeting of the Hanson House Tour.
- MOTION was made by Mr. Rudolph, seconded by Mr. Bayer, and passed (6-0-2, with Mr. Wilson and Ms. Ayers abstaining) to approve the minutes of the March 9, 2009 Plan of Conservation and Development meeting.

C. SITE DEVELOPMENT PLAN REVIEW

1. SDP, Ramadani, 12 Center Street, Various site improvements and corrective action.

The matter was tabled pending arrival of the architect.

2. SDP, 3 Hollyhock properties, 3 Hollyhock Road, Construction of 3,000 square foot commercial building.

Mr. Nerney noted that the language of the common easement was reviewed by Assistant Town Counsel, who approved it. The applicant is awaiting the creation of a final version of a recordable map that will be filed with the easement, which is a condition of the Resolution.

Mr. Osterberg pointed out that the language in condition #8 is ambiguous, and that the last clause, “so as to create additional impervious surface” should be deleted.

Ms. Gould commented that this is another case in which they are losing an affordable home site to more commercial development, and while there is no way to vote against the application, the issue is of concern to her and is one of the things that they have talked about in their meetings.

- MOTION was made by Mr. Bayer, seconded by Ms. Ayers, and approved (6-0-2, with Mr. Wilson and Mr. Osterberg abstaining) to approve **Resolution #0309-4Z** as amended.

WHEREAS, the Wilton Planning and Zoning Commission has received an application for a Site Development Plan from 3 Hollyhock Properties, LLC for approval for the construction of a two story building consisting of 3,072 square feet of commercial space, for property located at 3 Hollyhock Road; in a DE-5 District, Assessors Map #68, Lot 24, and 0.251 +/- acres; owned by Hollyhock Properties, LLC and shown on the plans entitled:

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Existing Conditions Survey- Prepared for Trofa Enterprises, Inc.

Prepared by Michael J. Riordan, surveyor, dated January 30, 2007, at a scale of 1"=20', No sheet #.

Easement Map- Prepared for Trofa Enterprises, Inc.

Prepared by Michael J. Riordan, surveyor, dated March 4, 2009, revised March 23, 2009, at a scale of 1"=20', No sheet #.

Site Layout and Utility Plan – Prepared for Trofa Construction

Prepared by Holt W. McChord, engineer, dated September 16, 2008, last revised February 20, 2009, at a scale of 1"=20', Sheet #SE1.

Site and Soil Erosion Control Plan – Prepared for Trofa Construction

Prepared by Holt W. McChord, engineer, dated September 16, 2008, last revised February 20, 2009, at a scale of 1"=20', Sheet #SE2.

Construction Notes and Details – Prepared for Trofa Construction

Prepared by Holt W. McChord, engineer, dated January 7, 2009, last revised February 5, 2009, not to scale, Sheet #DT1.

Revised AC Location and Roof Leader Plan

Prepared by McChord Engineering Associates, Inc., civil engineers, dated February 9, 2009, not to scale, Sheet #SK-1.

Planting & Lighting Plan – Prepared for Trofa Construction

Prepared by Katherine E. Throckmorton, landscape architect, dated January 8, 2009, last revised February 20, 2009, at a scale of 1"=20', Sheet #PP1.

Photometric Plan- 1.0 Foot-candles

Prepared by Thomas Golden for Lightolier-CT, lighting consultant, dated January 8, 2009, scale not noted, no sheet #.

Photometric Plan- 2.5 Foot-candles

Prepared by Thomas Golden for Lightolier-CT, lighting consultant, dated January 8, 2009, scale not noted, no sheet #.

Title Sheet – Prepared for 3 Hollyhock Properties, LLC

Prepared by Steven L. Orban, architect, dated February 20, 2009, not to scale, Sheet #A-1.

Foundation Plan – Prepared for 3 Hollyhock Properties, LLC

Prepared by Steven L. Orban, architect, dated February 20, 2009, at a scale of 1/4"=1'-0", Sheet

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#A-2.

First Floor Plan – Prepared for 3 Hollyhock Properties, LLC

Prepared by Steven L. Orban, architect, dated February 20, 2009, at a scale of ¼"=1'-0", Sheet #A-3.

Second Floor Plan – Prepared for 3 Hollyhock Properties, LLC

Prepared by Steven L. Orban, architect, dated February 20, 2009, at a scale of ¼"=1'-0", Sheet #A-4.

Roof Plan – Prepared for 3 Hollyhock Properties, LLC

Prepared by Steven L. Orban, architect, dated February 20, 2009, at a scale of ¼"=1'-0", Sheet #A-5.

Roof Plan – Prepared for 3 Hollyhock Properties, LLC

Prepared by Steven L. Orban, architect, dated February 20, 2009, at a scale of ¼"=1'-0", Sheet #A-5.

WHEREAS, the Wilton Planning and Zoning Commission reviewed the Site Development Plan on February 9, 2009, February 23, 2009 and March 23, 2009; and

WHEREAS, the Zoning Board of Appeals, pursuant to application #08-10-20, have granted necessary variances to permit development of the subject property in accordance with submitted plans; 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** the Site Development Plan effective March 26, 2009 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 March 26, 2014.

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3. The Planning and Zoning Commission approves the waiver of one off-street loading and unloading parking space.
4. The driveway easement document and accompanying survey shall be reviewed and approved by the Planning and Zoning Department staff and Town Counsel prior to the issuance of a zoning permit. Said document shall be filed on the land records prior to the issuance of a zoning permit.
5. The applicant shall secure all necessary approvals for the provisions of public water and sanitary sewer service. Prior to the issuance of a zoning permit, the applicant shall provide copies of approval from the Aquarion Water Company, Wilton Water Pollution Control Authority and the Department of Public Works.
6. A bond estimate for all site work shall be provided by the applicant to the staff, which shall include but not be limited to, sedimentation and erosion controls, parking area, grading, landscaping, fencing, and storm water drainage. The applicant shall furnish to the Town a bond with proper surety, in form and amount satisfactory to the Town Planner or Assistant Town Planner prior to the issuance of a zoning permit.
7. The Planning and Zoning Commission has reviewed the applicant's lighting plan and, as a means of reducing impacts to an adjoining residence, approves the 1.0 foot-candle lighting plan in lieu of the 2.5 foot-candle proposal.
8. Unless otherwise approved by the Commission, all pavers shall remain set in stone dust and shall not be mortared.
9. The existing stone wall is to remain as shown on the Site Layout and Utility Plan, SE1 dated September 16, 2008 and last revised February 20, 2009.
10. There shall be no construction activities on the site on Sundays or holidays. With the exception of interior work, all construction related activities shall be performed on business days between the hours of 7:00 AM and 6:00 PM.
11. The applicant shall clean and maintain the proposed catch basin and underground detention system on an annual basis.
12. Given the limited size of the parcel, cleared snow shall be stored in a manner that does not damage landscaping or reduce the minimum number of on-site parking spaces. It shall be the responsibility of the owner to transport cleared snow to an alternative off-site location if this requirement cannot be met.

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13. All light fixtures shall be installed with no visible light sources. Exterior lights shall be extinguished by 11:00 PM with the exception of safety lighting.
14. All signage shall be subject to approval by Planning and Zoning staff.

SITE WORK

15. A copy of this resolution shall be given to the construction manager and shall be available on site during construction.
16. The location of construction trailers on the site shall be approved by the Town Planner or the Assistant Town Planner.
17. The name and phone number of the construction manager shall be provided to the Town Planner or Assistant Town Planner. The applicant shall provide written notification to either one, of the date when site disturbance is to begin, at least two business days before said date.
18. Erosion control plans shall be strictly enforced. Vehicular access points to public and private roads shall be swept clean of all dirt and debris at the end of each day.
19. Tree protection shall be provided for all trees to be saved. In addition, protection measures shall be taken to protect the overhanging branches from adjacent trees and shrubs.

BUILDING RELATED ITEMS

20. All exterior glass for the proposed building addition shall be non-reflective.

SUBMITTAL OF REVISED PLANS AND APPLICATION:

21. 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 Site Development Plan shall be completed within five years

after the approval of the plan. Said five-year period shall expire on March 29, 2014".

b. "For conditions of approval for Site Development Plan, see **Resolution #0309-4Z**".

- END RESOLUTION -

D. ACCEPTANCE OF NEW APPLICATIONS

(None).

E. PENDING APPLICATIONS

1. SP#345, Anspach, 526 Danbury Road, Special Permit for adoptive use

Mr. Nerney explained that there was a need to build a handicapped access to both buildings, but in so doing the applicant would exceed site coverage limitations. The applicant applied for a waiver from the State, and the State waived the requirement for handicapped parking for the main house, but denied without prejudice the waiver for the garage workshop area. The applicant has filed an appeal to the State Building Inspector, Department of Public Safety, and hopes to make a case that this is an historic property and there really isn't the need for handicapped access given the intended use. If the waiver is granted, they will provide staff with a letter and the Town can then act on the original application. In the meantime they have asked for a 65-day extension, which the Commission granted.

F. COMMUNICATIONS

1. SUB#899, deSola, 21 Edith Lane, Request for a 90-day extension pursuant to C.G.S. Section 8-25(a), to satisfy conditions #17 of Resolution #1209-4S.

Ms. Poundstone noted that Attorney Cannavino has requested a 90-day extension to allow them to satisfy condition 17 concerning various items that have to be accomplished before the final subdivision map can be recorded. Under Connecticut law, an applicant seeking subdivision approval has to record the map in the office of land records within 90 days from the expiration of the appeal period. The statute allows up to two 90-day extensions, and at this time they are seeking one 90-day extension for recording the document.

There being no objection, the 90-day extension was granted.

2. Rolling Hills Country Club, communication asking for permission to clear out brush.

Commissioners Wilson and Bayer recused themselves.

Mr. Nerney said he received a phone call from Earl Goven of Blades & Goven, the landscape architectural firm representing Rolling Hills, regarding an area between Hurlbutt Street and the parking lot. There is a lot of growth of invasive species, vines, and smaller type trees, and the club would like to remove that brush, build a berm of about 42” to provide a little more elevation, and then put plantings on top of that, which would be for a linear distance of about 250 to 300 feet.

In response to a question from Mr. Rudolph, Mr. Nerney said drainage is something they would look at to make sure they are not displacing runoff into the roadway, which has been an issue.

Ms. Ayers noted that that part of Hurlbutt remains very rural because of the vines and vegetation, and the plan is going to make the area more manicured, although the change does conform with the manicured entrance.

Ms. Poundstone said the letter from Earl Goven points out that the proposal will provide a more suitable growing condition for the evergreens, a more effective screen, and a more attractive and effective long-term solution. She said she believes the matter should be handled administratively.

1. SDP, Ramadani, 12 Center Street, Various site improvements and corrective action.

Mr. Doug MacMillan noted that the applicant is required to have 49 parking spaces. They are requesting a 30% reduction of that requirement for being in the Village District, which would bring the required spaces to 34.

Mr. Bayer said he recalled that spaces numbered 1 through 9 and 32 through 38 are half on Town property, and thought the applicant was going to contact Town officials to memorialize them.

Mr. Nerney said in a conversation he had with Town Counsel Ken Bernhard, the question came up whether the development could function with the required number of parking spaces on its own property, and he thinks if the 30% waiver of the parking is granted, the applicant would be able to meet the requirement of 34 parking spaces. They actually would have 38 that are not on Town property.

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Ms. Poundstone pointed out that the parking spaces in question are in two different parcels, those that are in the triangle and those that are up on the road.

Mr. Nerney said they are not suggesting to eliminate that parking. There has been an agreement by way of a Board of Selectman meeting in the past, although no formal easement was recorded, and Mr. Bernhard was inquiring whether the site itself can meet the Town's minimum parking requirements under the regulations.

Mr. MacMillan said he thinks one of the first things to do would be to determine if the Commission is agreeable to the 30% reduction, because then he has a starting point he can shoot at. He may have to go back and redo the map to show he can get the 34 spots, but he thinks he can make it work.

Ms. Gould said that is part of the historic pattern of parking that has been in place at that site since 1910, and the spaces have been grandfathered in for three generations or more and serve all of the Town of Wilton. They are on Town land, they are marked by the Town, and she has no problem with the proposed parking plan.

Mr. Nerney said while he doesn't generally take positions on applications, he would point out that the matter has been before the Village District Design Committee, and a lot of concessions have been made which he thinks are quite good for the downtown, i.e. the walkway along the back of the property and an entryway to the river. The parking area has historically been used on weekends by people using Merwin Meadows and the owner has never objected to that. So while he benefits from having the Town spaces, the Town also benefits. He said there have been problems with the site in the past, and the owner has stepped up to the plate in addressing the problems. The design of the 3-season porch is quite impressive, and he thinks there is a way to make the parking work that would be mutually beneficial.

Ms. Poundstone said Mr. MacMillan needs to know specifically whether the Commission is willing to go along with the 30% reduction so that he has a target to shoot for, and she suggested they do a straw poll.

Ms. Pratt asked what gives them the ability to reduce the parking by 30%. Mr. Nerney said the parking in the Village District is shared by various places, and it is a recognition that people will maybe park there and go to the library or other services.

Mr. Bayer said he is inclined to grant the applicant whatever latitude he needs to make the parking work, and doesn't understand the reluctance of the Town to sanction what has been happening there since 1910. He doesn't feel the Commission should be put in a position to approve the parking, because ten years from now somebody else could be running the Board of Selectmen and they could take away all the parking in front of the Barringer Building.

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Ms. Poundstone recognized Ms. Kimberly Young from the Conservation Commission, and noted that this is not a public hearing, but she was welcome to speak.

Ms. Young said the Conservation Commission had some serious issues with different aspects of the property and some things obviously need to get fixed and perhaps they could be worked into the agreement. She said the whole patio area at one point had been brick, which is an impervious surface, and now has been paved over in solid cement. Big trees were topped and killed, the dumpster drains into the river, and there is an encroachment on the easement.

Mr. Nerney pointed out that the applicant did apply for an Inland Wetlands Permit. There had been some impervious surface areas located along the back on the river side that they were required to eliminate, and in fact have agreed to remediate. They were also working on a swale on the dumpster site as a fore bay to capture some of the runoff.

Ms. Poundstone said she has the report from the IWC dated January 26th, which indicates that they have approved the site plan that corrects violations associated with the patios and the regrading.

Mr. MacMillan said if they get the 30% reduction and make the parking work, he has advised his client that it is in his best interest to try to get a permanent easement. With the 30% reduction, he would be three spaces short. He is comfortable he can get the three spaces on his own property, but the approved plan for the 34 spaces will be a paper plan, it will not actually exist. The plan would be on file, and if the Town took the spaces away, they would have the ability to rework the parking in order to be wholly on their own property. He said if they get approval, they will implement the bigger plan of resealing the whole parking lot and restriping it with the 49 spaces, and would still move forward with everything they proposed.

Mr. Nerney said the plan is merely a recognition that the applicant could employ the alternative plan if for some reason the Town orders them off its property, and if the Commission is inclined to approve the plan, there should be something in the resolution stating that the Commission recognizes that the site has the carrying capacity to accommodate its own required parking

Mr. Rudolph said he has a problem approving something that is only on paper and doesn't really exist. He thinks the Commission should place the obligation on the applicant to get Town approval for an easement for the additional land he needs.

Ms. Pratt said the plan on paper bothers her because cars would actually be placed where people need to walk to get to Merwin Meadows, and she doesn't understand why there is a problem with getting the easement and doing it the right way.

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Ms. Ayers pointed out that it is the applicant's property and he can put parking wherever he wants, and if it impedes Merwin Meadows, it's not his problem.

Mr. Wilson said the parking spaces have been associated with the building as long as he and his wife have been in Wilton, and if the applicant needs to get the straw poll approval before they go to the next step, he is all in favor of it.

Mr. Bayer said he thinks the Town should step up and do the right thing and give the property owner the right to use the spaces down there, because forcing 34 spaces onto the property will result in an inferior plan. He thinks the Board of Selectmen took action regarding those parking spaces, and the fact that it never got memorialized is no excuse.

Mr. Nerney said rather than make the applicant go to the Board of Selectmen and keep the application open, or close it and then have him come back, he would suggest that the Commission take action on the plan with a condition that an easement for X number of spaces on the lower portion be sought.

Ms. Gould said she thinks the applicant has to go to the Board of Selectmen and get an easement, and she would want to know before voting on the application that he has the approval from the Board of Selectmen.

Mr. MacMillan said he was led to understand that he should request the 30% reduction and do a rough sketch for the 34 spaces, and now apparently the goal is to get a fixed easement, and he would like some direction.

Mr. Nerney said the owner needs to get his attorney to approach Town Counsel and the First Selectmen's office to get a non-exclusive easement.

Ms. Poundstone said she wants to make sure that they recognize how far the owner has come in terms of developing an attractive, inviting entry, both into the downtown, but also into their future Riverwalk. Ms. Ayers pointed out that this property is an essential piece to the Riverwalk, because it is a connector to the north, and it has been very difficult to get other property owners along the river to give up property for the Riverwalk, and if this property owner is willing to do it, it may be easier to talk the other property owners subsequently into doing it.

Mr. Nerney said don't forget also the connection to the train station. They have a grant pending, and they need the cooperation of this property owner.

Ms. Poundstone said she thinks the applicant knows what it has to do, and their next meeting is not until April 27th.

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Mr. Nerney said they have a statutory time problem, and the applicant would need a 65-day extension. Mr. MacMillan said he will provide a letter requesting the extension. He said he may not have a hard piece of paper to bring to the Commission on April 27th, but he hopes he could come back at that meeting and say in concept the easement is approved and is being drafted, and hopefully Town Counsel could convey wherever they are with that to the Commission.

Mr. MacMillan said he can't start the restoration work until they have the Commission's approval, but the planting season is upon them and he would like to be able to do the work approved by the Wetlands Commission, which is the plantings and the regrading and the patio, which is strictly plants, dirt and rocks.

Mr. Nerney said the remediation is not tied to what has triggered the application before the Commission and the applicant does not need the Commission's approval to do the restoration work along the river bank.

Thee being no objection from the Commissioners, the request was granted.

G. REPORT FROM CHAIRMAN

H. REPORT FROM PLANNER

I. FUTURE AGENDA ITEMS

J. ADJOURNMENT

MOTION was made by Mr. Wilson, seconded by Ms. Ayers, and carried (8-0) to adjourn at 8:26 P.M.

Respectfully submitted,

Karen Pacchiana
Recording Secretary