

January 20, 2017

John H. Goodwin, Chairman
Planning & Zoning Commission
Town of New Canaan
77 Main Street
New Canaan, CT 06840

Re: Grace Farms Foundation – Withdrawal of Special Permit Application

Dear Chairman Goodwin:

This letter is written on behalf of my clients, David Markatos and Jennifer Holme, whose property at 1328 Smith Ridge Road in New Canaan abuts the property colloquially known as Grace Farms. From my conversations this week with the Town Planner, we understand that Grace Farms Foundation (the “Foundation”) now intends to withdraw its pending application for a third amended special permit at Grace Farms (the “Application Withdrawal”) at the Commission’s January 24, 2016 Special Meeting.

Should the Foundation effect the Application Withdrawal, we respectfully request that the Commission demand that the Foundation immediately come into compliance with the terms and conditions of the existing 2013 amended special permit for a religious institution (the “2013 Approval”) and direct the Town Planner to strictly enforce the 2013 Approval for the following reasons:

1. The Neighborhood has Endured 16+ Months of Non-Compliance.

As extensively documented in our December 2016 memorandum and supporting documentation, despite full knowledge that the 2013 Approval was solely for a Religious Institution, the Foundation began its operations at Grace Farm in October 2015 by instantly violating multiple conditions of that approval. These violations are long-standing, continuing, material and well known to all interested parties. Notwithstanding these encroachments and impacts, my clients have respected the process established by this Commission more than 7 months ago to address the Foundation’s operations at Grace Farms, a process that will clearly take several more months to reach a conclusion.

Moreover, allowing the Foundation to continue its impermissible activities while a new hearing extends well into 2017 undermines New Canaanites’ trust and

confidence in the town's public institutions. The Foundation's disregard of the 2013 Approval, combined with its woefully inadequate submission, cannot be even implicitly blessed with this Commission's patience. Therefore, the Commission must take long overdue action to address these violations with clear directives to the Foundation following any withdrawal and during the pendency of a new application.

2. Abuse of Process.

The Commission has given the Foundation ample time to prepare and present its application and to rebut and answer any questions posed by the Commission and the Town Planner. As made clear by Planimetrics' January 17, 2017 report, the Foundation's current application has fallen well short of the mark and the Commission's expectations. To date, the Foundation has simply wasted the valuable time and resources of this Commission as well as those of my clients, adjacent property owners, and other interested parties who have been forced to address the incomplete, misleading, and erroneous assertions made by the Foundation's advisors and set forth in the current application. To my clients, this only serves to reinforce the long-standing tactic of the Foundation's leadership to stonewall and obfuscate rather than compromise and/or make adjustments to its planned institutional usage programming in a manner compliant with the Zoning Regulations. It also begs the question as to what the Foundation will submit as its "new use" other than the uses that have already been outlined in the current application. Any reconfigured application by the Foundation for multiple special permits and multiple principal uses will not remediate or address the fundamental land use issues raised in Donald J. Poland's December 16, 2016 expert report.

3. Continued Disregard of Clear Commission Directives.

In his June 2016 letter, the former Town Planner acknowledged that, following his investigation of various complaints lodged by my clients and other neighbors, the Foundation's programming at Grace Farms had in fact exceeded the 2013 Approval and violated several conditions of that approval. Although the former Town Planner's conclusions did not constitute a formal cease and desist order, his letter did not serve to waive or otherwise relax the requirements of the 2013 Approval and it most certainly did not excuse the Foundation from strictly adhering to the 2013 Approval. Rather, the former Town Planner reiterated an explicit request of this Commission – that the Foundation stop scheduling programming events, such as seminars and conferences, until a modified special permit application is submitted, reviewed and approved by the Commission. Notwithstanding these requests, the Foundation's illegal operations at Grace Farms have continued unabated. Additional space grants have been awarded, and on October 18, 2016 the Foundation published a preview of their 2017 programming which highlighted numerous events scheduled for 2017 that run

afoul of the 2013 Approval (see attachment). While the Foundation may be within its rights to withdraw its current application, the Foundation has no legal basis to operate outside of the 2013 Approval, nor should this Commission implicitly sanction such action.

Additionally, it has come to my clients' attention during these proceedings that the 2015 As Built Survey reveals material deviations from the approved 2013 Overall Site Development Plan C-100 that formed part of the Commission's 2013 Approval – for example, the footprint and building height of the community garden shed and the continued existence of a parking lot adjacent to the gate house at Grace Farms. The Commission should direct the Town Planner to conduct a full audit of the 2015 As-Built Site Plan *vis-à-vis* the 2013 Overall Site Development Plan C-100, and the Foundation should be required to bring all deviations into compliance with the 2013 Approval prior to filing a new application or include those deviations in the scope of a new application.

For the foregoing reasons, my clients respectfully request that the Commission (i) direct the Foundation to come into compliance immediately with the 2013 Approval, (ii) direct the Town Planner to effect an audit of the 2015 As-Built Site Plan *vis-à-vis* the site development plan forming part of the 2013 Approval, and (iii) require reconciliation of any identified site plan deviations from the approved plans prior to the filing of a new application.

Sincerely,



Amy E. Souchuns

cc: Rob Mallozzi, First Selectman
Steve Palmer, Town Planner/Senior Enforcement Officer
Ira Bloom, Town Attorney