

1055 Washington Boulevard  
Stamford, CT 06901-2249  
Main (203) 462-7500  
Fax (203) 462-7599  
tohanlan@rc.com  
Direct (203) 462-7556

***VIA ELECTRONIC MAIL and U.S. MAIL***

***Steve.Palmer@newcanaanct.gov***

***Lola.Sweeney@newcanaanct.gov***

June 23, 2017

Mr. Steve Palmer  
Town Planner  
New Canaan Town Hall  
77 Main Street  
New Canaan, CT 06840

Re: **Grace Farms Foundation, Inc. ("Foundation")**  
**365 Lukes Wood Road, New Canaan, Connecticut**  
**Comments on Consultant Planimetrics' (a) "Report - Grace Farms," dtd May 23, 2017; (b) "Regulatory Change Summary," dtd June 21, 2017, and (c) "Possible Issues Framework," dtd June 20, 2017.**

Dear Mr. Palmer:

As you know, this firm represents the Foundation in its Renewed Application, the formal presentation of which was made in a public hearing on May 30, 2017, which remains open with a second session scheduled for June 26, 2017.

At the close of the Foundation's presentation on May 30th, Glenn Chalder, AICP addressed the Commission regarding Planimetrics' May 23, 2017 "Report-Grace Farms," ("Report") but the Foundation was not able to respond before the public hearing was continued. Since then, the Town Planner has forwarded to the undersigned Planimetrics' subsequent "Regulatory Change Summary" and "Possible Issues Framework" ("Framework") referenced above, which we understand supplement the Report.

Mindful of the interest of others to speak at the next session, this letter is written to provide the Commission and the Record with the Foundation's views on the issues addressed by Planimetrics in these documents, and to report on the status of the Foundation's application to the Inland Wetlands Commission for approval of the buffer fencing and wetlands planting proposed as part of the Renewed Application in response to neighbors' concerns, which they expressed either directly to the Foundation or through discussions with the Town Planner.

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**Comments on the Report, Regulatory Change Summary, and Framework.**

In terms of the Background section of the Report, and Issues 1 through 9 (pp. 1-2) of the Framework, it should be noted that what the Foundation seeks is the “more restrictive approach” listed, with the following clarification: Especially as the new permit will supersede and replace the 2013 Special Permit, it should be made clear that the applicant and title owner of the Property in 2012 was Grace Property Holdings, LLP, an entity owned and controlled by the Foundation, and that Grace Property Holdings, LLP in 2014 transferred title to the Property, including all rights and obligations under the 2013 Special Permit, to the Foundation. Further, any new special permit should continue to reflect what the 2013 Special Permit stated in “Whereas” Paragraph 4 (p. 2): “...*that Grace Farms Foundation is a not-for-profit charitable foundation established in 2009 in New Canaan, Connecticut, to support initiatives in the areas of faith, the arts, social justice and community.*” (italics provided).

With respect to Section 1 and 2 of the Report (p. 2), regarding the Foundation’s Application for Regulation Amendments (“Text Change”), and Mr. Chalder’s comments on the Record on May 30<sup>th</sup>, the Foundation agrees that the proposed changes will make more clear what the Zoning Regulations already allow and what the Commission historically has done: To approve more than one (1) of the “Permitted Principal Uses” listed in Section 3.2 for a single parcel of land, consistent with the special permit “Criteria” in the Zoning Regulations and the facts of a specific application/situation. (Indeed, Mr. Chalder explained that this text change will make once again “explicit,” what the 2002 revised Regulation his company drafted to be “implicit,” thinking the point was that clear.). And, as you are aware, the Commission has done this for years, as evidenced by the many entities in New Canaan that today operate under a special permit approved for more than two principal uses.

As stated in the public hearing, however, for purposes of the Foundation’s Renewed Application, whether the Commission chooses to rely on its existing Regulations and historic practices for this position, as the Foundation believes is sufficient, or instead chooses to adopt a clarifying text change, as recommended by its counsel, is a matter that you and the Commission should discuss with counsel.

Furthermore, the Foundation respectfully does not agree that the specific language proposed by Planimetrics, either in the “Report” or in the “Regulatory Change Summary” for Section 3.2.C is better than what the Foundation has proposed in its April 28, 2017 Regulation Amendment Application. Again, Commission counsel should weigh in on this issue. Our concern is that Planimetrics’ proposed language, and in particular the words “additional,” “secondary,” or “subsequent,” whether offered in or out of parentheses, will lead to more uncertainty and textual

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gamesmanship. As you know, eliminating uncertainty and gamesmanship is what the text changes here were recommended and offered to avoid; they do not change the substance of the Zoning Regulations or the Commission's prerogatives. Indeed, one could argue that the language recommended by Planimetrics contemplates a hierarchy of uses that is clearly not the intent or practice of the Commission, but worse, supports the very argument advanced by the opponents which the text change is intended to defuse.

With respect to Section 3 (p. 3) of the Report and the Framework regarding the Special Permit modifications the Foundation is proposing, the following comments are offered:

Mr. Chalder seems not to appreciate that the Foundation purposely seeks two additional principal uses ("Club" and "Eleemyocenary Institution") only because of the peculiar manner in which they are defined in the Regulations, relics of earlier text changes. He seems not to understand that the Foundation's purpose is to operate as an **independent principal use(s)**, not an accessory use (as he suggests) to the religious institution use. The need for this change is to facilitate the Foundation's Justice Initiative --- to combat human trafficking and gender violence --- to work with government and law enforcement agencies without the legal impediments of separation-of-church-and-state that have arisen under the religious institution use.

This application has nothing to do with the church uses or size of the sanctuary, or any of the matters listed in paragraphs 1, 3, and 4 of the Report and the "Background" descriptions for Issues 7 and 8 (p. 2) of the Framework. It is not intended to increase any aspect of the Foundation's operations or its impact on the site or, especially, on its neighbors. Indeed, the Justice Initiative, while vitally important and very effective to date, is likely the least visible of all the Foundation's work from a zoning or neighborhood perspective.

Further, the Foundation has defined in its 2017 Management Plan a strategic vision for the Property, its intention to subject all three parcels to the special permit, and to preserve the natural setting of the undeveloped 70+ acres on site. It has stated therein that it has no plans to develop further the site, except for the 82 Puddin Hill Road site, which has two structures that are not used at present. It has also stated therein that any new parking proposed would be solely for the purpose of relieving the religious use parking problems, for which an off-site shuttle has been used since the Property was opened for use. This strategic view is logical given the significant investment by the Foundation in, and the enhanced value and international recognition achieved to date by, the iconic and creative architecture of the River Building.

From a zoning perspective, such an articulation of purpose and voluntary expansion of the scope of the special permit by the Foundation provides the Commission with a means of enforcement,

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substantively and procedurally, that works to the benefit of the neighbors as well as the community overall. It makes clear that the uses sought will not increase the intensity of the Foundation's use of its property or change at all its impact on its neighbors. It also makes clear that any further development of the entire site will require amendment of the special permit, with all the application detail, notice, public input, and deliberative process that are involved.

As discussed with the Commission at the public hearing, the Foundation believes that Planimetrics' concern for a clear statement of use can be easily accomplished in the language of the amended special permit, explicitly stating that it applies to the entire expanded Foundation Property as presently developed and configured as of the date of approval. Such language will require any change thereto, as already stated, to be the subject of a formal application to amend the special permit.

Planimetrics' comments on Paragraph 5 (p. 4) of the Report appear to reverse its earlier position and advice to the Foundation in January. Planimetrics itself suggested that a Management Plan be prepared as a means for management of the site, and it was acknowledged that the number and size of events are essentially new territory, since the 2013 Special Permit (and Record) addressed Foundation activities in only three paragraphs, and with very little specificity. The actual attendance figures the Foundation has provided for the Record ---- pp. 76-81 in the Foundation PowerPoint ---- demonstrate that, except for Sunday mornings (a busy phenomenon experienced by nearly every church in Town), the parking management regimen implemented by the Foundation in fact works. And the Foundation has proactively addressed the busy Sunday church service parking by (1) voluntarily closing the site to the public and (2) engaging a private shuttle service to and from a commercial parking lot off-site. Neither of these measures is required under the 2013 Special Permit, and should be seen as evidence of the Foundation responsibly handling its Property and activities.

The Foundation understands, and has stated to the Town Planner and at the public hearing, that the number of events requested and in the categories described has been "dialed up" in order to provide flexibility. Indeed, the numbers set forth were discussed with Planimetrics as justifiable on a "per month" basis, and Mr. Chalder encouraged the Foundation's position. A draft of the Foundation's application was provided to him for comment in advance of the application, but he did not respond until his formal report was submitted. With this background in mind, the following additional comments are provided for the Report and the Framework:

The 2013 Special Permit did not prescribe operating hours beyond requiring that exterior lights be extinguished by 11 PM and that construction work not commence before 7 AM. Thus, the hours proposed by the Foundation are in fact more limited and should be seen as the

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“Alternative Approach,” rather than the “Less Restrictive Approach,” as characterized by Planimetrics in Issues 10-12 of the Framework.

Planimetrics mistakes the nature of “space grants” in Issues 14 and 15 of the Framework (p. 3), in two significant ways: First, the Foundation does not hold “Sustainability Events” at present, but has requested permission for this new type of event in the Renewed Application, with limits in the mandatory consultation with the Town Planner and the tax laws applying to tax exempt entities. Second, the Foundation does not “host third parties” in making space grants, but carefully selects those non-profits whose interests fall under one of the Foundation’s Core Initiatives, and can be furthered by collaboration with the Foundation’s skilled staff.

Issue 16 (p. 4) of the Framework is not accurate and should be disregarded. The Foundation seeks nothing in this Renewed Application related to the Sanctuary size or capacity. Similarly, Issue 17 mischaracterizes the strategic vision articulated in the Management Plan. Any increase in parking sought will be the subject of a separate application and will be constructed and permitted so that it does not increase the daily capacity of the site, but will relate only to relief for parking demand by the church on Sundays and for religious services.

Issues 20-33 (pp. 5-7) properly characterize the Foundation’s position as “Alternative Approach,” which we take as balancing interests to protect all involved. With regard to Issue 30, “Interior Lighting,” (p. 7) and the use of curtains, the photographs provided by my letter of June 21, 2017 show that only during the winter months, and not during daylight savings time, as Planimetrics suggests, is this even remotely an issue. Further, the efficacy of turning down the lights is clearly shown in the PowerPoint (Slides 60-61). We respectfully ask that these alternative approaches be approved, since the openness and airiness of the River Building is defeated by the use of curtains. And, as the Commission knows, nothing in its Zoning Regulations or in the private property rights of the neighbors requires that the Property be void of light at all times after dark.

As for the type and number of events described in the Report, and the “Activity Matrix” (p. 10) of the Framework, Planimetrics’ expansion of types of events into “High”, “Very High,” and “Extreme” seems to complicate the process unnecessarily, given that the same proven approach for managing the events through monitoring parking and limiting access by the public will apply. The following additional specific comments are offered:

A. The Foundation regularly has at least four large events, including the Annual Benefit Weekend in October (2 days), Earth Day (April 22), and a Holiday Concert. The Foundation would propose capping attendance of these at 1,200 attendees, as referenced in the

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parking studies, and would limit the total number per year to ten (10), representing the four at present, with the potential for six additional justice and arts events.

Contrary to Planimetrics' comment regarding "Extreme Attendance," the sanctuary capacity is not limited to 700, and the capacity is but one element to be considered. Some of these events do not even involve the Sanctuary alone, or even at all. It is also important that events be defined by attendance at one time, as distinct from attendance over the course of a full day. This is because, first, the Foundation's system of monitoring intensity of use by counting persons and cars entering the site has been proven to work, as Planimetrics recognizes in concept in the Report (p. 3, para. 3), and as you and the Town have seen from the absence of any complaints of a parking or traffic or noise problem since the site was granted a certificate of occupancy in October 2015. Second, as demonstrated by the measure of most intense attendance in any two hour period over nearly the last year (PowerPoint Slides 79-81), the parking use on site has never been overwhelmed, even if you use a "one attendee/one car" ratio for the attendance counts in these peak periods.

B. The Regular Events include "Space Grants" to worthy non-profit organizations and other events under its Core Initiatives that the Foundation believes are of interest to the public. The Winter Outing, Memorial Day celebration, and the Voices of September 11 commemorations are some examples. The Practicing Art series (2 events to date) is another, which provides free art performances --- the last being 6 New York City Ballet performing artists --- to the community. The number of attendees encountered to date and anticipated is less than 700, but, again, the idea is to provide flexibility against the possibility that such an event would be topical and well-attended. The Foundation proposes to limit the number of Regular Events to twenty (20).

As stated in the Application, the Foundation will close the site to the public whenever the attendance at any event is expected to be greater than 500, so as to ensure the available parking is not taxed.

Further, any such Large Events or Regular Events, with the exception of the Holiday Concert and Winter Outing, would likely be scheduled during months of warm weather, when the deciduous foliage is in bloom and provides additional buffering and screening of all activities on site from neighbors. The photographs submitted to the Record showing full summer foliage views and winter views of contiguous neighbors' properties demonstrate the distance and unobtrusive nature of the Grace Farms structures from each neighbor. This is so even in the winter months, as shown, but, especially, in the spring through autumn months, when the neighbors' homes and Grace Farms' structures literally cannot be seen by the other at all.

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C. The Small Events, by their nature, do not challenge the parking limits or have any impact on neighbors, and, respectfully, should not be limited. To date, the Foundation and Grace Church have worked in close collaboration on their respective calendars for almost two years without once allowing a combination of events that has challenged the parking limit or impacted the neighborhood traffic or quiet.

Further, limiting space grants to certain days per quarter, as suggested, will only increase the potential for impact, by defeating the flexibility that this 80-acre site with 226 parking spaces provides across a wider calendar, and by ignoring the good record achieved in nearly two years of no incident involving traffic or noise.

The remaining issues listed in Mr. Chalder's Report have been addressed in the Renewed Application and other materials provided for the Record.

Let me repeat the Foundation's intention to define and describe its activities in such a way that the uncertainty is resolved and the Commission, its neighbors, and the community can fully understand both what activity is taking place on site and also that it poses no threat to the greater neighborhood in which it is locate. Thank you for this opportunity to reply to the Planimetrics Report in more detail.

### **Status of Inland Wetlands Application**

At the public hearing on June 19, 2017 on the companion application the Foundation filed with the Inland Wetlands Commission, the three Smith Ridge neighbors appeared individually or through counsel to oppose the buffer fence aspect of the application, to request that an "independent monitor" be appointed to oversee the work proposed (stating that the independent monitor in 2012 had not adequately done his job), and to request that the walking trail be re-located to the west of the stream. This opposition was not announced to the undersigned in advance and came as quite a surprise and disappointment: Previously, the neighbors had commented that they wanted different forms of screening/buffers, or that they did not "like" what was proposed. They never said that, from a wetlands agency's jurisdiction standpoint, they would oppose the concept.

The Foundation's response was that the Foundation, at considerable expense, has sought these measures because it believed that the Town and the neighbors desired them, after discussions with the Town Planner and individual neighbors prior to filing the Renewed Application; further, that there is no need, based on the minimal disturbance and nature of the work proposed --- planting by hand --- for any independent monitor and that accusations against the earlier

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decisions and 2012 independent monitor's work were unfair and unwarranted; and, finally, that the Foundation's application did not contemplate relocating the trail, already 400 yards at the closest point from the neighbors.

The Wetlands Commission closed the public hearing, and deferred its deliberations and decision to its July 17<sup>th</sup> meeting, which will necessitate this Commission keeping the public hearing open to receive the Wetlands Commission's decision.

Thank you also for the courtesies of allowing the Foundation to respond to these issues. If you have any questions, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "Edward V. O'Hanlan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Edward V. O'Hanlan

EVO'H/jh