

Grace Farms Foundation – Proposed NC Zoning Regulation Text Amendment:

Grace Farms Foundation is proposing to change New Canaan’s Zoning Regulations to allow for multiple principal uses across all residence zones – irrespective of whether the property is located in the 1/3 acre, 1 acre, 2 acre or 4 acre residence zone. If approved, this change would fundamentally alter the landscape of New Canaan’s residential neighborhoods. In essence, a property owner in any residence zone would have the ability to build 2 primary residences on their lot, or add a bed & breakfast, medical office, day care facility, nursing home, etc. to their property. Does introducing this level of intensity, encroachments and adverse impacts in New Canaan’s residential neighborhoods make any common sense let alone comport with the intent behind the Regulations themselves and our Plan of Conservation and Development?

A principal use is defined as the dominant or primary activity on a lot. For example, in New Canaan, locating a church in a residence zone constitutes a principal use allowed by special permit. This is quite common in New Canaan. Other principal uses permitted by special permit in New Canaan would include schools, such as St. Luke’s and NC Country Day with their associated ball fields. In these cases, the principal use is the school, with the ball fields being a related accessory use to the school’s educational mission. With Grace’s proposed text amendment changes, any resident or institution in a residence zone can expand its uses to multiple unrelated uses that take place concurrently at their property.

Today, Grace Farms Foundation has a special permit for Grace Community Church, a Religious Institution, which is the approved principal use at Grace Farms. Notwithstanding this limited special permit, at least 6 additional principal uses are currently operating at Grace Farms -- Restaurant, Foundation, Public Park, Club, Office Building, and Community Conference Center. That is precisely why Grace Farms Foundation is now seeking this text amendment – to bend New Canaan’s Zoning Regulations to the detriment of all other New Canaanites in residence zones, and allow these unpermitted activities to continue and grow unabated.

What does this mean for those of us who border an institutional use: it means that our neighborhood institution could material expand its types of usages and be more than just a private school, in the case of St. Luke’s School, or more than just a hospital in the case of Silver Hill Hospital or more than just a club in the case of the YMCA. With the constraint of only one principal use removed, no longer would the activities and operations of these institutions have to be related to one-another and they could be of equal or greater intensity as the principal use on which these institutions were founded. St. Luke’s could, for example, add on a Club or Community Center and additionally, a Conference Center on its current footprint. Silver Hill could add Congregant Housing, a Bed & Breakfast for patient families, and a Commercial Medical Office to its current campus. If approved, multiple contemporaneous principal uses would be allowed in **any** residence zone. It would turn our residence zones into commercial, mixed-use zones.

Mixed use (i.e. multiple principal uses) is allowed in New Canaan but is restricted to the Business Zone and must also include residential housing. Mixed use commercial zoning permits shops, medical offices (2nd floor), apartments and multiple different principal uses to co-exist and operate concurrently at the same location. Grace Farms Foundation’s proposed text amendment change, essentially deregulates New Canaan’s residence zones and allows those zones to become mixed-use zones.

Grace Farms Foundation will argue that the Special Permit criteria will give the Commissioners the necessary latitude to control when multiple principal uses are allowed on a residential lot, but if the Commission approves this text amendment change, that would be with the clear view of approving the

most intense use of one parcel of land anywhere in New Canaan. Post the Grace Farms precedent, it would be very hard for the Commission to turn down a multiple principal use application with lower intensity, encroachments and adverse impacts. In essence, the elephant will be going first and clearing the path through the zoning regulations, with the small animals then following. Post Grace Farms, the Commission would be hard pressed to turn down another "Orchards End" spa as was recently proposed on West Road, or a "residential retail" design shop as One King's Road had recently proposed in a neighborhood in New Canaan's 2 acre residence zone. The intensity and impacts of a spa or retail shop in a residence zone are orders of magnitude less than the intensity, impacts and encroachments of Grace Farms on the surrounding neighborhood.

The hearings will continue on June 27 with P&Z considering the text change first. If approved, the Commission will then review Grace Farms Foundation's actual special permit application based on the revised Regulations. This is not a clean up of the regulations as some may suggest – but rather a fundamental change to how we use and define residential zones.

We strongly urge you to review Grace Farms Foundation's proposed text amendment – set forth below -- and come out and speak at the hearings or write a letter to the Commission and Town Planner regarding this proposed text amendment.

NC Zoning Regulation Overview:

Today, New Canaan's Regulations allow for one principal use – there are 22 different types -- by special permit on one lot in the residence zones. When the Zoning Regulations were developed, discrete permitted activities that were distinct from a family's primary residence were outlined in the regulations as being authorized to occur in residence zones. As per the regulations, in the residence zones, you have one principal use (a house) and you are permitted to have an accessory structure(s). The accessory structures are all related to activity of the principal use.

For example: A residence (principal use) and a gazebo, detached garage or barn (each an accessory structure). All accessory structures are related to the principal use. You cannot today, for example, have a Private School and Medical Office on the same parcel as a family's primary residence in any residence zone. This would represent three distinct and separate principal uses.

"Use" today is defined in section 2.2 of the Zoning Regulations and is singular. With the proposed change to the plural "uses" and then the second text change in Section 3.2 of the Regulations as outlined below for residence zones, multiple principal uses would be allowed in any residence zone. This translates to any number of the 22 permitted principal uses being allowed on a single lot in a residence zone.

Conclusion:

If approved, the text amendment changes proposed by Grace Farms Foundation would forever alter New Canaan's residence zones. It would be especially impactful for those of us that live next to existing institutional uses as we know there is a constant "creep" and expansion. Those institutions now can introduce additional principal uses that are unrelated to one another. Such a scenario would lead to a multiplier effect on the intensity, impacts and encroachments from these institutions on surrounding neighborhoods. St. Luke's, the YMCA, Silver Hill, the Country Club, and Glass House, to name a few, could now all expand their uses without having to change their footprint. Even a single-family residence in our neighborhoods could now add a day care facility or medical office to its parcel.

A singular principal "Use" has served as an effective regulator in curtailing and limiting the expansion and intensity of institutions embedded in New Canaan's low-density residence zones. But as we know from first hand experience, the DNA of these institutions is one of continuing to test the limits of the community and abutting neighbors in their desire to grow and expand. If New Canaan's Zoning Regulations are revised to now allow for multiple principal uses in any residence zone, this one check will be gone for good and the only constraint going forward will be these institution's endowments. We strongly urge you to come out and speak at the public hearings or write a letter to the Commission and Town Planner regarding the issues raised by this proposed text amendment.

Grace Farms Foundation's proposed Text Amendment change:

**PROPOSED TEXT CHANGES TO THE
NEW CANAAN ZONING REGULATIONS
(eff. June 16, 2007)**

I. FIRST PROPOSED TEXT CHANGE

a. Existing Text of Regulation:

Section 2.2 Defined Terms [p. 37]

Use – ...

Use, Principal --The primary or predominant use of any lot or building.

b. Proposed Text Change (Highlighted in Yellow)

Section 2.2 Defined Terms [p. 37]

Use – ...

Use, Principal --The primary or predominant use(s) of any lot or building.

Current zoning regulation - Excerpt of Section 2.2

USE -- The specific purpose for which a building, structure or land is designed, arranged, intended or for which it is or may be occupied or maintained.

USE, ACCESSORY -- A use which is customarily incidental and subordinate to the principal use of a lot or a building and located on the same lot therewith.

USE, COMMERCIAL -- Activity carried out for monetary gain.

USE, PERMITTED -- A use allowed by these Regulations, but specifically excluding any nonconforming use.

USE, PRINCIPAL -- The primary or predominant use of any lot or building.

If permitted, the Zoning regulation would then read (in red):

USE -- The specific purpose for which a building, structure or land is designed, arranged, intended or for which it is or may be occupied or maintained.

USE, ACCESSORY -- A use which is customarily incidental and subordinate to the principal use of a lot or a building and located on the same lot therewith.

USE, COMMERCIAL -- Activity carried out for monetary gain.

USE, PERMITTED -- A use allowed by these Regulations, but specifically excluding any nonconforming use.

USE, PRINCIPAL -- The primary or predominant use(s) of any lot or building.

Second requested change:

Grace Proposed Change:

II. SECOND PROPOSED TEXT CHANGE

a. Existing Text of Regulation:

Section 3.2 PERMITTED PRINCIPAL USES & STRUCTURES (p. 42)

...
C. Permitted by Special Permit

b. Proposed Text Change (Highlighted in Yellow)

Section 3.2 PERMITTED PRINCIPAL USES & STRUCTURES (p. 42)

...
C. Permitted by Special Permit. One or more of the following permitted principal uses may be allowed by the Commission under the procedures and criteria set forth for special permits in Section 8, below.

Current Regulation:

SECTION 3.2. PERMITTED PRINCIPAL USES & STRUCTURES

A. Permitted Without Permit

1. Open Space - Unimproved and undeveloped open space, a pedestrian or bicycle greenway trail, a wildlife sanctuary, flood protection, conservation area, or vacant land retained in a natural and undeveloped condition without structures of any kind.

B. Permitted by Zoning or Other Permit

1. Residential - Single-family dwelling.

C. Permitted by Special Permit

Proposed Change:

SECTION 3.2. PERMITTED PRINCIPAL USES & STRUCTURES

A. Permitted Without Permit

1. Open Space - Unimproved and undeveloped open space, a pedestrian or bicycle greenway trail, a wildlife sanctuary, flood protection, conservation area, or vacant land retained in a natural and undeveloped condition without structures of any kind.

B. Permitted by Zoning or Other Permit

1. Residential - Single-family dwelling.

C. Permitted by Special Permit

One or more of the following principal uses may be allowed by the Commission under the procedures and criteria set forth for by special permits in section 8, below.

For ease of reference, we have reproduced below Article 3 of New Canaan's Zoning Regulations in its entirety.

ARTICLE 3 – RESIDENCE ZONES

SECTION 3.1. PURPOSES

A. The various residential districts are intended to provide suitable areas for residential use and development appropriate to the environmental characteristics of the land and the character of the neighborhood.

B. The differentiation among the residential districts is intended to provide for variety in the size and density of residential neighborhoods and a diversity of housing opportunities after consideration of soil types, terrain, and infrastructure capacity.

C. The residential districts may allow for certain non-residential uses when it can be demonstrated that they are compatible with nearby residential uses and preserve neighborhood character and property values.

SECTION 3.2. PERMITTED PRINCIPAL USES & STRUCTURES

A. Permitted Without Permit

1. Open Space - Unimproved and undeveloped open space, a pedestrian or bicycle greenway trail, a wildlife sanctuary, flood protection, conservation area, or vacant land retained in a natural and undeveloped condition without structures of any kind.

B. Permitted by Zoning or Other Permit

1. Residential - Single-family dwelling.

C. Permitted by Special Permit

Residential-Type Uses

1. Two-Family Dwelling - In the B Residence Zone:

a. One (1) two-family dwelling provided that:

- i. the building shall have side yards of at least fifteen (15) feet,
- ii. required parking spaces are provided behind the front lot line, and
- iii. the lot has continuously been used for a two family structure since prior to July 25, 1969; or the lot contains at least 12,000 square feet, has a lot width upon a public street of at least 100 feet, and contains a lot circle diameter of at least 100 feet.

b. Two (2) detached dwelling units on common land provided that:

- i. the building shall have side yards of at least fifteen (15) feet,
- ii. required parking spaces are provided behind the front lot line,
- iii. the lot has continuously contained two detached, single-family structures since prior to July 25, 1969; or the lot contains at least 15,000 square feet, has a lot width upon a public street of at least 100 feet, and contains a lot circle diameter of at least 100 feet, and
- iv. the Commission shall determine the appropriate separation between the units.

2. Elderly Housing Facility - Multi-family dwelling(s) specifically designed for and occupied by persons over fifty-five (55) years of age when located in any vacated public school building within the sewer district and served by public water.

3. Adult Housing Development - Independent dwelling units specifically de-signed for and occupied by persons over fifty-five (55) years of age, whether constructed as attached or detached units, where:

- a. the lot is located on and served by a collector or arterial road as identified in the Plan of Conservation and Development, and
- b. the facility is served by public water and is located within the sewer district, and
- c. the facility has no more than 1.5 times the number of units per acre of buildable land allowed in the zone, and
- d. building coverage does not exceed that allowed by Subsection 3.5.D un-less modified by the Commission as provided in Subsection 3.7.E, and
- e. adequate parking will, in the opinion of the Commission, be provided for residents, and visitors.

4. Congregate Housing - Congregate housing units, assisted living units, and/or skilled nursing accommodations in a continuing care facility or life care facility for persons age fifty-five (55) and over provided that:

- a. the lot is located on and served by a collector or arterial road as identified in the Plan of Conservation and Development, and
- b. the facility is served by public water and is located within the sewer district, and
- c. the facility has no more than twice the number of congregate units per acre of buildable land allowed in the zone and where an assisted living unit shall equate to 0.5 congregate units and skilled nursing accommodations shall equate to 0.25 congregate units, and
- d. building coverage does not exceed that allowed by Subsection 3.5.D un-less modified by the Commission as provided in Subsection 3.7.E, and
- e. adequate provision has been made for dining areas, kitchen facilities, medical or clinical care rooms, physical therapy rooms, meeting or activity rooms, recreation rooms, administrative offices, and similar uses in support of the residents of the facility, and
- f. adequate parking will, in the opinion of the Commission, be provided for residents, employees, and visitors.

Lodging-Type Uses

5. Rooming House - Rooming house in the B Residence Zone when it is the sole permitted use on the parcel and provided that:

- a. the property is occupied by the owner of the premises at all times as his principal residence, and
- b. no more than four (4) rooms, all located in the principal building, are used for the rooming house, and
- c. it complies with the provisions of § 32-6 of the Town Code relating to rooming houses, and
- d. the lot shall contain at least 15,000 square feet, and
- e. the lot width upon a public street shall be at least 125 feet, and
- f. the lot shall contain a lot circle in accordance with Subsection 3.5.C.1 except that the lot circle diameter shall be 125 feet, and
- g. the principal building shall have side yards of at least 15 feet, and
- h. required parking spaces are provided behind the front lot line.

6. Bed And Breakfast - Bed and breakfast operation conducted by the owner resident(s) of the premises provided that:

- a. all requirements of the Public Health Code, Building Code, and Fire Code as they apply to Bed and Breakfasts shall be met, and
- b. the residential character of the building, the property, and the neighbor-hood is maintained, and
- c. a maximum of six (6) guest rooms are provided, and
- d. the maximum length of stay per guest is 30 days, and
- e. additional off-street parking in the amount of one (1) space per guest room is provided and is adequately screened from the street and adjacent property.

7. **Private Schools** - private schools, colleges and universities and uses and activities accessory thereto.
8. **Day Care Center / Nursery School** - Day care centers and nursery schools provided that:
 - a. adequate provision is made for parking / pick-up / drop-off areas, and
 - b. the facility is operated by a resident of the property.

Office-Type Uses

9. **Medical Office** - A medical office building in the B Residence Zone when located on a lot containing at least two (2) acres and when having the required frontage on and access from a through street which, in the sole opinion of the Commission, has adequate capacity for the anticipated usage.

Institutional-Type Uses

10. **Municipal Facility** - Municipal facility, public school, park, recreation facility, or other public use on land owned or leased by the Town of New Canaan.

11. **Governmental Facility** - Governmental buildings, facilities and uses.

12. **Nursing Home** - Nursing home or convalescent home in the B Residence Zone provided that:

- a. the lot is located on and served by a collector or arterial road as identified in the Plan of Conservation and Development, and
- b. the facility is served by public water and is located within the sewer district, and
- c. the facility has no more than 20 beds per acre of buildable land, and
- d. building coverage does not exceed 25 percent, and
- e. adequate provision has been made for dining areas, kitchen facilities, medical or clinical care rooms, physical therapy rooms, meeting or activity rooms, recreation rooms, administrative offices, and similar uses in support of the residents of the facility, and
- f. adequate parking will, in the opinion of the Commission, be provided for residents, employees, and visitors.

13. **Group Home** - A group home licensed under the applicable provisions of the Connecticut General Statutes.

14. **Religious Institution** - Religious institutions when located on and served by a collector or arterial road as identified in the Plan of Conservation and Development.

15. **Religious Residential Facility** - A housing facility, such as a convent or monastery, for persons affiliated with a religious institution.

16. **Clubs and Organizations** - Clubs and other organizations providing social, cultural and recreational uses serving a community need or convenience and not including any activity carried on primarily for profit.

17. **Philanthropic or Eleemosynary Institutions** - Institutions of philanthropic or eleemosynary organizations serving a significant community need.

18. **Hospital** – [this provision is intended to apply only to the facility currently known as Silver Hill] In the 2 Acre Residence Zone only, a hospital providing treatments of mental illness or chemical dependency with levels of care that may include inpatient treatment, residential treatment, and a range of outpatient programs provided that:

- a. the hospital campus contains a minimum of 30 acres, and such requirement must be satisfied by contiguous parcels which may be divided by a public road; and
- b. the facility was licensed by the State of Connecticut as a hospital for mentally ill persons at the site as of June 16, 2007, and
- c. the use has continually existed on some portion of the entire parcel since 1940; and
- d. adequate provision has been made on the hospital campus for dining areas, kitchen facilities, medical or clinical care rooms, meeting or activity rooms, recreation rooms, administrative

- e. office and similar uses in support of residents or patients of the facility; and any new buildings, structures, or additions shall be designed to minimize an institutional appearance, promote a residential appearance, and shall include adequate buffers, screening, and landscaping pursuant to Section 6.1 of these Regulations.

Other Uses

19. **Public Utility Uses** - Telephone exchanges, electric substations, water towers or other public utility uses provided that, if there shall be a conflict between a demonstrated public necessity and the Special Permit criteria set forth in these Regulations, the Commission may establish whatever conditions it finds necessary to minimize that conflict.

20. **Railways** - Railways, but not including switching or storage yards, industrial sidings, repair or service facilities.

21. **Private Recreation** - use of the facilities and/or grounds of public or private schools, colleges, or universities for recreational or non-educational activities by other organizations.

22. **Farming**