

**PLANNING & ZONING COMMISSION MINUTES****TUESDAY, DECEMBER 20, 2016****REGULAR MEMBERS PRESENT:**

**Mr. Goodwin, Chairman**  
**Mrs. Grzelecki, Secretary**  
**Ms. DeLuca**  
**Mr. Flinn**  
**Mr. Papp**  
**Mr. Radman**  
**Mr. Turner**  
**Mr. Ward**

**REGULAR MEMBERS ABSENT:**

**Mr. Shizari**

**ALTERNATE MEMBERS PRESENT:**

**Mr. Kriz**  
**Mr. Redman**  
**Ms. Tiscornia**

**ALTERNATE MEMBERS ABSENT:**

Also in Attendance:

Steve Palmer, Town Planner/Senior Enforcement Officer  
 Ira Bloom, Town Counsel

**REGULAR MEETING**

Chairman Goodwin opened the Regular Meeting at 7:00 pm. He introduced First Selectman Rob Mallozzi who thanked the Commission for its work and called for nominations for Chairman and Secretary of the Commission. Upon motion of Mrs. Grzelecki and second of Mr. Flinn, Mr. Goodwin was unanimously re-elected Chairman. Upon motion of Ms. DeLuca and second of Mr. Papp, Mrs. Grzelecki was unanimously re-elected Secretary. Chairman Goodwin thanked the First Selectman for his support of the Commission's work and thanked the Commissioners for their thoughtful service.

Chairman Goodwin announced that the 145 River Street matter would be heard at the January 31, 2017 public hearing. Mr. Kriz was seated for Mr. Shizari. The Commissioners agreed to revise the agenda to hear the Sign Task Force Report before opening the Public Hearing.

**11. Sign Task Force Report.**

a. Stewart's Wine & Spirits, 215 Elm Street – Sign (continued from November 29, 2016 meeting).

Upon motion of Mrs. Grzelecki and second of Mr. Flinn, the Commission voted unanimously to approve the sign.

b. James Schettino Architects – 17 Grove Street – Sign.

Upon motion of Mr. Flinn and second of Mr. Kriz, the Commission voted unanimously to approve the sign.

c. Divaz – 111 Cherry Street – Sign.

Application withdrawn.

## LEGAL ADVERTISEMENT

NEW CANAAN ADVERTISER, NEW CANAAN, CONN., THURSDAY, DECEMBER 15, 2016

TOWN OF NEW CANAAN  
PLANNING &  
ZONING COMMISSION

Notice is hereby given that the Planning and Zoning Commission will hold a Public Hearing on Tuesday, December 20, 2016 at 7:00 p.m. in the Town Meeting Room, 77 Main Street to hear and decide the application(s) as follows:

1. 145 River Street - Special Permit - Application of Adam Jones, owner, for a Special Permit pursuant to Sections 8.2.B & 7.1.B.3.b, to renovate and expand a single family dwelling which is non-compliant as to side yard setbacks and height on property located in the residential B Zone at 145 River Street, (Map P, Block 97, Lot 733).
2. Zoning Regulation Amendment - Application of Andy Glazer, Authorized Agent for Jaffre Real Estate, LLC, c/o Roger Sherman Inn, for approval to amend the zoning regulations to add new Section 5.9 - Non-Conforming Residential Overlay District (NCROD).
3. 195 Oenoke Ridge Road - Zoning Map Boundary Change - Application of Andy Glazer, Authorized Agent for Jaffre Real Estate, LLC, c/o Roger Sherman Inn, to change the zoning designation of property currently in the One Acre Zone at 195 Oenoke Ridge (Map 32, Block 42, Lot 15) to the new Non-Conforming Residential Overlay District (NCROD).
4. 195 Oenoke Ridge Road - Site Plan and Special Permit - Application of Andy Glazer, Authorized Agent for Jaffre Real Estate, LLC, c/o Roger Sherman Inn, for Site Plan and Special Permit approval pursuant to Sections 8.2.A, 8.2.B. and 5.9, to convert the existing legally non-conforming Inn and Restaurant into a residential dwelling unit and construct an additional seven (5) new detached dwelling units, on property in the proposed Non-Conforming Residential Overlay District at 195 Oenoke Ridge Road (Map 32 Block 42 Lot 15).
5. 386 Weed Street – Special Permit for Grading Activity - Application of Nazzaro Inc., Authorized Agent for Todd Holson, Owner; for a Special Permit approval pursuant to Sections 8.2.B & 6.4.G, to perform grading and drainage activity to create an onsite water feature and site stabilization on property in the residential Two Acre Zone at 386 Weed Street, (Map 31, Block 11, Lot 345, 346, 347). A complete copy of the applications are on file and available to review at the office of the Planning and Zoning Department in Town Hall.

Dated: December 9, 2016  
New Canaan, Connecticut  
Jean N. Grzelecki  
Secretary  
12-15-16

## PUBLIC HEARING

### 2. 386 Weed Street – Special Permit for Grading Activity.

Application of Nazzaro Inc., Authorized Agent for Todd Holson, owner, for a Special Permit approval pursuant to Sections 8.2.B & 6.4.G, to perform grading and drainage activity to create an onsite water feature and site stabilization on property in the residential Two Acre Zone at 386 Weed Street, (Map 31, Block 11, Lot 345, 346, 347).

Application on-line:

[http://www.newcanaan.info/filestorage/9488/9220/785/803/22886/23617/386 Weed Street Application Package.pdf](http://www.newcanaan.info/filestorage/9488/9220/785/803/22886/23617/386_Weed_Street_Application_Package.pdf)

Attorney David Rucci reminded the Commission that at the time the original Special Permit was approved, a water feature was contemplated, but it was not part of the approval because the engineering and design work was not complete. He noted that installation of the water feature will take place within the previously approved grading allowance. Landscaper Sean Keating explained that water from the water feature will come from two (2) wells (one existing and one to be drilled) and will be used to irrigate the 4000 plantings that will be added to the site. Contractor Gene Nazzaro said that the water feature will be at two (2) elevations with an eight (8) foot drop between the upper pond and the lower pond. Water in the upper pond will be four (4) feet deep and water in the lower pond will be six (6) feet deep. There will be an engineered wall between the two ponds. The water in the ponds will be recirculated using 2 horsepower pumps. Mr. Nazzaro circulated a sample of the material that will be used as the liner for the water feature. He described the equipment that will be used to construct the water feature and estimated that construction will take approximately 120 working days. In response to Mr. Turner's question, Mr. Nazzaro indicated that he did not believe there would be an impact on the wells of any of the neighbors. The cubic volume of the water that will be needed to fill the water feature was not known. The amount of new water that will need to be added per day/week could not be quantified but it was estimated that the evaporation rate should be similar to that of a swimming pool. There is no plan to light the water feature. Engineer Jim Kousidis described the drainage system he designed for the property and the water feature and said that any water which escapes from the water feature will go into the drainage system and will be returned to the aquifer.

Ronald Drake of 111 Parrish Lane expressed the concern that his water supply will be negatively impacted by the project. He also noted that the Holson's constructed a berm which interrupted the flow of water from his property and as a result the Holson's had to install a drain to correct the situation.

Skip Hobbs of 181 Mariomi Road said that the applicant had not answered some very basic questions (cubic volume of water needed to initially fill the water feature, rate of evaporation, and location of the aquifer(s) that will feed the wells used to provide water for the water feature). He suggested that the Commission engage an expert to conduct an engineering study to determine the impact of the applicant's existing and proposed well on the existing wells in the area.

Attorney Rucci noted that an engineering study has been conducted and submitted to the town engineer for review. In addition, he noted that the parcel in question had previously been approved for five (5) residences serviced by wells which is significantly more than the two (2) wells proposed by the applicant.

Mr. Keating said that the surface area of the water feature is 23,000 square feet. He noted that the 8.5 acres the Holson's purchased from Aquarion would be left in its natural state.

Commissioners Papp, Kriz and Ward said that enough questions have been raised that further information is needed about the project's potential impact on wells in the area.

Mr. Palmer suggested that the appropriate professional to advise the Commission would be a hydrologist.

The public hearing on this matter was continued to the January 31, 2017 public hearing.

### **1. 365 Lukes Wood Road – Special Permit.**

Application of Edward V. O'Hanlan, Robinson & Cole, LLP, Authorized Agent for Grace Farms Foundation, Inc., owner, for Special Permit of Section(s) 3.2.C.14, 3.2.C.16 and 3.2.C.17 and 8.2.B to amend its existing special permit to allow for Grace Farms Foundation Inc. to use the property for "Club and Organization" and "Philanthropic or Eleemosynary Institution" purposes in addition to the previously approved "Religious Institution" use, for property in the Four Acre Zone at 365 Lukes Wood Road (Map 41 Block 38 Lot 77). (Continued from November 29, 2016 meeting). Application on-line at: <http://www.newcanan.info/content/9488/9220/785/803/22886/default.aspx>

Chairman Goodwin said that tonight the public hearing on this matter will be devoted to hearing comments from neighbors or their legal representatives.

Attorney Amy Souchuns, representing Jennifer Holme and David Markatos of 1328 Smith Ridge Road, objected to the application on several grounds. First, she argued that the application requests that three (3) primary uses for the property (religious institution, club and organization, and philanthropic or eleemosynary institution) be approved when the zoning regulations allow only one (1) primary use. Second, she argued that the current intensity of the use of the site was not contemplated by the Commission when it approved the original Special Permit for use of the site by a religious institution. Using attendance figures provided by Grace Farms Foundation, she argued that if the additional uses are approved, the intensity of use will increase exponentially. Third, she argued that a number of the activities that are currently occurring on the property are inconsistent with activities normally conducted by a religious institution and some of those activities violate conditions placed on the original Special Permit approval.

Independent planner Donald Poland, hired by Ms. Holme and Mr. Markatos, presented seven (7) reasons why the Commission should not approve the application, to wit: 1) the zoning regulations do not allow multiple principal uses on a single parcel, 2) the negative impact on neighbors from the intensity of use of the parcel, 3) the application does not meet all the Special Permit criteria, 4) the application does not meet the higher standards required by some of the Special Permit criteria, 5) approving the application does not promote the goals and objectives of the POCD, 6) the application is inconsistent with New Canaan's Comprehensive Plan of Zoning, and 7) the application is inconsistent with the POCD's goals for downtown New Canaan.

Attorney Amy Zabetakis, representing several of the neighbors, stated that she agrees with the comments made by Attorney Souchuns and Mr. Poland but because her clients could not be present tonight she would reserve her comments until the January 31, 2017 meeting.

Jennifer Buczkiewicz of 1258 Smith Ridge Road asked that the Commission deny the application and hold the applicant to the conditions attached to the approval of the original Special Permit. She shared with the Commission a number of instances in which activities on the Grace Farms property have negatively impacted her family's enjoyment of its property.

The public hearing on this matter was continued to the January 31, 2017 public hearing.

### **3. Zoning Regulation Amendment.**

Application of Andy Glazer, Authorized Agent for Jaffre Real Estate, LLC, c/o Roger Sherman Inn, for approval to amend the zoning regulations to add new Section 5.9 - Non-Conforming Residential Overlay District (NCROD).

### **4. 195 Oenoke Ridge Road - Zoning Map Boundary Change.**

Application of Andy Glazer, Authorized Agent for Jaffre Real Estate, LLC, c/o Roger Sherman Inn, to change the zoning designation of property currently in the One Acre Zone at 195 Oenoke Ridge (Map 32, Block 42, Lot 15) to the new Non-Conforming Residential Overlay District (NCROD).

### **5. 195 Oenoke Ridge Road - Site Plan and Special Permit.**

Application of Andy Glazer, Authorized Agent for Jaffre Real Estate, LLC, c/o Roger Sherman Inn, for Site Plan and Special Permit approval pursuant to Sections 8.2.A, 8.2.B, and 5.9, to convert the existing legally non-conforming Inn and Restaurant into a residential dwelling unit and construct an additional seven (5) new detached dwelling units, on property in the proposed Non-Conforming Residential Overlay District at 195 Oenoke Ridge Road (Map 32 Block 42 Lot 15).

Items 3, 4 and 5 were heard together.

Mr. Glazer indicated that his previous applications have been withdrawn. Under both the prior and current applications, the Roger Sherman's non-conforming inn and restaurant in a residential zone will be replaced with a cluster housing type development. The new applications request an amendment to the zoning regulations to create a new Non-Conforming Residential Overlay District (NCROD) which is intended to provide a more objective zoning standard that can be applied to eliminate a nonconforming use in a residential zone than what the language in Section 7.1.A.2 provides, seek a zone change for the property from One Acre Residential to NCROD, and seek a special permit and site plan approval for six (6) detached residential dwellings. He addressed comments made at the previous public hearing about preserving the Inn saying that the Inn had been on the market for more than four (4) years and that was more than enough time for someone to step up to preserve it.

Several Commissioners expressed a concern that the proposed overlay zone might constitute spot zoning. The Commissioners discussed the possibility of amending Section 7.1.A.2 of the regulations and having that amended regulation be the basis of the applications. Attorney Bloom opined that the overlay zone is a better tool for the zone change application and that it is less likely to be challenged in court than an amendment to Section 7.1.A.2. Mr. Glazer indicated a willingness to move the applications forward under either an amended Section 7.1.A.2 or an overlay zone and asked the Commission and Town Counsel to advise him.

Barry Frank of 28 Hanford Lane asked the Commission to deny the application. He stated that the job of the Commission is to maintain the character of New Canaan and that the continued operation of the Roger Sherman Inn and restaurant will preserve the character of New Canaan. He further indicated that the current owner's solution to its financial issues was good for it but not for the town.

Attorney Amy Zabetakis, representing several property owners on Holmewood Lane and Hampton Lane, expressed concerns about the way the Commission is approaching the application. After noting that the current applications were not submitted under Section 7.1.A.2 of the zoning regulations, she suggested that the Commission needs to consider whether there is justification for the proposal as written, whether an overlay zone is appropriate and whether the proposed zone change meets the objectives of the POCD. Then, if the Commission finds an amendment to the regulations to be appropriate, it must then ask if the zoning map change is appropriate for this parcel, keeping in mind that Holmewood Lane is a part of the parcel. Only if the Commission finds that amendments to the zoning regulations and zoning map are appropriate, can it consider whether or not the proposed development meets the Special Permit criteria.

Laura Pla of 425 Oenoke Ridge asked the Commission to deny the application saying that her house is on the same size lot as the Roger Sherman and she cannot imagine an additional five (5) houses on her lot.

Annie Montgomery of 3 Holmewood Lane said that the lot in question is too small for six houses.

Peter Nisenson of Westport, CT shared his vision of transforming the Roger Sherman into a landmark destination boutique hotel with an excellent restaurant. He indicated that earlier this year he negotiated a handshake agreement to purchase the inn. Subsequently, the owners told him that rather than selling to him, they were going to sell to Mr. Glazer. He asked the Commission to deny the applications as he is still fully prepared to purchase the property and fulfill his vision.

John Busch of 264 Oenoke Ridge said the Commission should deny the applications for two (2) reasons. First, the proposed development is too dense, and second, there may be unintended consequences to approving the NCROD overlay zone.

Mr. Glazer asked the Commission for direction. Attorney Bloom identified several courses of action for the Commission including proceeding with the overlay zone but fine tuning the language of the proposed zone, proceeding under an amended version of Section 7.1.A.2 of the zoning regulations or denying the applications.

Chairman Goodwin asked the town planner and the town attorney to review and recommend on both the overlay zone and the Section 7.1 language.

The public hearing on this matter was continued to the January 31, 2017 public hearing,

## **REGULAR MEETING**

### **7. Deliberation and any possible action on a closed public hearing item.**

None.

### **8. P & Z POCD Subcommittee Report.**

None.

### **9. Approval of the amended Village District Design Manual.**

Upon motion of Mr. Kriz and second of Mr. Flinn, the Commission voted unanimously to approve the amended Village District Design Manual.

### **10. Administrative Actions or other matters as may properly come before the Commission (Town Planner).**

None.

### **12. Approval of the Minutes.**

Upon motion of Mr. Kriz and second of Ms. DeLuca, the minutes of the November 14, 2016 Special Meeting were approved as amended.

**13. Adjournment.**

The meeting was adjourned at 11:00 pm.

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Jean N. Grzelecki, Secretary

**LEGAL ADVERTISEMENT  
(no resolutions)**

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