(GRACE FARMS)

NEW CANAAN PLANNING AND ZONING COMMISSION

JANUARY 16, 2018

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on the Olin plan outside of the areas regulated by
the inland wetlands agency.

So that was the only modification of the
application. We have included a letter from the
inlands wetlands agent who again was responsible.
When that application was submitted she exercised
her discretion to refer it to a public hearing
because the application was at a public hearing.

The matter was fully heard by the Inland
Wetlands Commission and it was denied. So
recognizing that full record before the Inland
Wetlands Commission and the limitations that you
all imposed in the special permit, the inland
wetlands agent who is authorized by their
regulations and by state statute determined that
this application does not seek any regulated
activity and will not have an impact on any
regulated area under the jurisdiction of the
inland wetlands agency.

So consistent with your finding in the
earlier record, we believe you have every ability
in this new refiled application to make the same
finding, that there is no requirement for review
by the inland wetlands agency.

By way of background, I want to correct one
statement by Mr. Bloom. He said we're going to
seek changes to the special permit. Grace Farms
is not seeking any changes. There's some
clarifications and corrections that I think you
will agree should be made to make the
administration of this special permit easier and
more clear in the future.

The foundation is not seeking to revisit
anything that was denied to it. It's not seeking
a second bite at any apple here. This, if
anything, we can learn from the long record of
this and make sure that the applicant -- the
special permit is very clear.

The deliberations that took place, there were
four special -- four public hearings on this
application. The last one in July included
partial deliberations, and then you had a full
session of deliberations in August, and then a
full session of deliberation and a vote in
September, on September 26th. On October 6th the
special permit was recorded in the land records by
the new Town Planner and was provided to the
foundation. It included 100 conditions, not
including subparts to a number of those
conditions.
As you know, under the Freedom of Information Act there's no ability for an applicant to participate once a public hearing is closed and the Commission deliberates. That's for valid reasons, but when you have an application of the complexity of this, obviously there's going to be -- without that collaboration there's going to be wordings and issues that get mixed. And that's what we have focused on.

Again, we're not trying to revisit anything or ask you again for something that you decided not to give us, but again the mistakes and inconsistencies are bound to happen with a record that voluminous and in any drafting exercise of that magnitude.

So what we did, mindful again of the record before you prior, where people were reaching back into transcript and snippets of testimony, is we wanted to avoid any of that suggestion. So we articulated to the Town Attorney -- and this was hampered because the Town Planner had changed at that point and it really wasn't fair to Ms. Fink, who I think has done a remarkable job in coming up to speed on a full-year's record. But we communicated the issues that we identified and we
have consistently brought them to you today.

The three principal issues that we wanted to address were to make sure that the conditions didn't affect Grace Community Church, because it wasn't an applicant and because the application dealt with the foundation's activities. That's what was, you know, not addressed in any detail in the 2013 permit.

We wanted to make sure that the provision dealing with events by the foundation was clear to apply to events, and not to activities on site because that could lead to an impossible interpretation problem. And we wanted to make sure -- the third thing, that an unreasonable hardship was not imposed with regard to a security system.

You all were not scheduled to meet until October 31st. So to preserve these issues, again intellectually consistent with what I just described we filed what I would term a friendly application, and explained it hold these open so that we could discuss them.

And typically as you've seen in the past -- and I'm sure you -- I haven't had to deal with an appeal from this commission, but for matters on
715, not 700. That's just a correction for the record.

Similar with paragraph 26, we have corrected the Lukes Wood Road spelling.

On page 9 is the next change.

Paragraph 30 and paragraph 41 on page 11, the issue here is that the Foundation asked to confirm the use of the operations center, the house at the front gate as the security and for the foundation operations. They were given -- they were allowed to do that temporarily in 2013 during construction, and we ask that it be confirmed in the special permit. You all saw fit to approve that.

At the same time we merged 82 Puddin' Hill Road, which is that sort of doughnut-hole property down Puddin' Hill, which has a residence and a garage. And when we merged it we revealed that what we'd like to do is to use that driveway and that garage for maintenance, because you can do that without any impact on any neighbors by using that shelter there. And the house has been boarded up, but at some point we anticipate perhaps having it as a scholar in residence or artist in residence there, but there's not going
to be any residential use of that until further work is done, and you will be informed.

As 30 was drafted it sort of melded those two together and it stated that the operations center was going to be used as an artist in residence. So we sought to correct that, and then in talking to Ms. Fink she suggested that rather than have 41 and 30 deal with the two of them, the structures, these two structures separately, let's put them together in one paragraph.

So the change that was sought there in paragraph 30 is to accurately state that the operations center is approved for administrative operations and security, and that the residence and garage at Puddin' Hill Road are approved for administrative offices and maintenance, and later for an accessory use as a residential apartment for an employee or guest in residence. And that none of them will be rented for dwelling or commercial purposes.

So I think that 30 is the change there that combines those two, deals with those two structures in one paragraph.

CHAIRMAN GOODWIN: Mr. O'Hanlan, tell me if you disagree. I understand the combination, but I think what the
Commission contemplated for 82 Puddin' Hill was it would continue to be residential only. And I think what you're now suggesting is you could potentially use it for administrative offices?

MR. O'HANLAN: That's what we have here. I thought we addressed that as well.

But the idea is that, you know, the lot is merged with the entire site. It's a residence. It's there. It's not going to be used. It's not going to be rented to anybody for residential purposes. If they use it for residential purposes it's going to be renovated and brought back to you, but in the meantime it's a structure.

And if you could move some of the administration that, for example, the maintenance administration that goes on very close to the neighbor to the south, if you can put some of that there you have relieved any impact, any potential impact, you know.

And if you could put vehicles over there, again there's no impact on anybody around there. So the idea is it's just a way of making good use of your resources and minimizing the concerns of your neighbors. So again, the intention is not to expand anything. That was our understanding, but
that the Commission's decision.

CHAIRMAN GOODWIN: Right. Okay.

MR. O'HANLAN: The next change deals with -- the next several paragraphs attempt to deal with the volumes or separate portions of the river building individually. And while we understand that, the issue of the service of alcohol was addressed -- because first of all, it's the policy of the foundation since it started it's not going to allow alcohol to be served to the public.

The only time alcohol will be served is at private foundation events and consistent with all state regulations. But if you have an event in the river building, public people typically enjoy the architecture and the idea is not to arbitrarily limit the alcohol to one or more -- one volume as opposed to the other volumes.

So the idea and the suggestion by Ms. Fink was to create a separate paragraph that just makes the alcoholic beverage policy clear for the entire site, that it's only going to be served at private foundation events, and proper permitting is required by state statute and local laws. And take out the subsections of paragraph 31 and 32 that deal with the separate volumes.
we came to you for the pickle ball.

COMMISSIONER REDMAN: Plus, if I understand that renting

issue, that you would not be allowed to rent to

the YMCA. You would give to them gratis.

MR. O'HANLAN: Right. That's the idea. Right.

Paragraph -- going back to page 12 --

Page 49 and 50, there's a technical change

from 200 feet to 250 feet. And the reason for

that is if you measure out the tours, they include

the community garden which is shown on the plan.

And if you measure that out, 200 feet comes

into the middle of the athletic field. So you

would not be able to show the community garden on

a tour. So the idea is just to extend that so

they can include the garden. It doesn't go beyond

that structure that's there, the garage.

Going to page 13.

Again, 59. The idea is that -- getting back

to my comments, Mr. Chairman, is if 82 Puddin'

Hill Road is there and there can be vehicles

shifted from the maintenance activities that are

right in front of one of the neighbors, that

that's a good thing because there's no impact on

anybody by using that garage that's at 82 Puddin'

Hill, and letting vehicles go there. So the idea
is just to not make an unnecessary distinction among the foundation employees.

Paragraph 60 is the next change. These landscaping and fencing -- and Mr. Radman, this is where it gets back to the inland wetlands agency. But idea in paragraph 60 -- and this was the Town Planner's suggestion -- is to make it clear in paragraph 60, which is the paragraph that orders the installation of the planting and fencing that's shown on the Olin plan in accordance with the methodology proposed, is to make it clear in that paragraph as you did in paragraphs 64 and 65 and 66 that, with respect to the neighbors, that the Inland Wetlands Agency decision is going to be respected.

You know, the law requires that when there is an application such as the April application that includes a regulated activity, that we have to go to the wetlands agency first. And that you all cannot rule until you hear what the wetlands agency's decision was. And we reported that it was a denial. So it takes the regulated areas out of the application.

So the idea in 64 is just -- I mean, in paragraph 60 is just to make it clear that the
zoning enforcement officer to confirm it answers
those concerns without further measures that could
work against everyone's interest.

If you have any questions please do not
hesitate to contact me.

I'm not sure what else we could have done,
and the idea that Counsel can sit here and
represent to you that this hasn't happened is
preposterous.

CHAIRMAN GOODWIN: Can we move on?


I would then just like to turn to the fact,
sort of the special permit criteria analysis. In
particular I'd like to redirect your attention to
what was in the record.

Don Poland submitted a lengthy memorandum
which is included on my list that we would remind
the Commission to look at and review with respect
to the fact that the special permit criteria are
not satisfied.

I think looking at the visitors log and what
we've included in Exhibit 8 is an update of the
analysis and site usage that we had provided
originally based on what we assumed the
calculations to be with respect to visitors coming
to the site.

There's a fair amount of detail and you can go through that in great detail yourselves, but what I wanted to draw your attention to is the general theme of the document, is that there seems to be a significant undercounting of individuals in the reporting.

So for example, I'll highlight for you what Grace advertised as the Unchained event back on October 14th. In their materials they say that the entire population, entire total site visitors to the facility that day were 470, but in their own press release they recognize and identify that they had over 350 people.

So when you compare -- and as you'll see in the attachments to the exhibits, the flow of visitors to the site with their press release of over 350 people, the numbers are not matching up.

And we also document the New Canaan Land Trust which was on the November 9th, and the community dinner that also has a conflict on November 17th with respect to the, you know, visitor count log where there were increases in people, you know, on the community dinner.

For example, there was an increase of 147
Commission to change anything outlined in
condition 16 with respect to the overall activity
level on the site, because I think as a number of
you mentioned tonight, that's really the concern
of the neighbors, is the volume and overall
intensity throughout the day.

I mean, in fact, the question is, as people
come in and as people come out, the overall
numbers of people in and out of the site is
certainly well beyond what might be there at any
given moment. So even though you're getting those
data points you're not necessarily reflecting the
turnover of people on the property.

I think on the same vein with respect to
condition 30 where they're now seeking to extend
the use at 82 Puddin' Hill Road, as the Chairman
mentioned, frankly that's not really a
clarification of that condition. It simply
overrides and completely negates condition 41,
which said that that building was only going to be
used as a residence and nothing else. It was
approved at that point.

With respect to the new alcohol beverage
policy, I think as some of you noted, it's a
limiting factor on some of the foundation events.
a photo in Exhibit 11. There is this green piping that has been installed at various locations that we can see across the property. We included a photo. We can't figure out what it's for and I think the Commission should ask the applicant what the exposed piping is.

It seems to parallel parts of the -- you can see it in the photo, one of the fence and one of the walking paths are there. We don't know whether that's related to anything with respect to the stormwater issues or the ongoing litigation with the Curt/Bissonnette neighbors, but certainly it has an issue there.

Then with respect to the overall issue of the plan of conservation and development, as I mentioned earlier I direct you back to Don Poland's submission and the fact that the New Canaan Conservation Commission is shown in Exhibit 12 -- just released their updated open-space plans for New Canaan. And it recognizes that Grace Farms is unsecured open space, which is defined as privately owned lands that could be developed in the future. The maps are included.

And the understanding of the 2008 approval goes back to the issue of open space to be set
aside and dedicated on the property. And we would ask that to prevent the further encroachment, as you're starting to see with the requests about using 82 Puddin' Hill Road as additional administrative offices, we would ask that what was the formal parcel to that 26 acres be dedicated as open space so we don't have to worry about ongoing encroachment and development of the property.

And then finally just a couple more quick things, which are since the application has been underway my client's property has been listed on the National Register of Historic Places. So we have a question as to whether or not as a nationally -- excuse me, as a nationally listed property I think there's the possibility that an environmental impact assessment under NEPA, which is the National Environmental Policy Act may be -- should be required here.

In fact, the act and the National Historic Preservation Act require that if there's going to be development adjacent to an historically registered property, that the impact of that be evaluated with respect to the historic property. Clearly, the impacts that I talked about with the visibility of the building, with respect to the
So I don't hate anybody. I don't think anybody is bad people. I don't think anybody is bad actors, but this thing has grown into a public thing. It's advertising. I mean, they have articles about it.

If you think I want to be here talking to you about this, you have to be nuts. I want to live at my house. I don't want to have the low-profile lights of an airport next to me. I want privacy and I don't want to pay you my taxes to be the enforcement agent for you. That's what I want.

Thank you very much. Sorry to be a pain.

MS. ZABETAKIS: So I think you can hear the frustration on my client's part. I can assure you that Mr. Curt and Ms. Bissonnette are equally frustrated by where they are today.

As I said when I started out, I think there are number of -- there are still procedural problems with this application. We've submitted documentation to substantiate that. I don't want to go through all of that. There are problems with the prior approval that we have discussed at length in the prior application. I don't want to spend time on that.

I do however find it interesting, and this
church activities, everything.

We have already talked about the use of Puddin' Hill. There's no question that the use of Puddin' Hill as an administrative burden was not part of the application. This is brand-new. It hasn't been vetted. Nothing has been presented about this. To just sort of change the conditions to approve this is not appropriate.

They also want to have minimum outdoor security lighting. Well, the question was asked, what is minimum outdoor security lighting? Some days the facility is completely dark. Some days there's lighting on. Some days there's limited lighting on. We need a baseline so that we know what it is that they are asking for.

They're also asking to close the security booth when religious activities are occurring. And again, I think the Commission has already asked this question. If you're not taking counts of the cars, how do you know how many people are on the property? How do you know what they're there for? And how do you know if they leave?

The property is open to the public after church services are over. So if we're trying to have a count of how many people are on the
CERTIFICATE

I, ROBERT G. DIXON, CVR-M No. 857, a Notary Public duly commissioned with and for the State of Connecticut, do hereby certify that the foregoing transcription in Re: NEW CANAAN PLANNING AND ZONING COMMISSION (GRACE FARMS) hearing that took place on January 16, 2018.

I further certify that I am neither attorney nor counsel for nor related to nor employed by any of the parties to the action in which this meeting was taken, and further that I am not a relative or employee of any attorney or counsel employed by the parties hereto, or financially interested in this action.

In witness whereof, I hereunto set my hand and affix my notarial seal this 30th Day of January, 2018.

Robert G. Dixon
CVR-M No. 857
Notary Public
My Commission expires:
June 30, 2020