



LAW OFFICE  
OF  
WILLIAM V. GRICKIS

**ORIGINAL**

**RECEIVED**

March 2, 2021

VIA ELECTRONIC MAIL

MAR 02 2021

Salisbury Planning and Zoning Commission  
27 Main Street  
Salisbury, Ct 06068  
Att. Abby Conroy, Land Use Administrator; aconroy@salisburyct.us

LAND USE OFFICE  
Salisbury, CT

**Re: Application for Special Permit Approval 11 Holley Street, Lakeville, CT, Assessor's Map 45, Lot 2, Salisbury Housing Committee, Inc. ("Applicant")\***

\*The Applicant has once again incorrectly identified the zone as "LI-20" when it is "CG-20".

Dear Commissioners:

I represent Seth Churchill and various legal entities owned by him to oppose the above captioned Application for the following reasons:

**ACTIONS OF THE BOARD OF SELECTMEN**

1. The Board of Selectman did not have authority to enter into the Option Agreement, because the conditions under which the Town acquired the property, recited in the Minutes of the December 5, 1967 Board meeting, were violated – no building was constructed within one year after the Town acquired title, thereby obligating the Town to maintain the lot as "attractively landscaped for a *parking area*, and will be maintained in a neat and attractive fashion." [Emphasis supplied.] Before acting on the Application, the Commission should task the Board of Selectmen with providing the Commission with a legal opinion from a law firm experienced in interpreting charitable gifts to municipalities confirming that Board's decision to option Holley Block is legally sustainable.
2. The Board of Selectmen exceeded its authority in extending the Option Agreement expiration date until July 31, 2021 by Amendment dated September 16, 2020 with a backdated effective date of August 1, 2020 by misplacing reliance on the Governor's Executive Order 7JJ. For reasons stated in my letter of September 21, 2020 (copy attached) in connection with the predecessor Application since withdrawn, the Commission should again task the Board with providing a legal opinion from competent counsel confirming that the Board's reliance on Executive Order 7JJ, rather than convening a Town meeting to reconsider the matter, can be legally defended before a court of law.

3. Assuming that the Board of Selectmen can overcome the adverse presumptions raised in Points 1 and 2 above, does the Commission have evidence that the Board approved the selection of the architect for the Project and resulting design, as required by a condition of the original gift?
4. In public hearings conducted in connection with the predecessor Application both the Chairman of the Commission and I asked First Selectman Rand to produce written legal opinions supporting his public assertions that he had received legal advice affirming the decisions of the Board concerning the issues raised in Points 1 and 2 above. The Commission should insist that the First Selectman produce those written opinions *before* considering the instant Application.

#### POSSIBLE BIAS OF THE PLANNING AND ZONING COMMISSION

1. The Applicant and opponents of the Application are entitled under law to due process without the overhang of prejudgment or bias when considering a Special Permit Application. I am concerned that one or more Commissioners by virtue of their public statements may have already formed a positive view of the Application without regard to what matters or concerns opponents may raise in good faith opposition to it. For example, Commissioner Cockerline is a Director of the Falls Village Housing Trust, Inc. He should have recused himself from considering the predecessor Application and must now recuse himself from considering the current Application. It is a concern that the Commission has not stepped forward to address this obvious conflict of interest previously and must do so now.

In addition, the video recording of the February 8 Regular Meeting, when discussing "receiving" the Application, captures Alternate Higgins asking the Applicant about the informational meeting on February 4, 2021 hosted by the Salisbury Affordable Housing Commission and commenting that he is "assuming [the response] was quite positive," and further comments "that is what *we* were hoping to hear." [Emphasis and italics added.] In response to another leadingly favorable question from a female commissioner or alternate asking "how would you assess reactions," Chairman Klemens immediately shuts down any such further comments, including Commissioner Cockerline's incipient "disclosure."

Furthermore, an extract from the Regular Meeting Minutes from February 26, 2018 states as follows:

V. Chairman Higgins led a discussion regarding Salisbury's Affordable Housing. A draft of a letter to the State of Connecticut, Department of Housing was distributed and discussed by the commission. Letter pertained to Salisbury Zoning Regulations for Holley Black, Affordable Housing **indicating full commission support**. It was agreed to have Chairman Klemens sign this letter and forward to appropriate person.

Again, an extract from Special Meeting Minutes from June 11, 2018:

J. Dresser gave a brief explanation of the 8-24 referral for Holley Block. Vice Chairman Higgins clarified that the approval to lease the town-owned land is going to come from the town meeting. The Planning & Zoning Commission is not approving anything tonight. This item was brought to the P&Z so that they know what is going on. ***A. Cockerline motioned to approve the process and endorse the concept of developing Holley Block as an affordable housing project, seconded by D. Allee and unanimously approved.*** [Emphasis and italics added.]

Again, an extract from Regular Meeting Minutes from June 25, 2018:

After some discussion about the upcoming Town vote on June 27, 2018 regarding the Holley Block, D. Shiffer motioned that the Commission members may exercise their individual right to vote ***but none of the Commissioners should make any statement of endorsement or opposition on behalf of the Commission, seconded by C. Shyer and unanimously approved.*** [Emphasis and italics added.]

And again, an extract from Special Meeting Minutes from January 19, 2021:

Chairman Klemens and LUA Abby Conroy clarified that the Commission's charge is to identify whether the plan that is being presented fits within the particular Zone for the site proposed not whether a different site should be developed.

It should be obvious to the Commission based on the extracts from the Minutes quoted above that more than one Commissioner and Alternate have demonstrated strong inclinations to prejudge favorably the Application the results of which would deprive opponents of the unbiased, independent review that their due process rights clearly require. Therefore, before taking any action on this Application, I call upon the Commission to determine honestly whether any of the incumbent Commissioners and Alternates can meet the burden of independent, unbiased review that due process of law requires and demands. If not, then such persons should immediately recuse themselves, even if the result is that additional alternates must be appointed and seated.

#### **PARKING**

1. I refer the Commission to the letter from Attorney Mark Capecelatro dated November 5, 2020 in connection with the first Application. The issues raised in this letter were not addressed by the Commission due to the withdrawal of the Application. I have been advised by Attorney Capecelatro's office that this letter has been resubmitted to the Commission in response to this latest Application. I have carefully reviewed Attorney Capecelatro's letter and supporting documents and believe that the issues raised in this letter cannot be overcome consistent with the Planning and Zoning Regulations and therefore require denial with prejudice of the Application.

2. An extract from the Regular Minutes of the Commission from June 17, 2014, following conclusion of the public hearing on Application #2014-0037 for a Special Permit [now *studio lakeville*], which was approved unanimously, states as follows:

M. Flint expressed concerns about public safety. He noted that the increased circulation of pedestrian, bike, and automobile traffic in the area would be problematic. *He also expressed concern that the satellite parking mentioned was not sufficient because it was also counted by other businesses in the immediate area.*

*... J. Higgins noted that the satellite parking had also been presented and approved by public vote at the Town meeting.* [Emphasis and italics added.]

It is obvious that the “satellite parking” under discussion is the very same satellite parking cited in Attorney Capecelatro’s letter – namely Holley Block, which these Minutes explicitly recognize is relied upon for employee and customer parking. In addition, my client owns Firehouse Place, LLC, the successor business to the applicants for Special Permit Application #2014-0037. In my client’s site plan presented to the former zoning enforcement officer, the Holley Block parcel is clearly identified as available satellite parking for my client and tenants of Firehouse Place, as contemplated by Section 703.7a & b of the Planning and Zoning Regulations (“Regulations”). [A copy of the Site Plan extract is attached hereto as Exhibit A.] If such satellite parking ceased to be available, not only my client but all of the area businesses identified in Attorney Capecelatro’s letter will potentially become non-conforming uses and suffer irreparable harm. The effect of approval of the Application would operate as a *de facto* condemnation of my client’s property and the other businesses that rely on Holley Block for satellite parking, entitling them to compensation from the Town .

#### **AQUIFER PROTECTION OVERLAY DISTRICT (“APOD”)**

1. Please refer to my letter to the Commission dated November 3, 2020, copy attached. Counsel to SHC in his cover letter dated February 4, 2021 acknowledges that Holley Block lies within the APOD; however, counsel fails to address the requirements of Section 8-3i(b) of the Connecticut General Statutes and Section 805.8 of the Regulations that require written notice to the Commission of Public Health and Aquarion “not later than seven days after the date of the Application...” [Emphasis added.]
2. Counsel to SHC also blithely ignores the possible effects of Sections 403.6a and c of the Regulations and the possible consequences to the aquifer from site excavation.

#### **NATIONAL REGISTER OF HISTORIC PLACES -LAKEVILLE HISTORIC DISTRICT**

Bicentennial Park (Holley Block) is listed on the United States Department of Interior National Register of Historic Places. In the Minutes from the Special Meeting of the Commission on January 21, 2021 the following remarks are attributed to SHC representatives Jocelyn Ayer and Kent McCoy:

The design will be reviewed by the State Historic Preservation Office; however, the process to obtain approval may take between one and four months (Ayer). Mr. McCoy explained that the Historic Preservation Office is mostly concerned with the *stone wall on the site*. They are interested in viewing the site before making a determination. [Italics added.]

The Commission needs to know exactly what federal or state agencies may have a say in the dissolution of Bicentennial Park as a national historic place and be satisfied that any such agencies have approved such dissolution before it can act on this Application.

### **SAFETY**

Leaving aside all of the obstacles to approval of the Application recited above, the safety of the community and the residents of this SHC affordable housing project should give the Commission pause. To support its prior Application, SHC retained a traffic consultant who steadfastly ignored or truculently refuted the numerous expressions of concern voiced by community members and the Chairman of the Commission at the public hearings. It is axiomatic that a professional consultant is not likely to present a report that puts into question the purpose of its patron. Therefore, the Commission should hire its own traffic consultant to present before the public hearing a completely independent and transparent analysis of current traffic volumes and speeds in the area of the project and possible increased risks that may be encountered should the Application be approved. It is worth noting that the automobile of a client, a business owner in close proximity to Holley Block, was severely damaged along with another vehicle parked on the southern side of Route 44 close to her business, by a driver losing control while descending the hill on Route 44 parallel to Holley Block. As a local business owner, I have complained numerous times to Selectman Rand about the dangers of entering the cross walk from the Post Office, flashing lights notwithstanding, given the excessive speed of truck traffic the failure of many vehicles to give way to pedestrians.

### **CONCLUSIONS**

SHC has simply chosen the wrong parcel to spearhead its affordable housing campaign. The Pope Report makes it abundantly clear that the Pope property is a vastly superior site to Holley Block. The Report states that just under 20 acres of the nearly 60-acre parcel are developable for multiple uses from parks and recreation to affordable housing. SHC's problem, however, is that it is unwilling to brook the losses in sunken fees that would be incurred if it were now to abandon Holley Block in favor of the superior alternative. While SHC made it clear at the Salisbury Affordable Housing Commission open forum webcast meeting on February 4, that Holley Block is not superior to the Pope parcel, SHC declared that it will pursue both parcels to achieve the Town's affordable housing goals. While that may be SHC's stated goal, achieving that goal should not be at the expense of parties who would be adversely affected and

public safety simply because sunken expenses make turning back unpalatable. The Commission's task is to provide a fair, unbiased and objective review of the Application. To do otherwise will surely invite litigation and further deferral of achieving SHC goals.

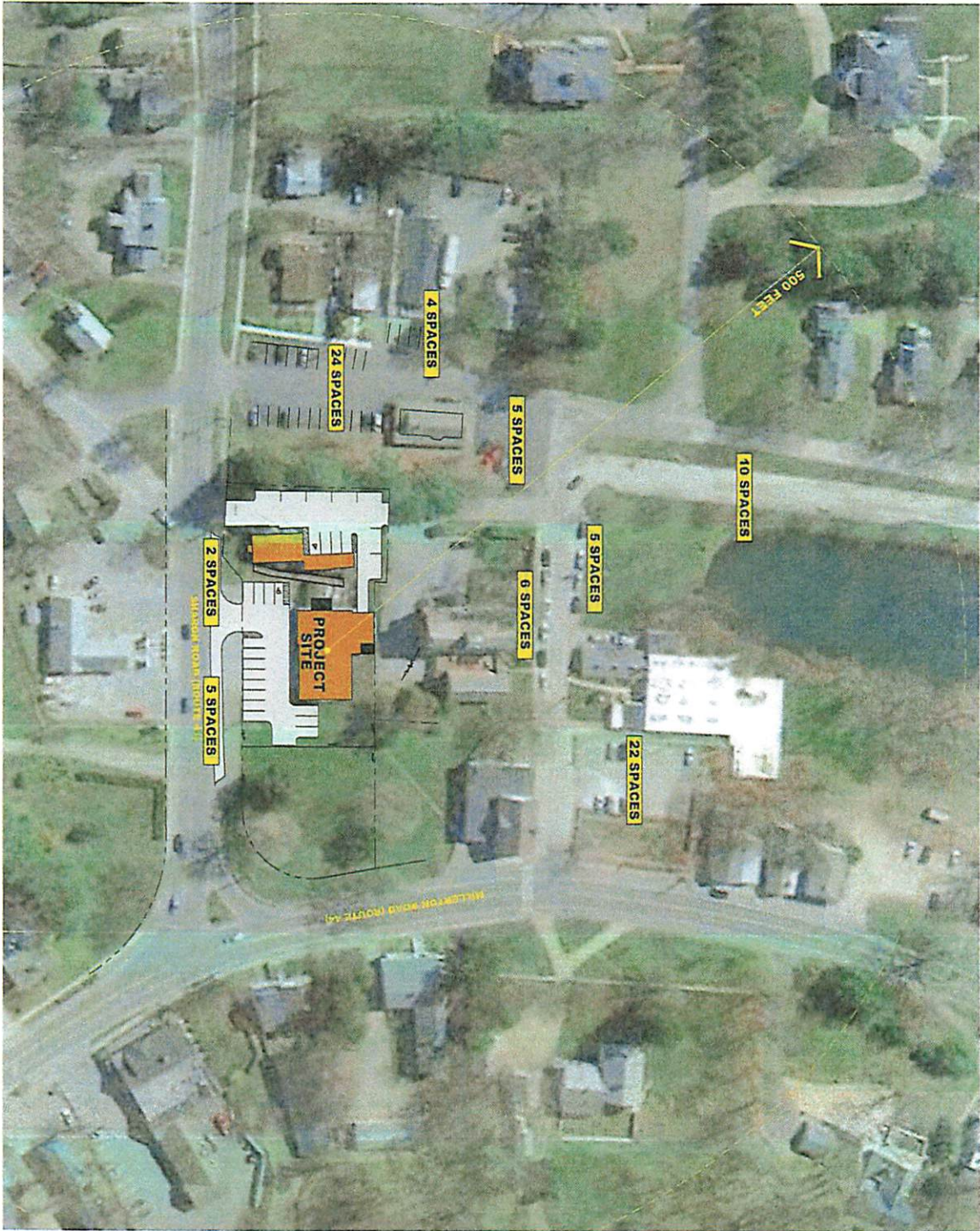
Very truly yours,



William V. Grickis, Esq.

# EXHIBIT A

**PARKING TABULATION**  
 PROPOSED SITE PARKING: 26  
 EXISTING OFF-SITE PARKING: 83  
 TOTAL PARKING SPACES: 109



C-0	PROJECT PARKING TABULATION PLAN	 Allied Engineering Assoc. LLC 62 Main St., 3rd. Flr. East P.O. Box 726, North Canaan, CT 06018 866-824-1400 866-824-1401 fax <small>© 2017 Allied Engineering Assoc. LLC</small>
	PREPARED FOR OWEN & JENNIFER THOMAS 9 SHARON ROAD (ROUTE #41) SALISBURY, CONNECTICUT	DATE: 5/25/14 DRAWN BY: [REDACTED] CHECKED BY: [REDACTED] SCALE: 1"=40' SHEET: SB-SITE-3 DATE: 5/25/14



LAW OFFICE  
OF  
WILLIAM V. GRICKIS

September 21, 2020

VIA ELECTRONIC MAIL

Salisbury Planning and Zoning Commission  
27 Main Street  
Salisbury, Ct 06068  
Att. Abby Conroy, Land Use Administrator

**Re: Special Permit Application #2020-0100 for 13 Unit Affordable Housing Development in PKSQ Overlay District**

Dear Ms. Conroy:

Please include this letter in the proceedings embraced within this evening's Zoom Public Hearing to debate the above captioned Special Permit Application.

I write to express the concerns of a number of clients, Salisbury taxpayers, who, while steadfastly committed to advance the cause of affordable housing in Salisbury and build upon the notable success of Sarum Village, nevertheless believe that "Holley Block" is the wrong location for the project proposed by the Salisbury Housing Committee, Inc. ("SHC") and are befuddled by the lack of visibility to the now obvious progress of SHC's efforts.

To begin, the action by the Board of Selectmen to extend the Option Agreement, dated July 2018, to lease the Holley Block parcel to the SHC at its meeting on July 23, 2020 until July 31, 2021, without convening a Town Meeting to vote on the extension, has resulted in a disenfranchisement of those eligible to vote and an arrogation of authority to the Board without precedent. The Board justifies its unilateral action on Governor's Lamont's Executive Order No. 7JJ which allows such actions "in order to avoid *endangering public health and welfare* or prevent *significant financial loss*," and permits the Board "to option or lease any real property, or interest therein, *as shall be deemed essential*, without complying with any requirements or in-person approval by electors or taxpayers, including, but not limited to, ... special town meetings requiring votes or referenda;" [Italics added.] Given the lengthy trajectory of this SHC project to date and the likely lengthy additional time in order to raise adequate funding to complete, it hardly seems that the Board's reliance on Executive Order 7JJ is not seriously misplaced and injurious to electors and taxpayers. My clients would encourage the Commission to deny this Application and send it back to the Board of Selectmen with the hope that the Board would place more emphasis on due process for all electors and taxpayers rather than a small but vocal constituency. Indeed, if the Board's decision were to be reviewed by a court it is hard imagine a court would conclude



that extension of the Option Agreement in favor of SHC had met the actual tests cited above and laid down in Executive Order 7J.

My clients have also expressed doubts that the procedural formalities required by the Zoning Regulations have been fully satisfied in connection with this Application. For example, the Application, dated July 17, 2020 and received by the Commission on July 22, is signed by Anne C. Kremer as "Owner." The Town of Salisbury is the Owner of Holley Block. This defect was corrected by the First Selectman on September 17, 2020, the day after the Board executed the Option Extension Agreement with SHC. In addition, the Applicant is identified as Jonathan Tunsky, Landscape Architect, when the Applicant should clearly have been identified as SHC.

In spite of the procedural defects described in the preceding paragraph, the Commission at its meeting held on July 27, 2020 voted by a majority of 1 to "accept the application as complete." I believe longstanding best zoning practices do not call for "acceptance" of a special permit application unless and until all supporting documentation, either required by the Regulations or by the Commission, has been submitted.

There are other areas of concern procedurally and substantively:

- 1) The Application requires the Applicant to notify abutters with a Statement of Proposed Use by certified mail. Based on the record that I examined, only 2 of the 4 abutters received such notice. Indeed, the Application denotes the abutter to the North as "Millerton Road," which is clearly in conflict with the regulations.
- 2) Section 806.3b. of the Regulations requires that the Applicant provide to abutters by certified mail written notice of the Public Hearing *et al* at least 7 days in advance of the Public Hearing. The file indicates that this Notice was mailed to abutters on September 14 which would not seem to meet the notice requirements. Indeed, because the Public Hearing was originally scheduled for September 30, it is likely that abutters and other taxpayers may have not been aware of the acceleration of the hearing date.
- 3) The conditions under which Holley Block was acquired by the Town require that any building constructed on the property reflect "18<sup>th</sup> century or federal" architecture. The proposed drawings bear no credible resemblance to 18<sup>th</sup> century or federal architecture.
- 4) The Application stated that WPCA approval is "pending". Has such approval been obtained?
- 5) For a project in this location of such magnitude it is axiomatic that a traffic study would be required and critical to an evaluation of the project impact. The traffic study obtained by SHC is dated September 15, hardly enough time for the Commission or interested parties to review. In addition, a traffic study conducted during August, the slowest time of the year, and during a pandemic, when traffic has already been dramatically reduced, can hardly qualify as representative of historical conditions. Indeed, as the owner of a nearby business, I can report that crossing the highway opposite the post office with crossway lights flashing is always an

adventure. Trucks and cars routinely ignore the flashing lights and travel down the hill through the cross way without stopping, in the face of shouted epithets, at rates of speed far exceeding posted limits.

Finally, the August 19, 2020 Minutes of the Salisbury Affordable Housing Commission reflect concern that the public may not be sufficiently informed about the pending Special Permit Application and the need to find "ways to inform the public and update supporters," including putting the plan on *Facebook* and "that local businesses should be approached by SHAC members before the Public Hearing *to ask about their concerns.*" [Italics added.] It is not clear to what extent this effort to broaden visibility occurred. My sense is that the Application has had very limited public visibility because few people read the published legal notices due to Town Hall closure and local newspapers due to COVID 19's gluing most people to the internet for news.

Opponents of Holley Block as a viable venue for affordable housing earnestly hope that SHC will genuinely consider the concerns raised and entertain a dialog with opponents to develop a better suited location with access to markets and services similar to what is available to residents of Sarum Village. This course would be vastly preferred to an appeal to court of an improvident decision lacking credible and convincing support.

Very truly yours,



William V. Grickis



LAW OFFICE  
OF  
WILLIAM V. GRICKIS

October 8, 2020

VIA ELECTRONIC MAIL

Salisbury Planning and Zoning Commission  
27 Main Street  
Salisbury, Ct 06068  
Att: Abby Conroy, Land Use Administrator

Re: Special Permit Application #2020-0100 for 13 Unit Affordable Housing Development in PKSO  
Overlay District – Continuation of Public Hearing Originally Convened September 21, 2020

Dear Commissioners:

I write to summarize the concerns of clients, Salisbury taxpayers, affected owners and business owners who either participated in the September 21 Public Hearing or have otherwise been informed of what transpired during the Hearing and have since expressed or will shortly express their concerns to the Commission.

These concerns may be grouped under the following rubrics and are not meant to be exhaustive:

ACTIONS OF THE BOARD OF SELECTMEN

1. The Board of Selectmen did not have authority to enter into the Option Agreement, because the conditions under which the Town acquired the property, recited in the Minutes of the December 5, 1967 Board meeting, were violated – no building was constructed within one year after the Town acquired title, thereby obligating the Town to maintain the lot as “attractively landscaped for a *parking area*, and will be maintained in a neat and attractive fashion.” [Emphasis supplied.] Before acting on the Application, the Commission should task the Board of Selectmen with providing the Commission with a legal opinion from a law firm experienced in interpreting charitable gifts to municipalities confirming that Board’s decision to option Holley Block is legally sustainable.
2. The Board of Selectmen exceeded its authority in extending the Option Agreement expiration date until July 31, 2021 by Amendment dated September 16, 2020 with a backdated effective date of August 1, 2020 by misplacing reliance on the Governor’s Executive Order 7JJ. For reasons mentioned in my September 21 letter, the Commission should again task the Board with providing a legal opinion from competent counsel confirming that the Board’s reliance on Executive Order 7JJ rather than convening a Town Meeting to consider the matter can be legally defended before a court of law.

3. Assuming that the Board can overcome the adverse presumptions raised in Points 1 and 2 above, does the Commission have evidence that the Board approved the selection of the architect for the Project and resulting design, as required by a condition of the original gift?

#### **ACTIONS OF THE PLANNING AND ZONING COMMISSION**

1. Why did the Commission vote at its meeting of July 27, 2020 to accept the SHC Application, when
  - a) The owner of record was not correctly identified;
  - b) The Applicant was not correctly identified;
  - c) Abutting property owners were not correctly identified;
  - d) Written approval from the WPCA had not been obtained (and still hasn't to my knowledge);
  - e) Comments from the Historic District Commission were not solicited;
  - f) No written assurance of an available Bond or LC was provided; and
  - g) Why did the Chairman abstain from voting yielding a bare majority approval?
  - h) Most importantly, the Applicant failed to submit with the Application the signed return receipts that were required to be sent to abutting land owners. This omission is unfair and improperly deprives those abutters of their due process rights and a meaningful rather than a "catch-up" right to be heard and the opportunity to prepare to present their concerns to the Commission.
2. Prior to the September 21 Public Hearing abutters were not properly notified and some failed to receive formal notice until after the Hearing.
3. Has the Commission received the \$2,500 requested from SHC to fund Commission experts?
4. Why would the Commission not reject the Application upon submission, because the architecture fails to comply with the condition of the original gift that requires it to be "federal or early 18<sup>th</sup> century"?
5. Although not expressly required by the Regulations, given the potential impact on area businesses, why did the Commission not require SHC to provide formal notice to all area business, both owners and to business tenants?
6. Given many concerns expressed verbally and in writing at and after the September 21 Hearing concerning exacerbation of traffic risks, will the Commission engage an independent traffic consultant rather than rely on the consultant engaged by SHC and paid by SHC for its Report scotching traffic concerns?
7. Will the Commission ask SHC to commit to detailing how many units will be "affordable" and what expected rents will be for both affordable units and other units?
8. Will the Commission ask the SHC to identify its source of funding for the Project to provide assurances that, if approved as submitted, the Project will be completed within a fixed period of time? What is the total budget for the Project soup to nuts?
9. Could the Commission explain how the Application meets the requirements of Section 405.7b.a. of the Regulations which requires "each project that includes affordable housing shall be required to define the selection criteria and process of for ensuring compliance with the

affordable housing eligibility requirements for long-term maintenance and monitoring the development for such compliance.”

**GENERAL**

1. By now it should be clear to the Commission that the “outreach” effort to educate the affected community about the Project that was to be led by the SAHC never occurred, or, if it did, extended only to supporters of the Application to the exclusion of area property owners and businesses who have now expressed legitimate and serious concerns about the impact of the Project on their businesses due to reduced parking and increased traffic. These concerns are all the more real and compelling if the Commission considers the impact of the COVID pandemic on these businesses. Increasing their risk of survival by introducing a potentially game changing dynamic to a demonstrably fragile area business community will not serve the Town or the needs of affordable housing.
2. By letter dated October 5, 2020, I wrote to William O. Riiska, Esq., counsel to SHC, suggesting the possibility that my clients could get comfortable with a project smaller in scale that would mitigate the most worrisome traffic and parking concerns, if this idea “could be explored in a dialog with the SHC Board if the Board were amenable to it”. In a subsequent phone conversation, Attorney Riiska informed me that he would instruct his client to ignore my letter because I had not identified my clients at this time. Needless to say, my clients were disappointed by Attorney Riiska’s response.

It is the sincere and thoughtful hope of my clients, myself included, that the Commission will carefully consider the issues and concerns raised above, not the least of which is my clients’ willingness to find common ground in a smaller scale project, and make a decision that fully comprehends the legitimate and deserving needs and fears of all who have participated in this process.

Very truly yours,

  
William V. Grickis



LAW OFFICE  
OF  
WILLIAM V. GRICKIS

November 3, 2020

VIA ELECTRONIC MAIL

Salisbury Planning and Zoning Commission  
27 Main Street  
Salisbury, Ct 06068  
Att. Abby Conroy, Land Use Administrator

**Re: Special Permit Application #2020-0100 for 13 Unit Affordable Housing Development in PKSQ Overlay District – Continuation of Public Hearing Originally Convened September 21, 2020**

Dear Commissioners:

I am writing again on behalf of clients to draw attention to another critical omission of the Applicant in submitting its July 22, 2020 SPA to the Commission. When considered with other deficiencies and omissions in the July 22 Application that have already been identified during the first public hearing, and as continued, or in communications to the Commission addressing the Application, it is ineluctably clear that the Commission should never have accepted an incomplete and defective Application in the first place, the result of which is to have wasted taxpayers' time and money debating a stillborn Application. For yet one more example of the Applicant's lack of diligence, the Application states that the Zone is "PKSQ (Pocketknife Square Overlay District) / LI-20". Unless I am mistaken, the underlying Zone is CG-20. I am not aware that any LI-20 Zone exists under the Regulations.

It is undisputed that Bicentennial Park (Holley Block) lies within the Aquifer Protection Overlay District. Section 8-3i(b) of the Connecticut General Statutes and Section 805.8 of the Planning and Zoning Regulations require that the Applicant "shall provide written notice of the application... to the water company and the Commissioner of Public Health in a format prescribed by said Commissioner ... by certified mail, return receipt requested ... mailed *not later than seven days after the date of the application.*" [C.G.S. Section 8-3i(b) Emphasis and Italics supplied.] "*[a]nd shall certify such notice to the Commission prior to any action by the Commission on the application.*" [Section 805.8 Planning and Zoning Regulations.] [Emphasis and Italics supplied.]

The Applicant notified the Connecticut Department of Public Health of the Application (but apparently did not provide the Site Plan or other details) by email on September 30, 2020 and Aquarion by email (apparently with the Site Plan and other details) on September 25, 2020. The Applicant notified the Commission of these respective email notifications on October 7, 2020. **Because the Applicant failed to comply with the requirements of C.G.S. §8-3i(b) and §805.8, the Applicant must withdraw the Application or the Application must be denied by the Commission.** There is not a "cure" provision in



LAW OFFICE  
OF  
WILLIAM V. GRICKIS

Salisbury Planning and Zoning Commission, <sup>November</sup> ~~October 30~~, 2020, Page 2.

either the General Statutes or Planning and Zoning Regulations for failure to comply faithfully with statutory and regulatory requirements. The purpose of these aquifer related requirements is obvious – to give the Department of Public Health and Aquarion sufficient time to determine whether the proposed project will negatively impact the underlying protected aquifer *before* the Commission acts on the Application.

Parenthetically, it is also worth noting that Application does not address §§403.6a and c of the Regulations which require submission of “proposed measures to mitigate any adverse impacts to underground water resources ... and a system for monitoring implementation ... and a schedule for providing timely monitoring status reports as may be required...” Given that there will be excavation during construction, it would seem that Section 403.6 requirements deserve strict application and enforcement.

Regarding another unresolved issue, the Commission is aware that I have asked the First Selectman to produce written legal opinions to document his repeated claims to have received legal opinions that support actions the Town and Board have taken that I have previously challenged in letters to the Commission regarding this project. If I recall correctly, during the October 8, 2020 continued Public Hearing, the Chairman of the Commission also called upon the First Selectman to provide copies of such legal opinions if he in fact has received written opinions. To my knowledge to date, no such written legal opinions have been provided by the First Selectman. If the First Selectman has not, in fact, received any such written legal opinions, then the Commission should note this omission and ask for written legal opinions before acting on this Application.

Respectfully submitted,



William V. Grickis

Cc. Commissioner, Connecticut Department of Public Health, via electronic mail