

**RESOLUTION OF THE TOWN OF SALISBURY PLANNING AND ZONING
COMMISSION REGARDING APPLICATION FOR A SPECIAL PERMIT TO
CONSTRUCT A 12-UNIT MULTIFAMILY DWELLING IN THE PKSQ DISTRICT
AND AQUIFER PROTECTION AREA**

APPLICATION #2021-0123

11 HOLLEY STREET

WHEREAS, on February 4, 2021, the Salisbury Housing Committee Inc., filed their second application for a Special Permit under Section 403 (Aquifer Protection Overlay District) and Section 405 (Multi-Family Housing and Pocketknife Square Overlay Districts) of the Town of Salisbury Planning and Zoning Regulations to construct a 12-unit multifamily dwelling on town-owned land consisting of .31 acres located at 11 Holley Street, Lakeville CT;

WHEREAS, on November 9, 2020 the Salisbury Housing Committee voluntarily withdrew their first application submitted on July 22, 2020 in order to address the concerns voiced in the public hearings and correspondence concerning a variety of issues, including but not limited to architectural style and building mass;

WHEREAS, the site consists of a single parcel, Assessor's Map 45 Lot 2;

WHEREAS, the Application proposes the construction of an affordable housing facility and associated uses in the CG-20 - Village Center Commercial District, PKSQ - Pocketknife Square Overlay District, and AP-Aquifer Protection Overlay District;

WHEREAS, the Application included a statement of proposed use; a plan set dated February 4, 2021 consisting of 17 plan sheets which include a survey, site development plans, architectural plans, related drawings and documentations; requisite filing fee; Revised site plans dated March 17, 2021 and April 8, 2021; Stormwater Management Report dated April 2021 by Alfred Benesch and Company; Traffic Evaluation dated September 2020 by Joseph Balskus, P.E., PTOE and Molly Pause, EIT of VHB, Inc. and supporting documentation including but not limited to referral letters, additional renderings and PowerPoint Presentations dated March 8, 2021 and April 14, 2021;

WHEREAS, the Applicant has an option to lease the subject property for the proposed multifamily residential;

WHEREAS, the Commission held a public hearing on the matter on March 8, 2021, March 22, 2021, and April 14, 2021;

WHEREAS, on March 4, 2021, Daniel E. Casagrande, Esq. of Cramer & Anderson, LLP, on behalf of four petitioners, filed a Verified Petition for Intervener status, alleging that the

proposed multi-family housing project involved conduct that is reasonably likely to have the effect of unreasonably impairing or destroying the public trust in the natural resources of the state, specifically the historic character and integrity of the Lakeville Historic District and Lakeville Local Historic District;

WHEREAS, the Commission examined the deed of gift to the Town of the Holley Block and determined that the deed contemplated future re-development of the site, with a requirement that the site be grassed within a year of demolition of the Holley Block building, and that the deed preceded the establishment of the Lakeville Historic District and the Lakeville Local Historic District;

WHEREAS, the Commission determined that it had sufficient information in the record and voted unanimously to close the public hearing on April 14, 2021;

WHEREAS, during the course of the public hearing, issues raised by the public, intervenor and/or the Commission included: fundamental fairness of Zoom Webinar format, possible bias or predisposition of Commission Members, Traffic, Parking, Pedestrian Safety, Massing, Lighting and Aesthetics;

WHEREAS, during the course of the public hearing, the Commission received not only verbal testimony but a large number of written comments from residents regarding: traffic, lighting, parking, property values, public health and safety, the deficit of affordable housing in Town, as well as aesthetics;

WHEREAS, as discussed by the Commission in detail during its deliberations on April 28, 2021, the Commission finds that the interveners have not met their burden under Conn. Gen. Stat. § 22a-19 to demonstrate that the proposed multifamily housing project involves conduct that is reasonably likely to have the effect of unreasonably impairing or destroying the public trust in the resources of the State, specifically the historical character of the Lakeville Historic District and Lakeville Local Historic District;

WHEREAS, the Commission finds that the applicant is eligible for a density bonus on the basis that the proposal includes a minimum of 50% Affordable units; that the historical characteristics of site do not override the benefits provided by the proposed affordable housing development on the site; and that construction materials, windows and lighting are essential features to the style and appearance of the building but that they are amenable to low maintenance modern materials as long as they maintain the architectural integrity of the structure as a contributing feature in the district;

WHEREAS, the Commission finds the proposed use conforms with the requirements set forth in Section 403.6 of the Regulations for uses requiring a special permit in the Aquifer Protection Overlay District;

WHEREAS, the Commission has considered claims that the proposed use will unreasonably deprive surrounding properties of public parking or render zoning approvals for surrounding uses nonconforming for parking, but disagrees with these claims. Based on the applicant's parking study, the historical aerial photographs placed in the record, and Commission members' personal experience of visiting the site over the years, the Commission finds that existing parking lot on the site is generally underutilized; while there may be short-term parking challenges during construction, the proposed development will not unreasonably impair parking for neighboring uses. We further observe that the applicant has stated that eight outdoor parking spaces will be available for public use (a representation that we incorporate herein as a condition of approval) and that these eight public spaces exceed the normal past usage for the site. We also find that the applicant has failed to establish that the proposal violates any existing zoning approvals called to our attention, and that, to the extent that the approvals referred to in the record relied on this site as satellite parking, the eight spaces reserved for public use satisfies or exceeds any specific number of spaces approved as part of those approvals;

WHEREAS, the Commission finds that building conforms with the front yard setback requirements established by Section 405.6.a.2 of the Regulations for both Holley Street and Millerton Road (Rte. 44) in that building is within the setback established by one or more buildings on abutting properties and thereby is consistent with the existing street wall;

WHEREAS, the Commission finds that the proposed building, with the conditions set forth below, will be in conformance with the dimensional and design requirements of Section 405.6 of the Regulations;

WHEREAS, the Commission has considered the standards set forth in Section 803 of the Salisbury Zoning Regulations and finds that the size and intensity, as well as the design, of the proposed project has been related harmoniously to the terrain and to the use, scale, and siting of existing buildings in the vicinity of the site; the use does not create a nuisance to neighboring properties, whether by noise, air, or water pollution, lighting, or other effects; the proposed use also is not in conflict and does not constitute an unreasonable decrease in property values or a detriment to the present and potential use of the area in which it is located. The Commission finds that, with the conditions enumerated in this resolution, a reasonable effort has been expended to balance the concerns of the neighbors with the Applicant's property rights and the need for affordable housing;

WHEREAS, the Commission finds that no special permit for Excavation, Filling and Grading (Section 601) is required for this project because the grading and excavation for this project is made in connection with construction plans approved by the Commission, and thus is exempt under Section 601.2 d of the Regulations; and even if that exemption were not applicable, the applicant has estimated the total excavation to be less than 250 cubic yards, which is a separate exemption under Section 601.2.a of the Regulations;

WHEREAS, Section 800.3 of the Regulations (Site Plan and Application Requirements) provides “The design, layout, computations and plans showing existing and proposed drainage patterns, and construction of storm drainage improvements, driveways, access ways, parking areas, loading areas and other site construction improvements shall be prepared by a Connecticut Registered Engineer”;

WHEREAS, our special permit application form provides that “The design, layout and computations relating to the construction of facilities for storm drainage or improvements such as a new accessway, parking areas, etc. shall be prepared by a Connecticut registered engineer *or where qualified to do so by a Connecticut registered landscape architect.*” (emphasis added).

WHEREAS, a landscape architect licensed by the state of Connecticut is specifically authorized to render the service of site planning, which is defined to include “the design or management of land, the arrangement of natural and artificial elements, including, but not limited to, grading and incidental drainage, soil and erosion control, and planting plans...” under Conn. Gen. Stat. § 20-367 and chapter 396 of the Connecticut General Statutes;

WHEREAS, the applicant’s materials submitted to the Commission included materials from *both* a Landscape Architect (Jon Tunsky, todesign) and a registered engineer (Willam Walter, Alfred Benesch and Company) as well as other qualified professionals (Traffic Engineer, Joseph Balskus, PE, PTOE, VHB), Architects, Thomas Arcari, AIA & Rocco Petitto, AIA, QA+M Architecture; Kent McCoy, AIA, Historic Specialists & Project Architect, QA+M Architecture;

WHEREAS, the applicant’s engineer has prepared a Stormwater Management Report, which addresses the “design, layout, computations and plans showing existing and proposed drainage patterns, and construction of storm drainage improvements” as required by Section 800.3 of the regulations as well as an analysis and review of “driveways, access ways, parking areas, loading areas and other site construction improvements” in preparation of that report; accordingly, we find that the application to have substantially complied with Section 800.3 of the Regulations;

NOW THEREFORE BE IT RESOLVED THAT, SP 2021-0123 be approved with the following conditions:

1. Eight of the outdoor parking spaces shall be designated as open and available for public use.
2. The Chimney height [as depicted on the sheet A3.0 (Exterior Elevations) and slides 13-16 of the Applicant’s PowerPoint presentation of 03/08/2021] shall be reduced at least 50% to better meet surrounding architecture, provided that such reduction does not conflict with any provision of the State Building Code.
3. Granite blocks from the original Holley Place foundation shall be incorporated into the site development ensuring public visibility of the resource. Additional cladding shall be

added as needed to cover the modern concrete walls proposed on ground floor elevations and the southern garage face.

4. To avoid a disharmonious appearance from the street, window treatments should be limited to white.
5. Exterior lighting shall be keeping with the federal style of the District and Dark Sky compliant, including internal and external garage lighting.
6. True divided light windows will be installed on all fenestration to improve the aesthetic of the building to be compatible with the neighborhood as recommended by Rachel Carley, the Intervenor's historic consultant.
7. The building color (grey with white trim) shall be as depicted on slide 16 of the Applicant's March 8, 2021 PowerPoint presentation.
8. The Planting Plan shall conform to the revised planting plan ("Planting Plan", sheet L-4.0, rev. 04.08.21). Shrubs within the Sight Triangle shall be maintained at less than three feet in height, in accordance with Section 304.3 of the Regulations.
9. No loading or unloading of vehicles shall be permitted on Millerton Road (Route 44). Loading and unloading of vehicles is permitted on Holley Street and the on-site parking lot.
10. The right-of-way on the western portion of the property shall not be obstructed. The applicant is required to install signage in this area to enforce this condition, e.g., "Private Way No Through Traffic."
11. The elevator(s) shall be designed to accommodate a stretcher and attendant EMT personnel.
12. Refuse shall be stored in a ventilated enclosure to prevent access by wildlife and disposed of in the manner as identified by the letter from Welsh Sanitation date March 1, 2021.
13. Any work within the Connecticut Department of Transportation (CT DOT) right of way will require review and issuance of an Encroachment permit from CT DOT.
14. "Back-in Only" signs shall be installed for the two proposed parking spaces that are located under the southeast corner of the building to ensure adequate visibility for vehicles backing out of this location which is within close proximity to the site entrance.

15. Aisles will be graded to conform with slope requirements set forth in Section 700.3e of the Zoning regulations.
16. Snow plowed on the site shall be stored in the planting island or removed from site, as necessary.
17. Prior to the issuance of certificate of occupancy, the applicant shall provide to the Zoning Administrator the identity and contact information of the person who will be the principle point of contact as set forth at Section IV of the Applicant's Affordability Plan.
18. Provisions shall be made for the preservation of any time capsule or other features of historical interest that may be discovered during the construction process. These will be relocated into the wall along Holley Street.
19. The applicant shall comply with the recommendations contained in the Stormwater Management Report dated April 2021 prepared by William B. Walter of Alfred Benesh and Company, including the specific Erosion Control Measures specified at page 3-4 of the report, and the measures addressing Long Term Stormwater Quality on page 4 of the report including parking lot sweeping, installation of catch basins sumps, and installation of a hydrodynamic separator. The applicant shall provide a schedule for sweeping and maintenance to the Zoning Administrator prior to the issuance of a zoning permit.
20. All site plan documents shall be stamped and signed to conform to Class A-2 survey standards in accordance with Section 800.3 of the Regulations.
21. A Geotechnical report shall be completed and supplied to the Zoning Administrator prior to issuance of a building permit demonstrating that suitable soil conditions for footing, foundation and building construction exist given that the site was previously developed with a structure.
22. No local zoning permit shall be issued until all required prior approvals obtained, including, if required, any approval from the State Historic Preservation Office (SHPO).
23. *Option 1* In order to address potential safety issues to oversized vehicles travelling on the southern side of the building where the building extends over the accessway, the applicant shall install "low clearance" signs on the southeast and southwest corners of the building where the building extends over the accessway.

Option 2 In order to prevent potential safety issues to oversized vehicles travelling on the southern side of the building where the building currently extends over the accessway, the applicant shall modify the building to eliminate the cantilever portion of the building so as to provide unobstructed access along the southern side of the building.

Option 3. [No condition needed on the theory that condition is open and obvious and does not constitute a safety hazard. Note that placing bollards in the aisles at the overhang area would reduce the width of the aisles and violate the 24 feet aisle width requirement for two-way traffic in Section 703.4 e of the regulations.]

24. If any of the requirements of the decision are unattainable the application may seek a modification of this approval from the Commission. Applicant is advised that any modifications will require a full public process.

Comments: Condition 5 provides:

5. Exterior lighting shall be keeping with the federal style of the District and Dark Sky compliant, including internal and external garage lighting.

A couple of questions:

- Are we approving the lighting that the applicant proposed, or are we requiring changes?
- If we are requiring changes, what are the changes? I think the reference to federal style may be OK (particularly if there were comments in the record about this), but I am not sure what “Dark Sky compliant” refers to. The term “Dark Sky” is not used in the zoning regulations, and I don’t think it refers to one particular standard; on the other hand the lighting standards in the regulations seem to be designed to prevent excess lighting from escaping the property, and thus meet Dark Sky goals (See copy of Section 702 pasted below).

Accordingly, I might suggest:

6. Exterior lighting shall be keeping with the federal style of the District and ~~Dark Sky compliant~~ *in compliance with Section 702 of the Zoning Regulations*, including internal and external garage lighting.