

# May 8, 2012

## Special Meeting

7:30 p.m. Land Use Meeting Room

**MEMBERS PRESENT:** Mr. Fitzherbert, Mr. Reich, Mr. Abella

**MEMBERS ABSENT (Recused):** Mr. Solley, Mr. Werkhoven

**ALTERNATES PRESENT:** Mr. Wyant, Dr. Craparo, Mr. Dutton

**STAFF PRESENT:** Mr. Ajello, Mrs. Hill

**ALSO PRESENT:** Atty. O'Hanlan, Atty. Marcus, Mr. Piscuskas, Ms. Zelenko, Mr. Goodin, Mr. Meehan, Mr. Peck Mr. Jancski, Ms. Evans, Mr. and Mrs. Stern, Mr. Bedini, Mr. C. Smith, Mr. Buck, Atty. Andrews, Atty. Williams, Mr. Showalter, Mr. Ullram, Mr. and Mrs. Graham, Mr. Charles, Mr. and Mrs. Boyer, Mr. and Mrs. Crumrine, Mr. and Mrs. Condon, Mr. Papsin, Mr. Klein, Mr. Wadelton, Mr. Werkhoven, Mr. Kleinberg, Mr. Kersten, Mrs. Peckerman, Mr. Solley, Mrs. Payne, Mrs. Krinsky, Mrs. Farmer, Ms. Kelly-Aguirre, Press, Residents

## PUBLIC HEARING

The Gunnery, Inc./22 South Street/Special Permit: Section 4.4.10/ Athletic Fields

Mr. Fitzherbert reconvened the public hearing at 7:30 p.m. and welcomed two new Alternates, Dr. Craparo and Mr. Dutton. Mr. Dutton recused himself because he has worked part time for The Gunnery. Mr. Fitzherbert seated Members Abella, Fitzherbert, and Reich and Alternates Craparo and Wyant.

Mrs. Hill read the list of documents submitted to the file at and since the 4/23/12 meeting.

Mr. Fitzherbert noted the applicant had made a precise presentation on April 23rd, reviewed the procedures to be followed at the public hearing, and asked the interveners and the public to be as brief as possible when making their presentations. He stated that all commissioners would read all of the documents submitted prior to voting on the application. Mr. Fitzherbert responded to several questions and issues previously raised by the interveners: 1) Would the Zoning Commission conduct a site inspection? It was noted that the Inland Wetlands Commission had conducted a site inspection, other commissions had been invited to attend, and Mr. Fitzherbert and Mr. Reich had attended. He said the Zoning Commission would not conduct another one.

2) Would the Zoning Commission hire a consulting engineer? Mr. Fitzherbert said this was an option if the Commission determined it was needed.

3) Would the Commission require the applicant to share CADD files? Mr. Fitzherbert stated that only written documentation was required at this time, CADD files were not required.

4) Mr. Fitzherbert noted that the Zoning commissioners were not experts in all areas, that approvals from other departments with jurisdiction such as Health, Inland Wetlands, and the Fire Marshal are often received, and that when these approvals are received they are accepted without question.

He noted the Inland Wetlands Commission had approved with conditions The Gunnery's application for athletic fields by a 5-0 vote and so asked presenters to refrain from submitting any information the Inland Wetlands Commission had already acted on.

Representing the Sterns, Atty. O'Hanlan submitted his 5/8/12 letter to Mr. Fitzherbert, which listed the consultants who would speak on behalf of the interveners and detailed arguments against the approval of the application. In short, he stated the applicant did not identify the scope and magnitude of the project or how it would impact the neighborhood and the natural resources, pointed out the purpose of the Zoning Regulations to protect the health and safety of the Town as stated in Section 1, noted that in the R-1 District residential uses are permitted by right, but before a use permitted by Special Permit may be approved, it must be proven that it complies with the Special Permit standards in Section 13.1, and stated the proposed fields were not consistent with the Town's Plan of Conservation and Development. He continued that the proposed Gunnery expansion is a threat to the Town and to the integrity of Zoning, the fragmentation of the forest would be bad, The Gunnery had neither considered alternatives nor tried to coordinate field use with other schools, and the adjoining property owners would be adversely impacted. He stated that approval of a project of this scale would set a precedent and make it impossible to preserve any of the Town's residential zones. Atty. O'Hanlan said there were water and drainage issues that do pertain to Zoning and environmental considerations that were more important to Zoning than to Wetlands because there was the potential to render the resource useless. Also, he argued that the fields would dramatically change the look of the Town and that athletic fields are accessory uses that do not meet the requirements of the Zoning Regulations. He urged the Commission to consult with its attorney.

Mr. Jancski, landscape architect, explained that he had worked with topo maps to assess the site and had converted two dimensional plans to three dimensions to more clearly show the impact of the fields. He asked how would they fit into the context of the community, what was the extent of the proposed tree clearing, what were the environmental impacts within and outside the limit of disturbance line, and what would the visual impact be from different locations. The resulting views he presented were entitled, "Landscape Architectural Analysis for Gunnery School's Proposed Athletic Fields," dated 5/8/12 and included the following, "Birdseye Aerial View Facing South," "Google Earth Satellite Image with Overlays," "Plan View," "Potential Visual Impact ... View from the North (Judea Cemetery Road Area)," "Potential Visual Impact ... View from the Northeast (Plumb Hill Road Area)," "Camera View #3 (Birdseye) Environmental Impact," "Camera View #4 Clearing and Grading," and "Camera View #5 (Birdseye) Showing Proximity of Soccer Fields to Stern Residence." Mr. Reich noted these views were not to scale. Mr. Jancski responded that you can't scale a perspective. Mr. Jancski noted that an area with a 70 to 80 ft. rise in elevation would be cleared, saying the fields did not appropriately fit on such a steep site and the resulting 2:1 slopes would exceed the landscaping standards for mowing. Mr. Reich noted the two lighter shades of green surrounding the field on the sheet showing camera view #5 and asked if Mr. Jancski was sure all of this area would be totally cleared. Mr. Jancski said he believed it would be cleared as drawn. Mr. Ajello, ZEO, asked where the limit of disturbance line approved by the Inland Wetlands Commission was. Mr. Jancski said it was at the edge of the dark green area. Mr. Ajello asked if Mr. Jancski assumed there would be a 40 ft. overbuild. Mr. Jancski said, yes. Concerning the sheet with the view from Plumb Hill Road, Mr. Ajello asked if Plumb Hill Road was higher in elevation than the site. Mr. Jancski said he believed so. It was noted that several of the sheets were birdseye views. In further discussion regarding the elevations from which the views were taken, Mr. Jancski said the elevations were accurate at a human level, which could be from the road or a first or second floor.

Mr. Goodin, engineer, presented a peer review from a civil engineering viewpoint, covering drainage, erosion and sedimentation controls, and steep slopes. He noted that Sections 13 and

14 of the Zoning Regulations address site plan review and he referred to both the *2002 Ct. E&S Guidelines* for the minimum requirements during construction and the *2004 Ct. Stormwater Quality Manual* for the minimum requirements post construction. He noted that since over 10 acres will be disturbed, the DEEP must issue a permit and the standards in the E&S Guidelines must be met. Mr. Goodin disputed the applicant's statement that there would be no increase in stormwater runoff post development and explained the reasons for his conclusion; the amount of trees to be cut, the use of C soils instead of A and C soils for the drainage calculations, and what he said was the incorrect use of TR55 methodology. Dr. Craparo asked if Mr. Goodin had taken soil samples. Mr. Goodin said that the applicant also had not used the proper method for the soil delineations. He recommended that the Zoning Commission ask that the drainage be recalculated. Mr. Goodin stated that the proposed level spreaders did not come close to meeting the regulations in the E&S Guidelines because they are proposed on slopes of 12%, 18%, and 28%, whereas the Guidelines state they may be used only on slopes that do not exceed 5%. He also submitted correspondence from the DEEP to support his statement that they can only be used on slopes of 5% or less and the 5/8/12 letter to Mr. Meehan from Mr. Logan reiterating that a DEEP permit is required and stating that the level spreader discharge area should not be a slope over 5%. Mr. Goodin recommended that the level spreaders be redesigned to work properly. Next, Mr. Goodin addressed the proposed reverse benches, which, he said, would not function properly and should also be redesigned. Mr. Goodin said that based on the Welti soil borings done in 2000 there would be ledge that would require blasting. He said in some places there could be as much as 17 ft. of ledge or even more if weathered rock was considered. He said that due to the presence of ledge the fields could not be constructed with the 8 inch sand trenches and 6 inches of top soil as proposed. He said a qualified geotechnical engineer was needed to do more soil borings and that perhaps it would be necessary to raise the fields 2 feet. Mr. Goodin said he had not done a complete review of the proposed collection system, but pointed out some problems, that were not standard design. Mr. Goodin criticized the plans because he said there would be no pollution renovation on site. He said the applicant had no infiltration or detention basins planned for the site and was relying on the vegetative buffer to take care of this, but that DEEP guidelines require that 80% of the suspended solids be removed on site and that the forested buffer could not handle this. Further, he maintained that the proposed level spreaders would concentrate the flow, making renovation even more difficult. He said that permeability tests were needed. Mr. Goodin explained that the limit of disturbance line would have to be extended out 40 feet to accommodate the correct construction of the reverse benches and allow for a maintenance access. Mr. Goodin stated that the DEEP requires on site septic and water, not the proposed port-o-lets. Mr. Goodin then pointed out problems he found with the erosion control plans including: 1) not enough detail was shown, 2) dirty water would by pass the basins due to the 2:1 slopes above them, 3) the steep slopes would erode, 4) the stockpile areas were not large enough to accommodate all of the soil that would be needed for construction, and 5) the plans were too generic for the site and did not include contours or the intermediate phases of construction. He noted that the plans must be submitted to the DEEP at least 30 days prior to the start of construction, but that this had not been noted on the plans. He also said a permit from the Army Corps of Engineers might be required. Mr. Goodin said a post management plan is required, but no details had been provided and the plans were "very under designed." He said it was not good to have 11 acres open and that the proper construction technique would be to push the dirt sideways so the hillside would not be overburdened, but that it would take twice as long to build the fields using this method. Again addressing the limit of disturbance line, Mr. Goodin thought it would have to be extended out 50 to 100 ft. all around the perimeter in order to properly follow the E&S Guidelines and to account for tree loss from fill. Mr. Reich asked what percentage of his presentation had been covered by the Inland Wetlands

Commission. Mr. Goodin said the Zoning Commission was responsible for everything he presented. Mr. Ajello noted the local Zoning Regulations state that erosion and sedimentation control is the Zoning Commission's responsibility if the project is not under the jurisdiction of the Inland Wetlands Commission. He said many of tonight's challenges to the proposed plans were in direct opposition to the Land Tech report to the Inland Wetlands Commission. He also said he thought some of the challenges appeared to be speculative. In his presentation, Mr. Goodin used the following maps on which he had added handwritten comments dated 5/8/12: 1) "South Street Athletic Fields, 40 Scale Site Plan," by Smith and Company, revised to 12/9/11, 2 copies: one for slopes and one for drainage shortcomings, 2) "South Street Athletic Fields, Notes and Details," Sheets 6 and 7, by Smith and Company, revised to 3/19/12, 3) "South Street Athletic Fields, Sediment and Erosion Control Plan," by Smith and Company, revised to 1/13/12 – 2 copies: one for renovation comments and one to illustrate ledge locations, 4) aerial map from the USDA Natural Resources Conservation Service with soil types, text on Tc, and descriptions of soil characteristics, (M&G #9), dated 5/8/12, and 5) a cut and fill chart, not to scale, (M&G #10), dated 5/8/12. Mr. Goodin stated that if any of Land Tech's reports were submitted to the Zoning Commission he would like to address them. He submitted the following documents: 1) pages 1-1, 1-4, 2-3, 3-6, 5-2-7, 5-2-9, 5-10-2, and 5-10-3 of the 2002 Ct. Guidelines for Soil E&S Control, 2) "General Permit for the Discharge of Stormwater and Dewatering Wastewaters Associated with Construction Activities," by the State of Ct. DEP, issue date: 4/9/10, expiration dated: 10/1/11, 24 pp., 3) page 16 of 24 from the Bureau of Materials Management and Compliance Assurance, St. of Ct. DEP re: slope bench, 4) 3/1/12 emails from Mr. N. Williams, Ms. Zelenko, and Mrs. Hill, 5) Web Soil Survey by the National Cooperative Soil Survey, dated 1/8/12 with handwritten notes, M&G #9, 5/8/12, 6) "Descriptions of Soil Characteristics and Classifications," from USDA-NRCS, 7) "HydroCAD Stormwater Modeling – Since 1986," 8) "Gunnery Athletic Fields, Comparison of Summary of Flows," by Torres Engineering, Inc., dated 4/25/12, 9) "Planning and Zoning Application, South Street Athletic Fields, Washington, Ct.," Meehan & Goodin, PC, dated 5/8/12.

Ms. Evan, biologist, presented a Google Earth image of the proposed site, noting the property has a solid forest cover and rises 230 feet from the wetlands to the hilltop. She referred to the Town Plan of Conservation and Development, which, she said, emphasizes rural character, and to the Zoning Regulations, which encourage the most appropriate use of land and prevent pollution and defilement. She noted the center of the 70 acre site would be altered with fields and parking. She addressed forest fragmentation, noting that GIS maps show there has not been much change in the forest cover in Washington from 1985 to 2006 and there is an area of core forest associated with The Gunnery site. She explained that clearing 12 acres would degrade the quality of the habitat and would be an irreversible loss, which would negatively impact the environment. She stated that the kind of earthwork proposed often leads to water quality problems. Ms. Evan said she had checked the data base and had found no known occurrence of protected species on the property, but said there are three located approximately one mile away. She also emphasized the importance of buffers and filter strips, which would be impacted should the project be built. She submitted her letter/report to Mr. Fitzherbert and Members of the Commission, dated 5/7/12.

Mr. Peck, Planner, advised the Commission there were several important issues it must understand. 1) Definitional problems: He explained that Section 4.4.10 is for schools, but in the intervenor's opinion, what was being applied for was not a school. 2) Accessory uses: He said it could be an accessory use to a school elsewhere in Town, but per the Zoning Regulations, an accessory use must be on the same property as the primary use. He said the environmental classroom building could be the primary use, but that it was illogical to find athletic fields were

accessory to an environmental classroom. He said this application would end both the environmental quality of the property as well as the use for which the environmental classroom was approved. 3) Special Permit standards: Mr. Peck said the application does not meet 75% of the Special Permit standards, including sections 13.1.B.1, 2, 5, 6, 7, and 8. He stated the application was not consistent with the Town POCD, specifically referring to pages 2-4 because he said the fields would impact the community character, result in a loss of rural character, destroy natural resources, and drastically alter scenic vistas, 2-5 because the preservation of open space and natural resources is highly ranked, 3-4 because clearcutting and the use of fertilizers would impact water quality, and 3-10 because it lists habitat fragmentation that will result from the proposed clearcutting as a threat. 4) Mr. Peck stated the application was incomplete because it did not include an excavation permit, it did not contain a rock crusher permit, and it did not contain information regarding trucking material off site, the types of trucks, number of trips, grading equipment to be used, etc. He said the Regulations call for low intensity uses, but the proposed fields would be used 6 or 7 days a week and would have to be maintained and so would not comply. Mr. Peck also stated the 11 to 15 acres of proposed clearcutting was out of context with the size and scale of the neighborhood. Also, he noted that bedrock fractures were found on site and that if blasting was done it could impact the wells on the surrounding hillside properties. He said the proposed irrigation system could also impact surrounding wells. Mr. Peck stated that the applicant had not addressed landscaping and that it was unfair to assume the forest would block all of the views, especially during November thru May. Regarding the preservation of natural features, Mr. Peck said the Inland Wetlands Commission had dealt only with wetlands. He said the Zoning Commission should deal with the significant obliteration of natural resources and the creation of unsustainable fields. Mr. Peck also believed the fields would cause nuisance conditions due to noise from sporting activities. He was concerned The Gunnery would rent out the property to summer sports camps. He urged the Commission to deny the application because it does not meet the definition requirements or the Special Permit requirements of the Zoning Regulations and because the applicant had not been "up front" about the extent of the excavation required for this project. He submitted his report, "Planning Review and Analysis of the Application of The Gunnery for Construction of Athletic Fields on Property at 22 South Street, Washington, Ct." dated 5/8/12 with attached copies of the Town of Washington Zoning Regulations and the December 2003 Plan of Conservation and Development.

Atty. Marcus noted he represented an intervener and asked if he could make a presentation. Mr. Fitzherbert said it was now time for public comments.

Mr. Stern, intervener, said what The Gunnery had proposed in a residential neighborhood would ruin the character of that neighborhood, would result in environmental impacts to the neighborhood, and set a terrible precedent. He said the proposed development of the fields was totally inappropriate as they were not oriented north south as they should be and were being jammed into the hillside. He said there were other properties in Town that would be more suitable for fields. He submitted a letter dated 5/7/12 signed by 18 Town residents.

Mr. Piscuskas said the fields were a bad idea, the plans were incomplete, and the huge cut into the hillside should not be allowed.

Mrs. Stern noted that at the Inland Wetlands public hearing, Dr. Cohen had spoken about the use of safe pesticides and fertilizers. She submitted the article, "How Chemicals Affect Us," by Nicholas D. Kristof, published on 5/2/12 in The New York Times. She noted chemicals that were considered

safe in years past, have since been found to be hazardous to human health. She questioned how many chemical applications there would be on the fields, where would the affected runoff flow, and how it could be controlled.

Ms. Forese noted that the 1935 aerial map shown by the applicant at the last meeting was irrelevant and said that noise from the fields would be heard along South Street. She opposed the application.

Mrs. Crumrine noted the proximity of her house to this massive project and said she would be the most impacted. She worried that the hillside would come down onto her property and said the scope of the work was too large for the site. She said, if permitted, the soccer fields would be a commercial enterprise in the residential district since they would be rented out for summer camps. She also stated she would hear noise from the proposed fields as she can now hear cheering from the existing Gunnery fields, which are further away.

Atty. O'Hanlan agreed that commercialization of the property is a concern because the applicant said it reserves the right to use the fields for other customary uses. He said it was typical for schools to rent out their fields to non students and that this is not allowed by Special Permit.

Atty. Marcus noted he represents Ms. Zelenko. He agreed that to raise money typically schools use their properties for uses other than school use and said the Zoning Regulations do not anticipate this. He stated that such uses might be good for the community, but were not good for the neighbors. Atty. Marcus stated that the plans are deficient and poorly designed. He said the site inspection that had been held had been focused on inland wetlands issues and did not address Special Permit concerns. He said the interveners' consultants had been denied access to the property, which was very irregular. He added he was concerned that it appeared the Zoning Commission would rely on the Land Tech report to the Inland Wetlands Commission because that report was not relevant to Zoning issues. He cited several issues that Zoning must address including: 1) noise, both from the construction and the school's use of the fields, 2) pre and post development drainage, 3) cuts and fills, 4) lack of an excavation permit, and 5) impact to surrounding property values. He noted the applicant had stated the proposed cuts and fills would be balanced on site, but said, in fact, some of the material might be trucked off site and additional material brought in for proper drainage. He said that was not consistent with what the applicant told the Commission. Atty. Marcus said the applicant had failed to meet the burden of proof that the fields would not adversely impact neighborhood property values. He noted Dr. Cohen had detailed the proposed care and maintenance of the fields, but said grass would not survive on the steep side slopes due to both their steepness and lack of irrigation. He concluded that the proposal was seriously flawed.

Ms. Kelly-Aguirre spoke in favor of The Gunnery and on behalf of the children of Washington. She noted the importance of athletic fields and the educational value of what they provide. Regarding potential noise, she noted the Mayflower Inn has no problem with the three existing athletic fields located near its \$600 per night rooms.

Mrs. Stern responded that being a private school, The Gunnery does not serve the children of Washington. She said the three existing fields were adequate and two more were not needed.

Ms. Zelenko, intervener, noted that first The Gunnery proposed a "driveway to nowhere," then an environmental classroom, now the athletic fields, and she questioned what would be proposed

next. She said she had provided a three dimensional cross section to clearly show the extent of the work to be done. She said the project would be harmful to the environment, fundamental engineering had not been done, and the DEEP and Army Corps of Engineers had not been contacted by the applicant. She said she had contacted the Army Corps.

Mr. Piscuskas said that common sense was lacking in the plans. He said if approved, the precedent that would be set would "kill" the Town. He stated that the proposal does not comply with the Zoning Regulations and that the property was not a good place for soccer fields.

Mr. Jancski reiterated that both uphill and downhill of the fields 2:1 slopes were proposed that far exceed the standards for planted slopes. He asked for a "true" planting plan that would be typical for a project like this.

Mrs. Crumrine asked if such a massive project would be permitted had the application been by a private property owner rather than an institution. Mr. Fitzherbert responded the Commission would listen to comments, but would not enter into a debate.

Mr. O'Hanlan thanked the Commission on behalf of the Sterns.

Representing The Gunnery, Atty. Williams submitted two documents for the record: 1) the 4/3/12 report by Mr. Hayden of the Northwest Conservation District prepared for the Washington Conservation Commission and 2) the 12/7/12 Inland Wetlands Commission site inspection minutes. He requested the continuation of the public hearing to provide the applicant time to respond to the issues raised tonight. He noted the applicant would make the last presentation and so asked if there were any additional issues, that they be brought up at this time.

Atty. Marcus objected to the submission of the Inland Wetlands site inspection minutes because he said it was inappropriate for a member of one commission to testify before another. Atty. Williams stated this was not testimony, but was a record of a public meeting.

Atty. Williams said he submitted the report from Mr. Hayden in response to Mr. Goodin's assertion that the recommendations in the 2002 Ct. E&S Guidelines and the 2004 Ct. Stormwater Manual had not been followed. He noted Mr. Hayden is both a certified soil scientist and a certified professional in erosion and sediment control and that he had determined the plans complied with the state guidelines and standards. He read Mr. Hayden's statement for the record.

Mr. Fitzherbert said he was not sure that the Commission would be ready for the applicant's summation at the next meeting, but said the applicant would make the final presentation.

#### MOTION:

To continue the Public Hearing to consider the Special Permit application: Section 4.4.10 submitted by The Gunnery, Inc. for athletic fields at 22 South Street to Monday, May 21, 2012 in the Land Use Meeting Room, Bryan Memorial Town Hall, Washington Depot, Ct.; public hearings to begin at 7:30 p.m.; this is the third hearing on the agenda.

By Mr. Reich, seconded by Mr. Abella, and passed 5-0.

At 10:39 p.m. Mr. Fitzherbert continued the hearing to May 21, 2012.

FILED SUBJECT TO APPROVAL

Respectfully submitted,  
Janet M. Hill  
Land Use Administrator