

RESOLUTION OF THE TOWN OF SALISBURY PLANNING AND ZONING COMMISSION REGARDING APPLICATION FOR A SPECIAL PERMIT TO CONSTRUCT TWO AFFORDABLE DWELLING UNITS ON A PROPERTY WITHIN THE MULTIFAMILY HOUSING DISTRICT (MFH) AND THE AQUIFER PROTECTION OVERLAY DISTRICT (APOD)

APPLICATION #2024-0244

26 & 28 UNDERMOUNTAIN ROAD

1 WHEREAS on April 14, 2024, the Salisbury Housing Trust Inc. filed an application for Special
2 Permit under Section 405 (Multi-Family Housing and Pocketknife Square Overlay Districts) of
3 the Town of Salisbury Zoning Regulations (the Regulations) to construct two affordable
4 dwelling units on property consisting of 0.85 acres located at 26 &28 Undermountain Road,
5 Salisbury, CT;

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7 WHEREAS the Town of Salisbury is the owner of record and First Selectman Curtis Rand
8 authorized the application in an email dated April 5, 2024;

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10 WHEREAS the site consists of two Assessor's parcels: Assessor's Map 56 Lot 05 and Assessor's
11 Map 56 Lot 06;

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13 WHEREAS, the Applicant provided documentation that the two Assessor's parcels constitute a
14 single lot;

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16 WHEREAS, on February 5, 2024 the Commission 8-24 review found that the use of the property
17 for two affordable dwelling units and a minipark complied with the Plan of Conservation and
18 Development;

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20 *SALISBURY PLANNING AND ZONING COMMISSION RESOLUTION CONCERNING 8-24*
21 *REVIEW OF ASSESSOR'S PARCELS 56-05 & 56- 06*

22
23 *The proposal of the Salisbury Housing Trust to utilize municipally owned land for two homes*
24 *affordable for homebuyers below 80% of the area median income is deemed consistent with the*
25 *Town's 2012 POCD and 2024 POCD (in process). These combined parcels are shown on "Map*
26 *Prepared for Salisbury Housing Trust Undermountain Road Route 41 Salisbury, Connecticut*
27 *dated January 31, 2008" by Mathias Kiefer, RLS.*

28
29 *Although not yet adopted, the 2024 POCD (in process), and the Salisbury Village Planning*
30 *Study (2024, Colliers), include recommendations to maintain and improve mini park open spaces*
31 *in our village centers. Therefore, the preservation of the open space mini park at the rear of the*
32 *property would align with long-term community development objectives.*

33
34 *The layout and design for these two affordable homes is subject to Special Permit review*
35 *standards including but not limited to that they are in keeping with the development pattern of*
36 *the surrounding neighborhood. Specifically, this affordable housing development should respect*

37 *the street wall, with one house fronting on Undermountain Road, and the second house sited*
38 *behind the first house.*

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40 WHEREAS the Application proposes the construction of two affordable dwelling units and
41 associated uses for a property in the R20 residential zone, Multi-Family Housing Overlay
42 District (MFH), and Aquifer Protection Overlay District (APOD);

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44 WHEREAS consistent with past practice in reviewing applications proposing affordable
45 housing, the Commission has considered this application proposing two single family
46 “affordable” houses on a single lot as multi-family housing;

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48 WHEREAS the Applicant provided plan sets prepared by Patrick R. Hackett, P.E. dated April
49 10, 2024 including Site Plan Options 1 and 2, accompanied by Erosion & Sedimentation Control
50 Plans. These plans were revised on April 23 to include stormwater management;

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52 WHEREAS a subsequent revision dated June 13, 2024 included a design labeled by the
53 Commission as “Option 3” with Erosion & Sediment Control Plans; and a supplemental
54 PowerPoint presentation introduced on July 1, 2024 featuring conceptual design alternatives
55 labeled by the Commission as “Options 3a and 3b”;

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57 WHEREAS the Commission deemed the application complete and opened a public hearing on
58 May 20, 2024, subsequently continued to June 3, June 17, and July 1, 2024;

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60 WHEREAS the Applicant granted an extension for the public hearing through July 15, 2024;

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62 WHEREAS the Commission determined that it had sufficient information in the record and
63 voted unanimously to close the public hearing on July 1, 2024;

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65 WHEREAS the Application includes five proposed options:

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67 • Option 1 comprised of public parking in the front, two single-family residences centered
68 on the lot, and public open space in the rear.

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70 • Option 2 comprised of two single-family residences on the front portion of the lot and
71 public open space in the rear (no public parking).

72

73 • “Option 3” the existing trees and parking area remaining with the houses pushed into the
74 center of the lot, and with a small open space/viewshed at the rear of the lot. There were
75 two subsequent variants of “Option 3” (“Options 3a and 3b”);

76

77 WHEREAS during the public hearing, issues raised by the public, Applicant and/or the
78 Commission included: use of Town-owned land for affordable housing, continuance of public
79 parking, density and compatibility with the surrounding neighborhood, preservation of open

80 space including the entire parcel, health of two large oak trees, utility and vehicular access, and
81 screening;

82
83 WHEREAS during the public hearing, the Commission received not only oral testimony but
84 written comments from the public regarding the need for affordable housing and concerns related
85 to public parking, open space, density, trees, as well as a no-build alternative;

86
87 WHEREAS the Commission finds that the proposed multifamily use conforms with the
88 standards for the Multifamily Housing Overlay District set forth in Section 405 of the
89 Regulations and that all of the proposed buildings conform with the required yard setbacks of the
90 more restrictive underlying Zoning Regulations;

91
92 WHEREAS the Applicant has committed to retaining the rear portion of the lot as open
93 space/viewshed in all options but also finds that Option 2 maximizes that open space to the
94 benefit of the adjoining properties;

95
96 WHEREAS the Commission received claims that the public parking at the front of the lot is
97 needed in the Village Center.

- 98
99
- 100 • Option 1 included a municipal parking lot formalizing the present *ad hoc* parking
101 use as part of the application.
 - 102 • Option 2 abandoned the *ad hoc* parking in favor of a street wall.
 - 103
 - 104 • “Options 3, 3a, and 3b” were predicated on creating a separate undersized lot for
105 municipal use that could serve both access and parking. However, the
106 Commission recognized parking could not be legally established on that the
107 undersized municipal lot. Therefore, “Options 3, 3a, and 3b” effectively rendered
108 parking on that newly-created municipal lot impermissible.
- 109

110 WHEREAS the Commission has considered the Tree Warden’s reports dated June 10 and 24,
111 2024, that raised concerns about development and use of the lot. The Tree Warden noted that
112 compaction or cutting of tree roots extending beyond the dripline of the two large oak trees
113 would be injurious to their health and long-term survival;

114
115 WHEREAS the Commission received statements from other qualified individuals that
116 compaction of soil is deleterious to the surficial roots of trees. “Options 3a and 3b” were the
117 most protective of the trees locating the proposed structures well beyond the dripline of the trees.
118 However, the Commission noted that these options greatly reduced the open space/viewshed area
119 at the rear of the lot;

120
121 WHEREAS Section 403 Aquifer Protection Overlay District requires a Special Permit for a use
122 rendering more than thirty percent (30%) of the total lot area in impervious surfaces and

123 retaining less than thirty percent (30%) of the total lot area in vegetative ground cover. The
124 Commission finds that impervious surface calculations presented in:

- 125
- 126 • Option 1 did not appear to include the compacted *ad hoc* parking area in the
127 impervious surface calculations. Therefore, it is not possible to ascertain whether
128 a Special Permit in accordance with Section 403 was required.
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- 130 • Option 2 conforms with the standards set forth in Section 403 and does not
131 require a Special Permit.
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- 133 • “Options 3, 3a, and 3b” did not include impervious surface calculations.
134 Therefore, it is not possible to ascertain whether a Special Permit in accordance
135 with Section 403 was required.
- 136

137 WHEREAS the Commission concluded that their regulatory obligations in Sections 403, 405,
138 801, 802 and 803 of the Regulations outweigh the protection of an individual tree(s);

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140 WHEREAS the Commission finds that the protection of a significant portion of open
141 space/viewshed at the rear of the parcel minimizes the impacts of the development to the
142 abutting property. Therefore, the layout of the proposed housing in Option 2 best maintains the
143 overall development pattern of the neighborhood;

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145 WHEREAS the Commission also finds that Option 2 best complies with the 8-24 Resolution of
146 February 5, 2024;

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148 WHEREAS, the Commission has considered the standards set forth in Section 403, 405, 801,
149 802, and 803 of the Regulations and finds that the size and intensity, as well as the design, of the
150 proposed project in Option 2 has been related harmoniously to the terrain and to the use, scale,
151 and siting of existing buildings in the vicinity of the site; the use does not create an unreasonable
152 nuisance to neighboring properties, whether by noise, air, or water pollution, lighting, or other
153 effects; the proposed use also is not in conflict and does not constitute an unreasonable decrease
154 in property values or a detriment to the present and potential use of the area in which it is
155 located. The Commission finds that, with the conditions enumerated in this resolution, a
156 reasonable effort has been expended to balance the concerns of the neighbors with the need for
157 affordable housing and the Applicant's property rights;

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159 NOW THEREFORE BE IT RESOLVED THAT, Special Permit 2024-0244 be approved with
160 the following conditions:

- 161
- 162 1. The layout and development shall be built in accordance with Option 2, as more
163 particularly depicted on the drawing entitled “SALISBURY HOUSING TRUST,
164 UNDERMOUNT ROAD, SALISBURY CONNECTICUT, SITE PLAN OPTION 2”,
165 Sheet 2 of 4, Engineer: Patrick R. Hackett, P.E., 16 East Street Lakeville, Connecticut

166 06039, Surveyor: Lamb-Kiefer Land Surveyors, 55 Selleck Road, Salisbury, Connecticut
167 06068, Date: April 10, 2024". All other site plan options presented are explicitly
168 disapproved.

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170 2. No zoning permit shall be issued until all required approvals are obtained including
171 approval from the Fire Marshal and from Aquarion Water Company for the design and
172 connection of the development.

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174 3. Exterior lighting shall comply with Section 702 of the Regulations. Exterior lighting shall
175 be turned off after hours whenever feasible and/or be equipped with motion sensors.

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177 4. If any of the decision's requirements are unattainable, the Applicant may seek a
178 modification of this approval from the Commission. The Applicant is advised that any
179 modifications may, at the Commission's discretion require a full public process.