

PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
SUBDIVISION APPLICATION #627
COASTAL SITE PLAN REVIEW #349
LAND FILLING, EXCAVATION & REGRADING APPLICATION #482
90 PEAR TREE POINT ROAD
SEPTEMBER 22, 2020
PAGE 2

- the proposed use and activities must comply with all provisions of Sections 400, 810, 850, and 1000 of the Darien Zoning Regulations and all applicable sections of the Subdivision Regulations for the Commission (unless waived herein) to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted Preliminary Subdivision Map, Proposed Site Development Plan, and other plans, and the testimony contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

Following careful review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to subdivide the 5.10+/- acre subject property into four (4) separate building lots. Two (2) lots are to be created with frontage on Pear Tree Point Road, respectively 1.1376+/- acres (Lot 1) and 1.2431 acres (Lot 4) in size. Two (2) lots are also to be created with frontage on Long Neck Point Road, respectively 1.0038+/- acres (Lot 2) and 1.1702+/- acres (Lot 3) in size. A 0.3035 acre deeded open space parcel is to be created on the north side of the subdivision, separating Lots #1 and #2. Two (2) additional deeded open space parcels are to be created on the west side of Pear Tree Point Road as Open Space 1-A (0.1415+/- acres) and Open Space 1-B (0.0656+/- acres). The applicant also proposes to create a separate 0.0410+/- acre “dock parcel” on the west side of Pear Tree Point Road, which in the future may provide access to a shared dock in the Darien River.
2. The applicant also proposes to construct four (4) new single-family residences (one on each building lot), with associated regrading and stormwater management, and to perform related site development activities within a regulated area. Each of the four building lots are to be served by public water and sewer. None of the proposed new residences are within the flood zone. The proposed “dock parcel” and portions of the open space parcels on the west side of Pear Tree Point Road are located within the AE-14 flood zone; however, no development is proposed in these areas.

EXISTING CONDITIONS

3. The property was formerly used as a private school—Pear Tree Point School. A driveway running from Long Neck Point Road to Pear Tree Point Road now bisects the property. Three school buildings, including a gymnasium, a classroom building, and an administrative building and related playground, sports court and parking areas are shown on the existing survey along with a cottage very close to Pear Tree Point Road. These improvements are to be removed as part of the proposal.

NEIGHBOR COMMENTS AND CONCERNS

4. At the public hearing, several neighbors and nearby property owners voiced their concerns regarding the proposal. These concerns included, but were not limited to, drainage and dock access on the Darien River.

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SEPTEMBER 22, 2020
PAGE 3

STORMWATER MANAGEMENT/DRAINAGE

5. The applicant submitted a Site Engineering Report dated June 2020 prepared by DiVesta Civil Engineering Associates, Inc. That report notes that the subject property is in the lower reaches of the Darien River, and the property is now fully developed as a private school. The proposed subdivision, and its associated new construction as shown, will have less impervious surface than the existing conditions. The proposed stormwater management will treat the first inch of stormwater, thereby addressing water quality issues. The Commission finds that a waiver of a complete stormwater management system is appropriate based upon the property's location, directly adjacent to the Darien River.

COMMENTS FROM OTHER TOWN DEPARTMENTS/AGENCIES

6. The Darien Public Works Department (DPW) submitted comments for the record on July 22, 2020. Assistant Director of Public Works Darren Oustafine notes in part that the submitted conceptual site plan appears adequate for feasibility and that site specific plans for individual lot development warrant further review and approval based upon actual proposed development of each parcel.
7. Comments were received from the Darien Fire Marshal on June 24, 2020 as follows:
 - Provide fire hydrants on Pear Tree Point Road and Long Neck Point Road to ensure less than 500 feet between fire hydrants.
 - Recommend protecting homes with fire sprinkler systems.
8. A referral comment was received from Captain Robert Shreders on behalf of the Local Traffic Authority (LTA), noting that "No LTA issues noted". The Commission notes that the property has been used as a private school for many years, and the proposed change to single-family residences will decrease the amount of traffic on Long Neck Point Road and Pear Tree Point Road when compared to past conditions.

PROPOSED SHARED DOCK PARCEL

9. One plan which the applicant presented showed a potential for each of the four new residences having a waterfront parcel and a new dock on the west side of Pear Tree Point Road. A submitted revised plan reflects a single dock parcel on the west side of the road, which would have a shared "community dock" which could be shared by the four property owners. The Connecticut Department of Energy and Environmental Protection (CT DEEP) has given preliminary approval for a single dock parcel and a larger pier and float than would typically be permitted for a residential application. At this time the applicant is not proposing to construct a dock on the "dock parcel". The Commission agrees that one single dock parcel containing a shared community dock is preferable. It was acknowledged during the public hearing that it would be best if a homeowner's association be created relative to use and maintenance of the shared dock parcel and potential shared community dock.
10. The Commission finds that separate, subsequent approvals will be needed for the shared dock from the Connecticut Department of Energy and Environmental Protection (CT DEEP), possibly the Army Corps of engineers, and possibly the Planning & Zoning Commission.

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LAND FILLING, EXCAVATION & REGRADING APPLICATION #482
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SEPTEMBER 22, 2020
PAGE 4

REQUIRED OPEN SPACE

11. A total of 0.5106+/- acres (22,248+/- square feet) of Open Space is being provided on three separate parcels. Two of the parcels will be on the west side of Pear Tree Point Road, and one will be on the east side of Pear Tree Point Road, between proposed Lots 1 and 2. Each of the Open Space parcels will be covered by an Open Space Declaration, specifically limiting what can and cannot be done in the Open Space area, and who is responsible for the maintenance of such. The total restricted Open Space is slightly more than 10 percent of the aggregate area of the subdivision tract, and thus, complies with Article IV Section 'C' of the Darien Subdivision Regulations.
12. The August 24, 2020 version of the Site Development Plan shows a ten foot wide dock access easement which would allow for access to the shared dock parcel by owners of Lot 2 and Lot 3, which front on Long Neck Point Road. The Commission finds that the proposed dock access easement, along with associated parking area will make access to the shared dock easier.

POSSIBLE NEED FOR FURTHER REVIEW FOR DEVELOPMENT OF THE LOTS

13. The decision on whether further review and action by the Planning & Zoning Commission is required for construction of residences, accessory structures, and any related improvements will ultimately depend upon the specific development proposed for each lot.

NOW THEREFORE BE IT RESOLVED that Subdivision Application #627, Coastal Site Plan Review #349, and Land Filling, Excavation & Regrading Application #482 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The subdivision shall be in accordance with the following revised plans submitted to and reviewed by the Commission:
 - Preliminary Subdivision Map, 90 Pear Tree Point Road, Prepared for 2005 Irrevocable Kirmar Trust by William W. Seymour & Associates, P.C., dated June 5, 2020, last revised August 25, 2020;
 - Sheet 1 of 2, Proposed Site Development Plan, 90 Pear Tree Point Road, Darien, Prepared by DiVesta Civil Engineering Associates, Inc., dated June 11, 2020, last revised August 24, 2020;
 - Sheet 2 of 2, Details, 90 Pear Tree Point Road, Darien, Prepared by DiVesta Civil Engineering Associates, Inc., dated June 11, 2020.As noted herein, future development may require a subsequent formal application to the Planning & Zoning Commission depending on the actual design and layout of the improvements.
- B. Since there is no new road construction and no extension of public utility facilities, the Commission waives the requirement for submission of a Performance Bond.
- C. All future utilities shall be installed underground.

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LAND FILLING, EXCAVATION & REGRADING APPLICATION #482
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SEPTEMBER 22, 2020
PAGE 5

REQUIRED MYLAR, OPEN SPACE DECLARATION, DOCK ACCESS EASEMENT, AND OTHER FILINGS

- D. It is acknowledged that the approved subdivision map cannot be filed in the Darien Land Records until all of the existing improvements are removed.
- E. Prior to filing a mylar in the Darien Land Records, the applicant/property owner will need to obtain new street addresses and lot numbers from the Darien Assessor and put them onto the mylar prior to being submitted to the Planning & Zoning Director. Once all of the on-site structures have been removed from the site, and an updated mylar has been produced reflecting the removal of those structures, the Planning & Zoning Director shall review the mylar to confirm it is in compliance with this resolution. If so, the map will be signed by the Planning & Zoning Commission Chairman and returned to the applicant for filing in the Darien Land Records. The timing of the filing must comply with Section 8-25 of the Connecticut General Statutes.
- F. In accordance with Article IV Section 'C' 1-6 of the Darien Subdivision Regulations, the Open Space shall be subject to an Open Space Declaration that shall be filed in the Darien Land Records concurrent with the filing of the Subdivision Map. The two open space parcels fronting on the Darien River shall be owned by a homeowners association in terms of the parcels on the west side of Pear Tree Point Road. The Open Space area shown between Lot 1 and Lot 2 may be owned by either the homeowners association as well, or one of the individual property owners of one of the lots. The Open Space parcel shall be subject to a restrictive covenant to permanently preserve it as open space. The parcels on the west side of Pear Tree Point Road may allow for limited tree trimming to improve sight lines along the road. That Open Space Declaration is subject to final review and approval by Town Counsel. The Commission requires that the Open Space Declaration shall make it clear that the open space shall remain in a natural state.
- G. The three Open Space parcels shall be properly monumented, as required by Article IV Section C5 of the Darien Subdivision Regulations. This shall be completed prior to the sale of any lot.
- H. At the same time the Open Space Declaration is filed, the dock access easement shall also be filed in the Darien Land Records. No structures, retaining walls, or other walls shall be allowed in that easement area. A stone dust parking area near Pear Tree Point Road shall be allowed, and the existing stone wall shall be removed within the dock access area, as shown on the Site Development Plan.
- I. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- J. This approval of this subdivision does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to the following:

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90 PEAR TREE POINT ROAD
SEPTEMBER 22, 2020
PAGE 6

1. Demolition Permit(s) will be needed for the various structures now on the property.
2. Any existing septic system on the property will require Health Department approval relative to formal abandonment of the system.
3. A Street Opening Permit will be necessary for any work on town owned property such as driveway curb cut(s) on Pear Tree Point Road and/or Long Neck Point Road.
4. Review by the Darien Fire Marshal to determine whether an additional fire hydrant(s) may be required along the property's frontage on Pear Tree Point Road, along Long Neck Point Road, or both.
5. Planning & Zoning Department review (and DPW review) of the submitted stormwater plan and sedimentation and erosion control plan for each lot, to be submitted as part of Zoning and Building Permits for each lot. Separate Zoning and Building Permits will be needed for each house foundation, and work above the house foundation. Sewer Connection Permits will be needed from DPW for each residence. Pools and/or any outbuildings require separate Zoning and Building Permits.
6. The proposed shared dock requires review and action by the State of Connecticut DEEP, possibly Army Corps of Engineers, and possibly Darien Planning & Zoning Commission (if any work is proposed landward of Mean High Water).

All provisions and details of the subdivision plan shall be binding conditions of this action and such approval will become final upon compliance with these stipulations and the signing of the final plan by the Planning & Zoning Chairman. All completed requirements, including the final revised mylar showing lot numbers and street addresses, shall be submitted to the Planning and Zoning Department for review and signature, and the Open Space Declaration and Dock Access Easement submitted to the Department for review by Town Counsel. The applicant must obtain a Demolition Permit and raze the existing school buildings, cottage, and recreational areas, prior to filing the map and associated Open Space Declaration and Dock Access Easement in the Darien Land Records.