TOWN OF DARIEN
PLANNING AND ZONING COMMISSION
APPLICATION FORM

Application is hereby submitted for approval in accordance with the following Sections of the Darien Zoning Regulations (check all that apply).

- ☐ Section 810 Coastal Site Plan Review
- ☐ Section 820 Flood Damage Prevention
- ☑ Section 850 Land Filling, Excavation and Earth Removal
- ☑ Section 1000 Special Permit Requirements
- ☑ Section 1020 Site Plan Requirements
- ☐ Section 1051 Protected Town Landmarks
- ☐ Subdivision Application
- ☑ Section 1110 Change of Zoning Regulations and/or Zoning Map
- ☐ Other (specify)_____

Property Location:

Street Address: 346 Heights Road

Assessor's Map(s) # 75 as Lot(s) # 22, 23, 24

Subject property is situated on the north side of Heights (street)

approximately -0- feet northeast from the corner formed by the intersection of

Heights Road and Hollow Tree Ridge Road (streets).

Zoning District(s): NHR/DC Size of Site: 172,340± square feet, 3.9564± acres

The subject property ☑ is ☐ is not ☐ as a result of this project will become tied into the Town sanitary sewer system.

The subject property ☑ is ☐ is not ☐ as a result of this project will become tied into the public water system (Aquarion Water Co.).

The subject property ☐ is ☑ is not within 500 feet of an adjoining municipality.

Applicant:

Name: Noroton Heights Shopping Center, Inc.

Address: 264 Heights Road
Noroton Heights, CT 06820

Phone #: _____

E-mail address: _____

Signature: Authorization Letter

Property Owner:

Name: Noroton Heights Shopping Center, Inc.

Address: 264 Heights Road
Noroton Heights, CT 06820

Phone #: _____

E-mail address: _____

Signature: Authorization Letter

Representative or Contact Person (to whom all correspondence shall be addressed)

Name: Robert F. Maslan, Jr., Esq.

Company/Firm: Maslan Associates PC Phone #: 203-656-3800

Address: 30 Old Kings Highway South

Darien, CT 06820

Email address: RMaslan@maslanlaw.com

Signature: R. F. Maslan

Summary of proposed activity and development:

The Applicant proposes to demolish the existing buildings on the site and build new mixed-use buildings, reconfigure the parking lots, and construct related site development features. The Applicant also proposes an amendment to the Zoning Regulations relating to lot width and depth. See Narrative

(A more detailed explanation should be attached to this application).

Application Fee of **$970.00**

See Appendix B - Schedule of Fees of Darien Zoning Regulations.
Make checks payable to the "Town of Darien". Cash is not accepted.

See requirements under Section 1040 for the applicant's responsibility regarding notification of nearby property owners.

Unless specifically waived in advance and in writing by the Planning & Zoning Director, all required materials must be submitted as part of this application:

For Business Site Plan applications under Section 1020:
See Section 1020 of the Darien Zoning Regulations

For Subdivision Applications see the Darien Subdivision Regulations

The following information is required:

Development Plan(s) completed in accordance with "Site Plan Checklist" – Twelve (12) Sets of Plans including:

	Submitted	**Waived**
Existing Conditions based on "A-2" Survey	✔	☐
Site Development Plan	✔	☐
Grading and Storm Drainage Management Plan	✔	☐
Computations and Analysis of Stormwater Runoff	✔	☐
Landscaping Plan	✔	☐
Architectural Floor Plans and Elevations	✔	☐
Utility Plans	✔	☐
Chart or Table of Zoning Data	✔	☐
Soil Erosion and Sedimentation Control Plan	✔	☐
Staging or Phasing Plan	✔	☐
For Coastal Site Plan Reviews under Section 810 of the Zoning Regulations:		
Base Map showing regulated area(s)	☐	☐
Environmental Assessment Report	☐	☐
Review of CAM policies & goals	☐	☐
For Flood Damage Prevention Applications under Section 820 of the Zoning Regulations:		
Base Map of Flood Zones and Elevations	☐	☐
Architectural Floor Plans including elevation of each floor level within the structure	☐	☐
Engineering Report and certification regarding impact on flood conditions	☐	☐
Engineering Report and certification regarding structural stability	☐	☐
For Land Filling & Regrading Applications under Section 850 of the Zoning Regulations:		
Detailed Plans of Existing and Proposed Conditions	✔	☐
Report Detailing Operation methods, and Evaluating Impacts	✔	☐
For Special Permit Applications under Section 1000 of the Zoning Regulations:		
Detailed Statement of Existing & Proposed Uses	✔	☐
Traffic Report addressing Trip Generation, Traffic Movement and Parking Requirements	✔	☐

APPLICATION OF

NOROTON HEIGHTS SHOPPING CENTER, INC.

FOR

346 HEIGHTS ROAD

December 8, 2016

APPLICATION INDEX

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APPLICATION OF

NORTON HEIGHTS SHOPPING CENTER, INC.

FOR

346 HEIGHTS ROAD

November 8, 2016

BUSINESS SITE PLAN REVIEW
SPECIAL PERMIT
PETITION TO AMEND ZONING REGULATION

NARRATIVE

The Applicant, Noroton Heights Shopping Center, Inc. is the record owner of commercial property located on the north side of Heights Road between Hollow Tree Ridge Road and Edgerton Street. The 3.9564± acre site is in the Noroton Heights Redevelopment Zone, and since the 1950s, has been the home of several local retail businesses.

The Applicant proposes to demolish the existing buildings on the site, construct new mixed-use buildings, reconfigure parking and internal traffic circulation, and create new internal public plaza spaces.

The existing site had its beginning in the late 1950s, after several businesses were displaced by the construction of the Connecticut Turnpike. Over the years, the site evolved into a combination of retail, restaurant and office uses, which were built without the benefit of a single, comprehensive plan. The creation of the Noroton Heights Redevelopment Zone several years ago, and the recent adjustments to the Zoning Regulations that govern development in that zone have enabled the Applicant to proceed with its redevelopment plan.

The existing site consists of two buildings that were built and expanded at various times during the past 55 years, on-site parking areas, and four ingress and egress driveways. Portions of the on-site parking areas are shared with Palmer's Market to the east, and Wells Fargo Bank to the southeast.

The proposed redevelopment project is designed to accomplish the following objectives:

1. The demolition of the existing building and construction of two mixed use buildings that will contain retail uses on the first floor, and apartments on upper floors.
2. Improved traffic and pedestrian circulation and access from surrounding areas.

3. Secure, subsurface parking for residential tenants.
4. The creation of a 10,915-square foot public plaza area with such amenities as a water feature, seating, and/or other attractions for public use. The public plaza requirements are contained in the new Section 687 of the Zoning Regulations.
5. More flexible, transit-oriented development, based on the site's proximity to the Noroton Heights train station.

The proposed redevelopment requires business site plan review and a special permit under Section 680 of the Darien Zoning Regulations. In addition, a minor text amendment to the notes to the area and bulk table in Section 685 is necessary for the location of one of the buildings.

This Narrative will summarize the architectural design, landscape architecture, and traffic and parking reports, and stormwater management and site engineering. Further details are contained in the supporting plans and reports.

The Applicant has filed an application for review by the Architectural Review Board ("ARB"), and appeared before the ARB at the Board's November 2016 meeting. The ARB has asked the Applicant to consider various revisions to the plans, and return to the ARB at its December 2016 meeting.

ARCHITECTURAL DESIGN

The following overview of the architectural design was prepared by Newman Architects.

Darien is a lovely New England town with a village character of tree-lined streets with buildings of one, two, and three stories, creating an intimate scale with commercial civic and residential uses. Parallel parking on both sides of two-way streets are the norm.

On this site, there is the opportunity to develop a "place" which is a "village" connected to and continuing the grid of the town rather than a strip shopping center model with stores surrounded by parking lots. Our concept is one of continuing the context of vernacular colonial architecture of the residential neighborhood to the north and west with an urbane design of housing added to this site, placed over a ground floor level of stores. Because this site is directly across from the Noroton Heights train station, it has the opportunity of introducing train riders to an inviting portal to Darien. Our design proposes a welcoming intimate-scale vernacular architecture, communicating to the railroad passenger the personality of Darien, in which the idea of the "town" as architecture takes precedence over individual buildings. Heights Road is reinforced as part of the street grid and the design introduces a new pedestrian portal to the project.

The proposed development consists of 8,646 square feet of restaurant space, 24,481 square feet of retail space, and 81,970 square feet of residential units. There are 59 housing units in total comprised of 19 one bedroom units and

40 two bedroom units. The architectural character is inspired by Georgian, Colonial and Federal-style precedents. We propose not inventing a new architectural language, but relying on authentic early American models of form and detail to resonate with the intimacy and pedestrian character of human-scaled places, paths, and portals where the car is accepted in controlled paths with access for convenience, encouraging pedestrian life and social interaction. We foresee an intimate public square, encouraging lively village life in the day and evening, creating a safe, social place for residents and shoppers. The architecture uses authentic historical reference to building types, connecting the past and the present with an early American spirit, reflecting a lean, functional, organic architecture in which utility is the source of the architectural character of the buildings.

Colors, materials, details, signage, and landscaping are considered as integral parts of an historical reference of seamless, modest, and lovely physical environment for the people of Darien.

LANDSCAPE ARCHITECTURE

Matt Popp of Environmental Land Solutions, LLC, is the project's landscape architect. The following is Mr. Popp's summary of the landscape plan.

The Landscape Plan includes a pedestrian plaza area near the center of the site, streetscape along Heights Road, and a one-way "village" road with on-street parking that bisects the development in an east to west direction. The plaza also bisects the site in a north to south direction by the site's center and includes several focal points including a centralized water feature, a sundial bordering the south side of the village road, and a small monument with history of the site's owners. A tree-lined 8-foot wide sidewalk connects the development to Palmer's Market. The development's proposed street and parking lot landscaped areas are planted with shade trees. The plaza will be landscaped with smaller growing flowering trees, shrubs and perennials. Evergreen screening is proposed along the property lines that border residential areas. The hardscape surfaces include precast concrete pavers within the plaza and village road and concrete sidewalks along Heights Road. The proposed ornamental light poles are 12-foot high within the plaza and pedestrian areas and 14-foot high along Heights Road and within the parking lots. Benches are located throughout the development along with two bike racks.

TRAFFIC AND PARKING

The Applicant's traffic and parking consultants have prepared an extensive Traffic Impact and Parking Study evaluating the potential traffic impact of the proposed redevelopment. The study area includes the NHR Zone and surrounding area, and accounts for the potential redevelopment of the Federal Realty property located to the east of the subject property. The Study concludes that the peak parking demand on the site will be 393 parking spaces, which is less than the proposed parking supply of 402 parking spaces.

Each of the two new buildings will contain 37 underground parking spaces (including 2 handicap accessible spaces) reserved for residential tenants, and another 365 surface spaces (including 8 handicap accessible spaces) distributed throughout the site. The project will eliminate the row of perpendicular parking along the west end of Heights Road, and create 12 on-street parking spaces along Heights Road. In addition, the Study concludes that the additional traffic expected to be generated by the proposed redevelopment is not expected to have a significant impact to traffic operations in the study area.

STORM WATER MANAGEMENT AND SITE ENGINEERING

The project will include on-site storm water management, which is designed to reduce post-development peak runoff rates below the undeveloped peak runoff rates for the 2, 10, 25 and 50 year storms.

The project includes an extension of approximately 300 feet of the existing sanitary sewer main in Heights Road. The new buildings will connect to the Town's sanitary sewer system in various places. New 1,000-gallon grease traps will be installed to intercept grease from the buildings.

Water, gas, electric, cable television, and telephone service is available in the area.

Details of the above elements of the project, and grading, and sedimentation and erosion control are contained in the supporting Engineering Report.

PROPOSED TEXT AMENDMENT

The Applicant proposes a minor amendment to Section 685, which is the Area and Bulk Table and Notes. The amendment would add a new Note f, which would apply the minimum lot width and lot depth. The proposal would allow buildings to be located in portions of lots that are at least 135 feet in width and depth. The proposed amendment and explanatory comment are set forth at page A-12.

The proposed redevelopment of the Noroton Heights Shopping Center represents a vast improvement to the Noroton Heights area. We look forward to presenting this exciting project to the Commission.

PHOTOS OF EXISTING SITE

Town of Darien, CT November 1, 2016

Aerial Photo of Noroton Heights Shopping Center

Property Information

Property ID	08478
Location	346 HEIGHTS ROAD
Owner	NOROTON HEIGHTS S/C INC.

MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

Town of Darien, CT makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated 1/1/2016
Properties updated 3/22/2016

Photo 1. Western end of site from Heights Road looking northeast.

Photo 2. Parking at western end of site from Heights Road looking north.

Photo 3. U.S. Post Office end of building from Heights Road looking northwest.

Photo 4. Parking lot in front of Jimmy's South Side Tavern from Heights Road looking north.

Photo 5. Close up of Jimmy's South Side Tavern from Heights Road looking north.

Photo 6. Main entrance to Noroton Heights Shopping Center from Heights Road looking north northwest.

Photo 7. Stores on east side of site from parking lot looking southwest.

Photo 8. Rear of building from parking lot looking west along vegetated slope.

Photo 9. Rear building from parking lot behind front building looking northeast.

Photo 10. Equipment and ice machine along north side of parking behind front building, from behind Glen Liquors looking northeast.

Photo 11. Glen Liquors from parking lot looking south southeast.

Photo 12. Abutting property at 166 Hollow Tree Ridge Road from Hollow Tree Ridge Road looking east.

PROPOSED TEXT AMENDMENT

The Applicant proposes to add a new Note f to Section 685 of the Noroton Heights Redevelopment Zone regulations. The following is the relevant portion of Section 685, with the proposed additional text underlined and explanatory comment.

685. Area and Bulk Requirements

The following requirements shall be deemed to be the minimum and maximum requirements in every instance of their application. Dimensions are in feet unless otherwise indicated.

1. Minimum Lot Area	1/2 acre
2. Minimum Lot Width	150 (See Note f)
3. Minimum Lot Frontage	150
4. Minimum Lot Depth	150 (See Note f)
5. Minimum Front Yard	6 (See Note a)
6. Minimum Side Yard	None (See Note b)
7. Minimum Rear Yard	25
8. Maximum Height in Stories	3 (See Note c)
9. Maximum Height in Feet	45 (See Note c)
10. Maximum Building Coverage	35%
11. Minimum Front Landscape Depth	6 (See Note d)
12. Maximum Developed Site Area	85%
13. Maximum Density Dwelling Units/Gross Acre	12
14. Maximum Floor Area of each Dwelling Unit	1,200 sq. ft. (See Note e)

Notes:

. . . . .

f. On lots created prior to October 24, 2010, buildings may be located on a portion of a lot where lot width and lot depth are at least 135 feet.

Comment: Under the existing regulations (Section 334), new buildings are not allowed on a portion of a lot where the lot width or lot depth do not meet the minimums for the. This presents difficulties for some lots in the NHR Zone that are at least the minimum one-half acre in area, but contain portions that are slightly less than the minimum width or depth. For example, the portion of the subject site at the corner of Heights Road and Hollow Tree Ridge Road is slightly less than 150 feet in width. A similar situation exists at 310 Heights Road, "0" Edgerton Street (Map 75, Lot 30), and 90 Heights Road, where non-parallel lot lines and corner arcs reduce lot width and/or lot depth. This would result in buildings set back farther (up to 30 feet) from the street than the 6-foot front yard setback allows, and in some cases building facades that would be offset from other buildings on the same street.

The proposed building facing Hollow Tree Ridge Road complies with the 12.5-foot setback adjacent to the abutting residential property, but the westernmost 9 feet of the building is in a portion of the lot where the lot width is slightly less than the minimum 150 feet. This is due solely to the arc in the lot line at the corner. The arc reduces the lot width to 147 feet along the face of the building. Proposed Note f addresses this situation.

The proposed amendment would apply only in the NHR Zone, and only on lots that were created prior to October 24, 2010, when the NHR Zone and regulations took effect. Newly created lots would not be subject to Note f.

This is the type of amendment that the Planning and Zoning Commission anticipated when it enacted the NHR Zone and regulations. Paragraph 17 of the Commission's Adopted Resolution states,

> ***"As noted above, the development sketches submitted with this application were hypothetical concept sketches only. No site plan or development is approved at this time. This resolution only addresses regulation and map changes which could lead to further development. <u>The Commission notes that an applicant may request additional regulation changes in connection with a future development proposal to accommodate that development</u>." (underlining added)***

Consistency with the Town Plan of Conservation and Development has been established in the 2010 decision and in the 2016 text amendments. The proposed text amendment is consistent with the relevant portions of the 2016 Town Plan of Conservation and Development. The proposed Note f is also consistent with Section 334b, which allows construction of a new dwelling on a nonconforming lot that is at least 75 percent of the minimum width and depth.

PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 5, 2010

Application Number: Proposed Amendment to Zoning Map (COZM #1-2010) and Proposed Amendment to Zoning Regulations (COZR #2-2010)

Application Put Forth by: Thomas E. Golden Realty, Co., 169 Noroton Avenue LLC, & Noroton Heights Shopping Center Inc., representing properties 22 through 346 Heights Road; 72 Edgerton Street, and Edgerton Street (Map #75 Lot #30); and 273 West Avenue.

Activity Being Applied For: Proposing to amend the Zoning Regulations to establish a new overlay zone—and to amend the Zoning Map by "landing" that Overlay zone on the subject properties; and to create a new Section of the Zoning Regulations and to modify existing Sections 311 (Zone Classifications), 905 (Joint Parking) and 907 (Parking Structures) of the Zoning Regulations.

Property is located at: The subject properties are located on the north side of Heights Road, consisting of approximately 18 acres, and are shown on Assessor's Map #74 as Lots #8 through #20; and Assessor's Map #75 as Lots #1-#4 and#22-30, all now within the DC (commercial) Zone.

Date of Public Hearing: June 15, 2010 continued to July 27, 2010
Deliberations held on September 7, 2010 in room 119

Time and Place of Public Hearings: 8:00 P.M. Auditorium Town Hall

Publication of Hearing Notices
Dates: June 3 & 10, 2010
July 16 & 23, 2010 Newspaper: Darien News

Date of Action: October 5, 2010
Action:

AMENDMENTS TO THE ZONING REGULATIONS ARE GRANTED IN PART WITH MODIFICATIONS AND DENIED IN PART. THE NEW "NOROTON HEIGHTS REDEVELOPMENT ZONE" IS HEREBY ADOPTED, WITH AN EFFECTIVE DATE OF SUNDAY, OCTOBER 24, 2010 AT TWELVE NOON.

ADOPTED--**AMENDMENTS TO THE ZONING MAP,** WITH AN EFFECTIVE DATE OF SUNDAY, OCTOBER 24, 2010 AT TWELVE NOON.

Scheduled Date of Publication of Action:
October 15, 2010 Newspaper: Darien News

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

Proposed Amendments to the Zoning Regulations

1. The Commission notes that a similar prior application submitted by Mr. Golden's company was withdrawn in August 2009. This new application has been submitted by a number of property owners within the Noroton Heights commercial area.

2. The Commission understands that the subject application is designed to encourage redevelopment of Noroton Heights. It is noted that while the submitted application included sketch plans, no formal application is being made for redevelopment at this time. A subsequent application(s) would need to be made for any redevelopment in the Noroton Heights commercial area

3. It was noted at the public hearing that the Noroton Heights commercial area is distinct. The "eastern portion" extends from Edgerton Street eastward to Noroton Avenue (excluding some properties which front on Noroton Avenue and are in the Service Business Zone), and its northern frontage is on West Avenue. The "western portion" consists of various properties extending westward from Edgerton Street to Hollow Tree Ridge Road, and some of those properties also have their northern frontage on West Avenue. There are also residential properties fronting on West Avenue and Hollow Tree Ridge Road that are adjacent to the western portion of the commercial area. These residential properties are not part of the existing or proposed commercial area.

4. The applicant notes that this proposal to create an overlay zone will not eliminate the existing underlying DC zone and thus will not affect existing properties within the Designed Commercial (DC) zone in Noroton Heights or any other properties within other DC zones in Darien. This overlay zone provides an alternate means to develop or redevelop properties within the Noroton Heights commercial area, if a property owner decides to do so.

5. At the public hearing, the Commission noted existing and potential issues with traffic, drainage and stormwater in the vicinity. They also heard from neighbors, who mentioned potential impacts of future development.

6. The Noroton Heights DC zone is the secondary commercial retail area within Darien. The Commission believes that, in general, it should not equal or exceed the density or bulk of the CBD Zone. This can be assured through the limits on building coverage, building height, and developed site area that are already set forth in the Noroton Heights DC zone regulations and as proposed for the overlay zone. There are also physical differences between the CBD zone and the DC zone. The CBD zone is relatively flat; the Noroton Heights DC zone slopes downward from its northern edge on West Avenue to its center. The CBD zone allows for on-street parking, and contains municipal parking lots as well as railroad parking lots adjacent and near to its centrally located railroad station. The Noroton Heights DC zone does not include municipal parking lots, and the proposed overlay zone does not provide for on-street parking. The train station parking lot in Noroton Heights is not conducive to evening or weekend use by patrons of Noroton Heights businesses because it is across the street and to the south of the Noroton Heights commercial area on Heights Road. The topographic and parking differences between the CBD zone and the Noroton Heights DC zone are important factors to be considered in connection with establishing a new overlay zone.

7. The application consists of three separate but related regulation amendments: 1) creation of a new Section of the Darien Zoning Regulations establishing a new overlay zone for the Noroton

Heights commercial area; 2) amendments of Section 905 "Joint Parking"; and 3) amendments of Section 907 "Parking Structures".

8. The applicant specifically designed the overlay zone so that future development proposals using that overlay zone will require a Special Permit from the Planning & Zoning Commission. This gives the Planning and Zoning Commission more discretion when reviewing and acting upon a future application than when its role is solely one of site plan review. At the second public hearing, the applicants' representative submitted a revised proposal, giving the Commission an alternative on some of the proposed area and bulk requirements.

9. Other information considered in this application includes various letters from the general public; a July 27, 2010 memo from Jeremy Ginsberg outlining the differences between the existing DC zoning and the proposed regulations; a memo from the Architectural Review Board (ARB) dated July 21, 2010; a June 8, 2010 e-mail outlining the comments from the Southwestern Regional Planning Agency (SWRPA) referrals committee; a June 30, 2010 memo from the Darien Public Works Department; and a June 11, 2010 e-mail from State of CT Department of Environmental Protection (DEP). The DEP e-mail noted that they have reviewed the proposal and found no inconsistencies with the Connecticut Coastal Management Act.

10. The Commission fully agrees with the ARB's July 21, 2010 memo. In that memo, the ARB notes that "…Offering a re-development plan of mixed uses would certainly create a lively addition to Noroton Height[s]. The effect of any new development on those currently living on West Avenue must be deemed of highest importance. The architectural design must be thoughtful and sensitive to the residential character of West Avenue…" The Commission agrees with ARB that any Commercial Design Guidelines which are in place shall be used by applicants when considering development proposals in the Noroton Heights commercial area, and strongly encourages the early involvement of ARB in connection with any development or re-development project there.

11. The June 30, 2010 memo from DPW notes that the subject area is served by public sewer. It also notes that future redevelopment would have to comply with the Planning and Zoning Commission's recently adopted zoning regulations regarding stormwater management. Because of the importance of stormwater management, the Commission has specifically included wording within the Background and Purposes section to mention that issue. All future redevelopment within this proposed zone or within the existing DC zone, will have to comply with the recently adopted Section 880 of the Zoning Regulations, entitled, Stormwater Management. This would include, but not be limited to, the preparation of a stormwater management plan and report along with hydrologic evaluation and the required certification and maintenance agreements.

12. The Commission believes that the Noroton Heights commercial area is appropriate for redevelopment and that any project proposed for the area must address traffic and drainage and pedestrian safety issues that are now notable in the area. The Commission believes that redevelopment is best reviewed comprehensively, rather than on a parcel-by-parcel basis. When formal redevelopment applications are submitted by property owners, the Commission will be concerned about the particular development and how it fits within the area. Similarly, any

proposals will have to address stormwater management, since the Commission is likely to scrutinize that aspect closely.

13. At the public hearings, the Commission noted their sensitivity to all future redevelopment fitting in architecturally. Piecemeal redevelopment would not be as desirable as large, comprehensive redevelopment, which could then be coordinated from not only an architectural standpoint, but also relative to traffic, parking, infrastructure, and stormwater management.

14. Relative to the proposed area and bulk requirements, the Commission agrees that a zero side yard setback is appropriate, allowing for buildings to be closer relative to each other, likely resulting in a more pedestrian-friendly zone. Front yard setbacks will need to vary, depending on whether the property is adjacent to Heights Road or Edgerton Street (which are more commercial in nature), or West Avenue or Hollow Tree Ridge Road (which are adjacent to and/or across the street from residential properties). The area and bulk requirements will need to address these important differences. The Commission has herein reduced the minimum lot size to ½ acre, giving additional flexibility to smaller lots. The front landscape depth required will be six feet. The Commission believes that no building should be closer than six feet to the front property line in this zone, and that each building shall have at least a six foot front landscaped depth in front of it. "Model block"-style sidewalks shall be constructed along the road frontage for each development.

15. The proposed change in maximum building coverage would allow the existing 20% allowed per Section 636 in the DC Zone to be increased to up to 35% in the proposed overlay zone. The Commission finds this acceptable, and would allow more commercial development, while still having the maximum coverage be less than that allowed within the CBD Zone.

16. The Commission believes that the provision now in subsection 656e of the Zoning Regulations (within the CBD zone regulations) would be appropriate for this new overlay zone. This subsection allows building heights to be increased if additional open space is provided. Currently, there are no open space plazas within the Noroton Heights commercial area, while there are at least three in the CBD zone. New open space plazas would be necessary features for buildings exceeding two stories or 30 feet.

17. As noted above, the development sketches submitted with this application were hypothetical concept sketches only. No site plan or development is approved at this time. This resolution only addresses regulation and map changes which could lead to further development. The Commission notes that an applicant may request additional regulation changes in connection with a future development proposal to accommodate that development.

18. The proposed amendments to Section 905, Joint Parking, as proposed by the applicant, would limit the amount of parking that could be "shared" or "waived". The Commission believes that this Section should continue to be administered on a case-by-case basis, giving the Commission full discretion over the tenants and how the parking is shared. So far, this provision has been successfully used in the CBD Zone--downtown Darien--where multiple tenants on adjacent parcels are able to share a joint parking lot. The Commission believes that it would be appropriate to modify Section 905 to reflect the fact that there is no on-street parking within the

overlay district, and there are no municipal parking lots within the Noroton Heights commercial area. Thus, there is no capacity for "overflow" if the developed site does not provide sufficient parking. Therefore, a maximum waiver provision which would apply to this new zoning district would be appropriate under these circumstances. If circumstances change in the future, amendments to this section could be appropriate.

19. Section 907 is entitled, "Parking Structures". There have been no projects approved by the Commission under this section since 1995. The Commission believes that modifications to this Section of the Regulations are consistent with the Town Plan of Conservation & Development. On Plan page A9-9, "*The general goal is for safe pedestrian access throughout the area, and a circulation system which encourages shopping in a variety of stores*."

20. The Commission believes that a new overlay zone for the Noroton Heights commercial area is appropriate, and consistent with the Town Plan of Conservation & Development. Portions of the Town Plan of Conservation & Development which would apply were included in the applicant's May 2010 Application Narrative and include the following:

    The policy on page 9-2 which reads as follows:

    Continue the commitment to upgrading all of the commercial districts within Town, including, but not limited to, Noroton Heights and downtown Darien to better serve the needs of the Town.

    The recommendations on pages 9-4 and 9-5 which read as follows:

    - *9.Encourage coordination between property owners/developers to minimize curb cuts, and encourage cohesive development in all commercial zones. Parcel assemblage is beneficial in downtown (the CBD Zone) and in Noroton Heights (the DC Zone) to meet these desires.*

    - *10.In large commercial districts, such as Noroton Heights and Downtown, one-stop shopping should be strongly encouraged. Shoppers should be encouraged to park once, and visit numerous businesses in the area.*

    - *15.In the Noroton Heights and downtown commercial areas (the DC and CBD Zones), the Planning & Zoning Commission should consider revising the Zoning Regulations to allow a full third floor especially if it would provide some form of housing, with the exception that such a third floor be set back off the road.*

21. This approval names the applicant's proposed new overlay zone the "Noroton Heights Redevelopment Zone". This will avoid any confusion with the MU Zone (municipal use zone) adopted by the Commission a few years ago. Also, by removing the term "mixed use", it would no longer imply that any redevelopment must include mixed use, albeit such redevelopment can be expected to be viewed as a favored approach.

==========

NOW THEREFORE BE IT RESOLVED that ***Proposed Amendments of the Darien Zoning Regulations*** regarding a new item within subsection 311; a new Section 680 *et. seq.*; and amendments of Sections 905 of the Darien Zoning Regulations are hereby MODIFIED AND ADOPTED WITH AN EFFECTIVE DATE OF SUNDAY, OCTOBER 24, 2010 AT TWELVE NOON.

(The inside cover page of the Zoning Regulations, the Table of Contents and Appendix C-Schedule of Amendments also shall be modified accordingly)

The approved wording for these Sections is as follows:
New wording in bold, deletions in strikeout:

Modify Section 311, and insert the following in the list of zoning districts after MU Municipal Use Zone (Floating Zone):
NHR Noroton Heights Redevelopment Zone (Overlay Zone).

Insert a new Section 680 as follows:
SECTION 680. NOROTON HEIGHTS REDEVELOPMENT ZONE (NHR)

681. Background and Purposes

The Noroton Heights Redevelopment Zone is an overlay zone intended to maintain the existing retail foundation of the Noroton Heights commercial district while encouraging the development of business and professional offices and dwelling units, including affordable units, in recognition of the zone's proximity to mass transit and Interstate 95. Business and professional offices will also be permitted. These regulations are intended to encourage development that promotes safe pedestrian access to businesses by residents within the zone and from adjacent residential neighborhoods. At the sole discretion of the Commission, increased building height may be permitted to encourage the use of architectural design features such as peaked roofs and dormers to soften the appearance from adjacent residential properties. The intent is to strengthen the viability of retail business in the Noroton Heights commercial district, to offer a broader range of housing and office space with convenient access to transportation, to foster pedestrian activity as fully as is practicable, and to reduce reliance on individual motor vehicles to access the retail businesses.

All uses within this zone are Special Permit uses. It is imperative to properly manage and enhance stormwater management in this zone. No development or redevelopment will be permitted if it will result in stormwater impacts on adjacent properties or adjacent streets. Any development or redevelopment must address drainage, traffic and pedestrian safety issues in the area.

682. <u>Permitted Principal Uses</u>

The following uses shall be permitted subject to approval of a Zoning Permit in accordance with Subsection 1102:

None.

683. <u>Permitted Accessory Uses</u>

The following accessory uses shall be permitted subject to approval of a Zoning Permit in accordance with Subsection 1102:

a. Signs, as permitted in Section 920.
b. Any building or use customarily incidental to a permitted use.
c. Off-street parking and loading facilities in accordance with Section 900.

684. <u>Principal Uses Requiring Special Permits</u>

The following uses shall be permitted subject to approval of a Special Permit in accordance with Section 1000:

a. Commercial sales and services.
b. Business and professional offices.
c. Public and semi-public uses.
d. Protected Town Landmarks.
e. Restaurants.
f. The sale of prepared foods whether intended for consumption on or off the premises.
g. Dwelling units.
h. Indoor recreation facilities.
i. Financial services on the first floor

685. <u>Area and Bulk Requirements</u>

The following requirements shall be deemed to be the minimum and maximum requirements in every instance of their application. Dimensions are in feet unless otherwise indicated.

1. Minimum Lot Area	**1/2 acre**
2. Minimum Lot Width	**150**
3. Minimum Lot Frontage	**150**
4. Minimum Lot Depth	**150**

5. Minimum Front Yard	**6 (See Note a)**
6. Minimum Side Yard	**None (See Note b)**
7. Minimum Rear Yard	**25**
8. Maximum Height in Stories	**2 (See Note c)**
9. Maximum Height in Feet	**30 (See Note c)**
10. Maximum Building Coverage	**35%**
11. Minimum Front Landscape Depth.	**6**
12. Maximum Developed Site Area	**80%**
13. Maximum Density Dwelling Units/Gross Acre	**12**
14. Maximum Floor Area of each Dwelling Unit	**1,200 sq. ft.**

Notes:

a. Minimum front yard of 6 feet required, except that within 100 feet of a Residential Zone, the front yard setback shall be at least one-half that required in that Residential Zone. No parking shall be permitted in front of any building unless the setback from the street line shall be at least 75 feet.

b. None, except as follows:

(1) If a side yard shall be provided, it shall be at least four feet, except where access to parking space shall be provided through a side yard, in which case the side yard shall be at least 25 feet in width. Where access shall be provided jointly by two adjoining properties, the side yard may be reduced by 12 1/2 feet for each of the properties, provided the full 25 feet wide access shall be assured;

(2) Where a side yard abuts a Residential Zone, it shall equal the side yard requirement of said abutting Residential Zone.

c. The maximum building height shall be two stories and 30 feet, except that the Commission may specifically permit height to be increased to a maximum of three stories and 42 feet, provided that:

(1) The Commission finds that the unique use and design of the building combined with its location in the zone, the topography of that location, and

the development plan for the building, will result in a project that will be appropriate for the community, and will not be detrimental to the reasonable use and values of adjacent properties. Where the zone abuts a Residential Zone the maximum building height shall be 2 stories and 30 feet as calculated from the average finished grade of the elevation abutting the residential zone. One level of underground parking shall not constitute a story.

(2) If an applicant proposes a building that is higher than two stories or 30 feet, such applicant will be required to provide open space per the provisions outlined within Section 656e of the Zoning Regulations.

686. <u>Special Controls</u>

a. At-grade parking areas may extend to within 10 feet of a rear lot line except where it abuts a Residential Zone, in which case the minimum rear yard requirement set forth in Section 685 shall apply.

b. Landscaping, screening and buffer areas shall be provided in accordance with Section 940.

c. All uses shall be subject to Site Plan Approval in accordance with Section 1020.

d. Display or storage of materials shall be in accordance with Subsection 373.

e. If more than 2 dwelling units are provided in any building, then at least 30 percent of the total number of such dwelling units shall be limited to one bedroom.

f. Structured parking per Section 907.

Modify Section 905 by adding a sentence to the end of section 905, and inserting a new subsection 905.1:

905. <u>Joint Parking</u>

Where two or more different uses occur on a single lot, the total amount of parking facilities to be provided shall be the sum of the requirements for each individual use on the lot, except that the Commission may approve the joint use of parking space by two or more establishments on the same or on contiguous lots, the total capacity of which space shall be less than the sum of the spaces required for each, provided:

a. The Commission finds that the proposed capacity shall meet the intent of the requirements;

b. Approval of such joint use shall be automatically terminated upon the termination of the operation of any of such establishments;

c. Legal documentation shall be furnished establishing such rights for the duration of such joint use.

Such shared parking arrangements shall be limited to use and shall not include shared parking by time. **No parking spaces shall be reserved for any specific building tenant.**

905.1 Due to the lack of municipal parking or on-street parking within the Noroton Heights Redevelopment Overlay Zone, the Commission there may waive only up to a maximum of fifty percent (50%) of the parking required per Section 904.

Modify Section 907 as follows:

907. Parking Structures

Parking structures (whether above or below ground~~;~~ **or understructure)** ~~whether detached or attached) shall not be permitted; however, one level of basement, underground or understructure parking shall be encouraged in appropriate situations as a substitute for surface parking and to allow the area normally occupied by surface parking to remain undisturbed or to provide open space, landscaping and similar amenities. Such subgrade or understructure parking shall be provided in lieu of required surface facilities, and not in addition thereto. The provisions of subgrade or understructure parking shall not be permitted if its use shall result in a larger above-ground structure or intensification inn use of the site to an above-ground floor area exceeding that permitted by these regulations.~~ **shall be permitted in appropriate situations subject to approval of a Special Permit per Section 1000 *et. seq.*, provided it is located below the finished elevation of surface parking or landscaped areas, or provided that the Commission makes an affirmative finding that, due to the location and/or design of the proposed use, no neighboring property will be adversely impacted by such structure. Any such parking structure shall be fully enclosed by or attached to a principal structure, and shall be limited to one story above the finished elevation of surface parking.).** In addition, appropriate measures shall be taken to minimize the street level view of such **above ground, below ground,** subgrade or understructure parking**.** The Commission ~~may~~ **shall** require the submission of a sketch plan which ~~shall~~ clearly ~~illustrate the relationship between the alternative proposals for either surface or understructure parking.~~ **compares alternative proposals for surface parking and a parking structure including landscaping or other screening. Any parking structure approved under this section shall be subject to the setback requirements of the principal structure. The design of any parking structure must architecturally blend in with surrounding design aspects and not delineate itself as a parking structure.**

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Proposed Amendment to the Zoning Map

22. The Commission believes that a new overlay zone for the Noroton Heights commercial area is appropriate, and fully consistent with the 2006 Town Plan of Conservation & Development, as amended. Portions of the Town Plan of Conservation & Development which would apply were included in the applicant's May 2010 Application Narrative and include the following:

    The policy on page 9-2 which reads as follows:

    Continue the commitment to upgrading all of the commercial districts within Town, including, but not limited to, Noroton Heights and downtown Darien to better serve the needs of the Town.

    The recommendations on pages 9-4 and 9-5 which read as follows:

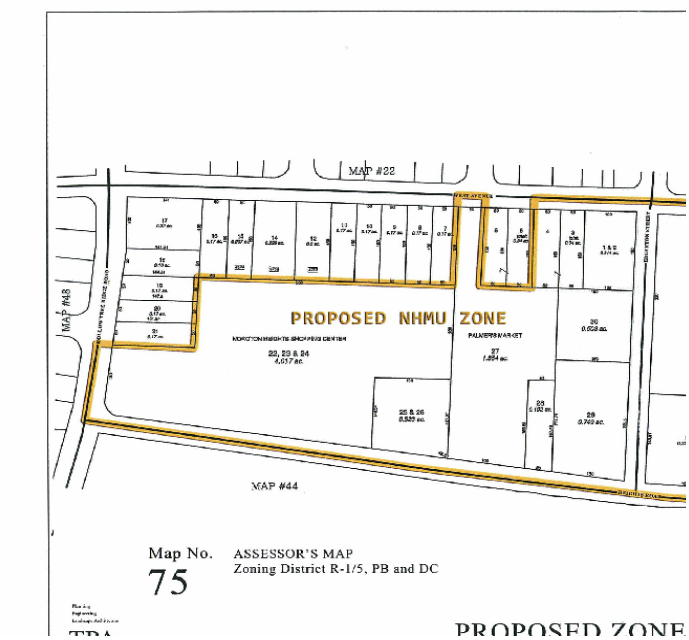
- *9.Encourage coordination between property owners/developers to minimize curb cuts, and encourage cohesive development in all commercial zones. Parcel assemblage is beneficial in downtown (the CBD Zone) and in Noroton Heights (the DC Zone) to meet these desires.*

- *10.In large commercial districts, such as Noroton Heights and Downtown, one-stop shopping should be strongly encouraged. Shoppers should be encouraged to park once, and visit numerous businesses in the area.*

- *15.In the Noroton Heights and downtown commercial areas (the DC and CBD Zones), the Planning & Zoning Commission should consider revising the Zoning Regulations to allow a full third floor especially if it would provide some form of housing, with the exception that such a third floor be set back off the road.*

NOW THEREFORE BE IT RESOLVED that ***Proposed Amendment of the Darien Zoning Map*** is hereby ADOPTED WITH AN EFFECTIVE DATE OF SUNDAY, OCTOBER 24, 2010 AT TWELVE NOON.

The proposed map change is shown below, with the area shown as "Proposed NHMU Zone" outlined in gold, being the area the Commission is adopting as the newly established Noroton Heights Redevelopment Zone. Note that the title of the map should read, Noroton Heights Redevelopment Zone, not Noroton Heights Mixed Use Zone (NHMU).



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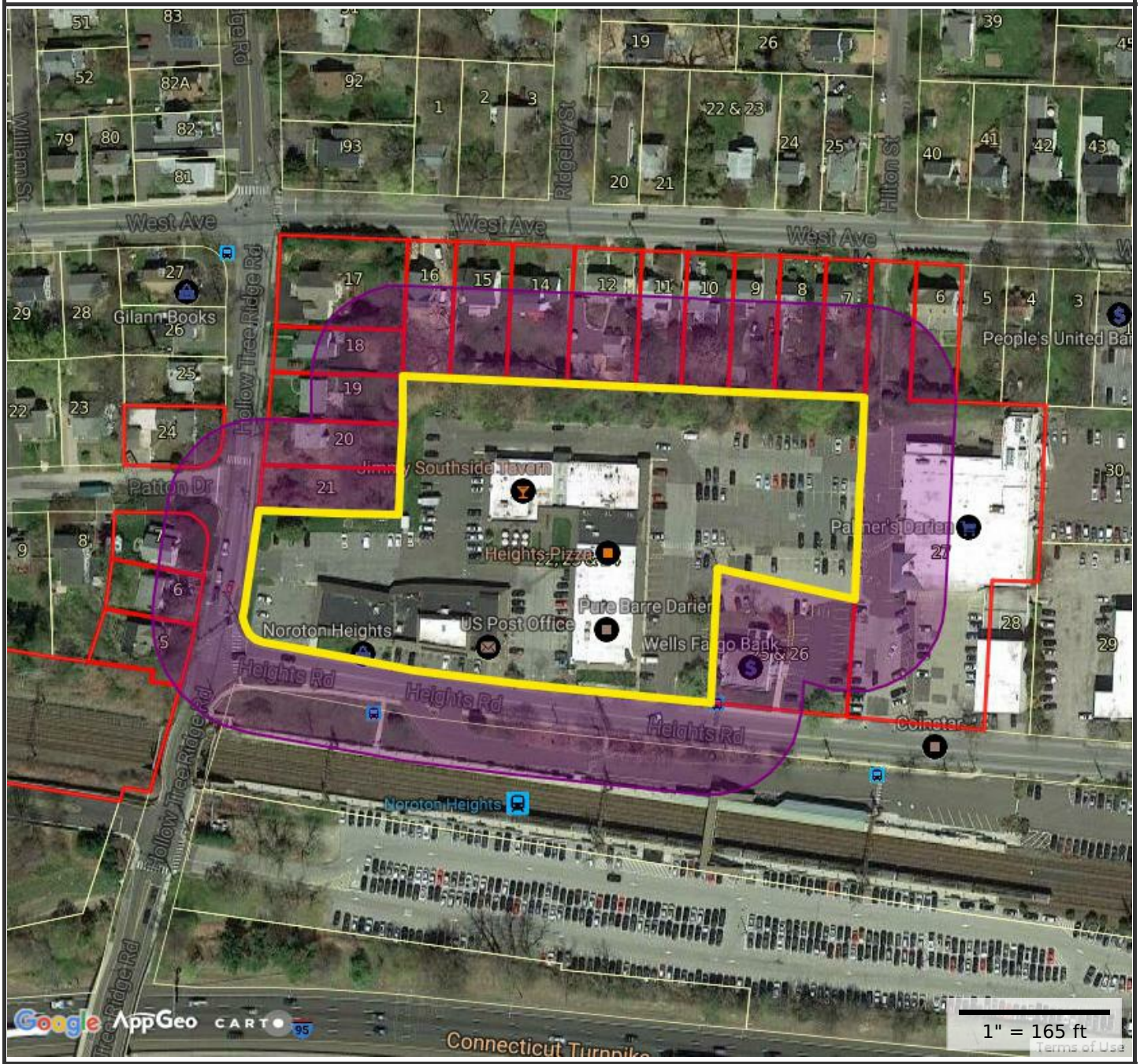
Map of Properties within 100 Feet of Subject Property



Property Information

Property ID	08478
Location	346 HEIGHTS ROAD
Owner	NOROTON HEIGHTS S/C INC.

MAP FOR REFERENCE ONLY
NOT A LEGAL DOCUMENT

Town of Darien, CT makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated 1/1/2016
Properties updated 3/22/2016

APPLICATION OF

MASLAN ASSOCIATES P.C.

FOR

NOROTON HEIGHTS SHOPPING CENTER, INC.
346 HEIGHTS ROAD

December 6, 2016

LIST OF NEIGHBORING PROPERTY OWNERS

Map 48 Lot 7	David A. Rosevear Marley I. Rosevear 1 Patton Drive Darien, CT 06820
Map 48 Lot 5	Devon C. Geisz 157 Hollow Tree Ridge Road Darien, CT 06820
Map 48 Lot 6	Robert A. Perske Martha L. Perske 159 Hollow Tree Ridge Road Darien, CT 06820
Map 48 Lot 24	Alexander Strukov 165 Hollow Tree Ridge Road Darien, CT 06820
Map 48 Lot Tracks	State of Connecticut DOT Office of Rails Attn: Carl D. Rosa 50 Union Avenue, 3rd. Floor West New Haven, CT 06519
Map 75 Lot 17	Mary Ellen Yacura 172 Hollow Tree Ridge Road Darien, CT 06820
Map 75 Lot 25,26	Fairfield Properties Inc c/o Wachovia/Wells Fargo Bank PO Box 2609 Carlsbad, CA 92018

Map 75 Lot 15	Yakov Gorodnitsky Rebecca Tchernoff 295 West Avenue Darien, CT 06820
Map 75 Lot 14	Rajesh R. Nandanwar Pradnya R. Nandanwar 293 West Avenue Darien, CT 06820
Map 75 Lot 12	Rosmary Huertas 291 West Avenue Darien, CT 06820
Map 75 Lot 20, 21	Estate of Michael Nagy Sr. c/o Olga Fischel Extrx 1 Avenue D Norwalk, CT 06854
Map 75 Lot 5-6	Shenwei Qin 279 West Avenue Darien, CT 06820
Map 75 Lot 18	Estate of Frederick B. Poccia Daniel P. Poccia Extr et. al 170 Hollow Tree Ridge Road Darien, CT 06820
Map 75 Lot 10	Paul Guidry Chinkara Singh-Guidry 287 West Avenue Darien, CT 06820
Map 75 Lot 27	TTJ Realty LLC 264 Heights Road Darien, CT 06820
Map 75 Lot 11	Josephine Valente 15 Timothy Lane Shelton, CT 06484
Map 75 Lot 16	Gregory D. Borosage Kimberly L. Borosage 297 West Avenue Darien, CT 06820

Map 75 Lot 7	Stephen Lawrence Pendray Stephanie Ann Pendray 281 West Avenue Darien, CT 06820
Map 75 Lot 8	Jonathan Buys Pamela Sparkman 283 West Avenue Darien, CT 06820
Map 75 Lot 9	Courtney Smith Martin K. Grzyb 285 West Avenue Darien, CT 06820
Map 75 Lot 19	John A. Poccia II 168 Hollow Tree Ridge Road Darien, CT 06820

MASLAN ASSOCIATES P.C.

Attorneys at Law

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Legal Assistants
Suzann C. Maslan

Writer's e-mail:
rmaslan@maslanlaw.com

December 8, 2016

Donna Rajczewski, Town Clerk
Town of Darien
2 Renshaw Road
Darien, CT 06820

Re: Noroton Heights Shopping Center, Inc.
Petition to Amend Zoning Regulations

Dear Madam Clerk:

We represent Noroton Heights Shopping Center, Inc. Please accept for recording the attached proposed amendment to Section 685 of the Darien Zoning Regulations. As you know, proposed zoning regulation amendments must be filed with the Town Clerk.

Please stamp the additional three copies, one for the Planning and Zoning Department, and two for our file.

Please feel free to call us if any additional information is required.

Thank you.

Very truly yours,

R. F. Maslan

Robert F. Maslan, Jr.

Attachment

cc: Noroton Heights Shopping Center, Inc.
Jeremy B. Ginsberg, Town Planner

PROPOSED TEXT AMENDMENT

The Applicant proposes to add a new Note f to Section 685 of the Noroton Heights Redevelopment Zone regulations. The following is the relevant portion of Section 685, with the proposed additional text underlined and explanatory comment.

685. Area and Bulk Requirements

The following requirements shall be deemed to be the minimum and maximum requirements in every instance of their application. Dimensions are in feet unless otherwise indicated.

1. Minimum Lot Area	1/2 acre
2. Minimum Lot Width	150 (See Note f)
3. Minimum Lot Frontage	150
4. Minimum Lot Depth	150 (See Note f)
5. Minimum Front Yard	6 (See Note a)
6. Minimum Side Yard	None (See Note b)
7. Minimum Rear Yard	25
8. Maximum Height in Stories	3 (See Note c)
9. Maximum Height in Feet	45 (See Note c)
10. Maximum Building Coverage	35%
11. Minimum Front Landscape Depth	6 (See Note d)
12. Maximum Developed Site Area	85%
13. Maximum Density Dwelling Units/Gross Acre	12
14. Maximum Floor Area of each Dwelling Unit	1,200 sq. ft. (See Note e)

Notes:

. . . . .

f. On lots created prior to October 24, 2010, buildings may be located on a portion of a lot where lot width and lot depth are at least 135 feet.

Comment: Under the existing regulations (Section 334), new buildings are not allowed on a portion of a lot where the lot width or lot depth do not meet the minimums for the. This presents difficulties for some lots in the NHR Zone that are at least the minimum one-half acre in area, but contain portions that are slightly less than the minimum width or depth. For example, the portion of the subject site at the corner of Heights Road and Hollow Tree Ridge Road is slightly less than 150 feet in width. A similar situation exists at 310 Heights Road, "0" Edgerton Street (Map 75, Lot 30), and 90 Heights Road, where non-parallel lot lines and corner arcs reduce lot width and/or lot depth. This would result in buildings set back farther (up to 30 feet) from the street than the 6-foot front yard setback allows, and in some cases building facades that would be offset from other buildings on the same street.

The proposed building facing Hollow Tree Ridge Road complies with the 12.5-foot setback adjacent to the abutting residential property, but the westernmost 9 feet of the building is in a portion of the lot where the lot width is slightly less than the minimum 150 feet. This is due solely to the arc in the lot line at the corner. The arc reduces the lot width to 147 feet along the face of the building. Proposed Note f addresses this situation.

The proposed amendment would apply only in the NHR Zone, and only on lots that were created prior to October 24, 2010, when the NHR Zone and regulations took effect. Newly created lots would not be subject to Note f.

This is the type of amendment that the Planning and Zoning Commission anticipated when it enacted the NHR Zone and regulations. Paragraph 17 of the Commission's Adopted Resolution states,

> ***"As noted above, the development sketches submitted with this application were hypothetical concept sketches only. No site plan or development is approved at this time. This resolution only addresses regulation and map changes which could lead to further development. <u>The Commission notes that an applicant may request additional regulation changes in connection with a future development proposal to accommodate that development</u>." (underlining added)***

Consistency with the Town Plan of Conservation and Development has been established in the 2010 decision and in the 2016 text amendments. The proposed text amendment is consistent with the relevant portions of the 2016 Town Plan of Conservation and Development. The proposed Note f is also consistent with Section 334b, which allows construction of a new dwelling on a nonconforming lot that is at least 75 percent of the minimum width and depth.