

**PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING / PUBLIC HEARING
JUNE 23, 2015**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Cameron, Cunningham, Olvany, Sini, Jr., Voigt

STAFF ATTENDING: Ginsberg, Keating
RECORDER: Syat
Channel 79

Chairman Cameron opened the meeting at 8 P.M. and read the first agenda item:

GENERAL MEETING

Town Plan of Conservation & Development.

Discussion with consultants regarding downtown and Noroton Heights strategic plans.

Glenn Chalder said the purpose of tonight's discussion is to get input from Commission members and others regarding the commercial development in the downtown area and Noroton Heights areas. He asked about concerns and issues. Topics of concern included: walkability; safe crossings at intersections and the Boston Post Road, parking garages-safety issues, good design features and problems to be avoided, multi-level parking garages vs basement level parking; ratio of sidewalk width to building setback and building heights; opening of storefront doors that could impede or impact sidewalks; downtown design standards; traffic flow with limited underpasses/overpasses of the railroad tracks; making some streets one-way in the downtown area and creating diagonal parking on those streets; long crossings of some streets such as West Avenue at Boston Post Road, Leroy Avenue at Boston Post Road, Ledge Road at Boston Post Road; better crosswalks needed in many areas; bike lanes; mid-street signs at crosswalks and possible pedestrian safe areas; need for better sidewalks.

In the Noroton Heights area, many of the concerns are the same but there are some different concerns, such as: back up of traffic due to the nearby middle school; left turn movements to and from driveways and streets; commuter activities and parking layout at Noroton Heights Train Station; backing into streets from parking spaces; and maximizing commuter parking and hourly parking. Mr. Chalder said that everyone is aware that development pattern reflects a different era and he will develop some draft reports for the Commission to review. He hopes to return to the Commission in July and September to discuss this matter.

Chairman Cameron read the following agenda item:

Informal discussion regarding Kensett, Wakemore Street.

Discussion regarding calculation of unit size.

Attorney Bruce Hill said that during the review process for Kensett II, one of the issues that came about was the unit size in Phase I, which is being built and occupied. Most of the units in Phase I have been sold and many more are under contract for sale. Many of the units are already occupied. When

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the Zoning & Building Permit applications were submitted they included the options to finish less than half of the basement area, which is permissible under the Zoning Regulations. When this basement area was in fact finished, in accordance with the Zoning & Building Permits, if counted toward the 3,900 square feet of allowable living space, then the average unit size would exceed what is permitted under the Section 575 of the DCR Regulations. When this issue was discovered and discussed, the Zoning Enforcement Officer issued the Zoning Permits for the last four buildings in the complex with a condition that no finished space in the basement be created. There are only a few units where the buyers have opted not to have the contractor finish a portion of the basement area and one of those property (Unit 12) now wishes to finish half of the basement but has been prohibited from doing so. Attorney Hill said that he felt that including the basement area in finished habitable space and counting it as part of the allowable 3,900 allowed finished square footage should not occur because it is not a story as defined by the Regulations. He said that the developer cannot undo what has been constructed in accordance with Zoning & Building Permit and has been conveyed to buyers or promised to potential buyers.

Commission members reviewed the definitions of “story” and “floor area” and the requirement under Section 575, that the average floor area in the units not exceed 3,900 square feet. Mr. Sini and Mr. Olvany said that generally basement area does not count as floor space in commercial transactions and the Town’s regulations.

Zoning Enforcement Officer David Keating said that the Zoning Regulations do make a distinction between stories and finished floor area. In this case, the Commission did not specifically exclude finished basement area from the calculation of 3,900 square feet of allowable finished space and therefore, it does count. However, he acknowledged that the Zoning & Building Permits had been issued did allow the basement to be finished and that brings the average square footage of units over the 3,900 square feet.

In response to questions, Robert Dale of Sun Homes LLC said that some of the units do have walk-out basements and some of them have window wells that could allow code compliant egress from the basement area to allow the basements to be used as sleeping areas. He emphasized that the plans and materials submitted for the Zoning & Building Permits were clear regarding the proposed finished space in the basement. He said that the Commission should also review the definition of “storage” and said that only two of the owners have opted not to finish the basement so far. He said of the final four buildings, two are under contract for sale and those buyers do expect finished basements.

Everyone agreed that the Commission needs to clarify this matter. Mr. Keating suggested it might be appropriate for the Commission to allow all of the units within the current development to have finished basement areas and to clarify the Regulations at a later date. In the discussion that followed, it was noted that the finished floor area calculations do not include the first floor basement.

All Commission members agreed that it would be appropriate to allow the developer and owners within the existing Kensett development to have basements that are finished subject to the limitation that the amount of finished space in the basement cannot exceed 50% of the finished area of the first floor. This is not a change in the Regulations or an interpretation that basement area will not be counted as finished space in the future; however it is a simple and fair solution to the existing circumstance.

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Chairman Cameron read the following agenda item:

Amendment of Special Permit Application #173-A, Koko's, 841 Boston Post Road, CBD Zone. Request for indoor seating.

Mr. Ginsberg reviewed the history of the approval and said that when it was first proposed and approved as an ice cream parlor, the Commission did allow eight indoor seats and no outdoor seating. When the applicant returned to the Commission to have more items on the menu including coffee and pastries and cooked sandwiches, the plan specifically included no seating. Only a small counter adjacent to the front window would allow patrons to put down their food or beverage if they were eating within the building. No outdoor seats were allowed as part of that amendment.

Now the applicant is asking for another amendment to allow up to six stools or seats to be placed at the front window counter and to have one table with one chair and one empty space for a wheelchair, so that there would be seating for no more than eight patrons. Ms. Cameron said that she is very concerned about the potential crowded condition if the table and wheelchair were allowed near the ordering area. Commission members discussed the situation and eventually concluded that they would amend the approval to allow up to six stools or seats at the front window counter and if the Building Code requires, then the applicant could have one table with a wheelchair space and one chair at that table, which would have to be in a location other than shown on the plans.

Chairman Cameron read the following agenda item:

Amendment of Business Site Plan #96-J/Special Permit PAG Connecticut LR1, LLC, 1335 Boston Post Road. Request for minor changes to the previously approved plans.

Mr. Ginsberg explained that the applicant had obtained approval from the Planning & Zoning Commission for a new façade and small additions to the front corners of the building. Subsequent to that the corporate design standards have changed and the applicant is returning to the Planning & Zoning Commission with plans for a new façade and squaring off both front corners of the building. He said that the plans have been reviewed and approved by the Architectural Review Board and the Zoning Board of Appeals but cannot be implemented unless and until an approval is obtained from the Planning & Zoning Commission. Commission members reviewed the design plans and concurred that it would be an improvement compared to the previously approved plans. All Commission members approve the revised front façade and front additions plan in accordance with the recently submitted drawings.

Chairman Cameron read the following agenda item:

Mandatory Referral #1-2015, Knobel Hill, LLC, 40 Locust Hill Road.
Request for sanitary sewer extension along Locust Hill Road.
DEADLINE TO ISSUE REPORT: JULY 22, 2015.

Mr. Ginsberg explained that Section 8-24 of the Connecticut General Statutes requires that the Commission report on the plans to extend the sewer system. That report must be submitted within 30 days. In this case, the potential change would extend the sanitary sewer line from the intersection of Old Farm Road and Tokeneke Road in a westerly direction towards Settler's Trail. Attorney Robert

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Maslan said that he has worked with the Sewer Commission and their staff to have the sewer extensions designed.

Commission members felt that the proposed extension of the sewer system would be in compliance with the Town Plan of Conservation & Development. They asked the staff to draft a report that will be acted on at a future meeting.

Chairman Cameron read the following agenda item:

Deliberations and possible decisions on the following items:

Proposed Amendment to Darien Zoning Regulations (COZR #1-2015), Special Permit Application #287/Site Plan review, Land Filling & Regrading #349, Knobel Hill, LLC, 40 Locust Hill Road. Proposing to demolish the existing structures on-site, apply the Active Senior Residential Overlay Zone to the subject property, and construct an “Active Senior Residential Development” under Section 430 of the Darien Zoning Regulations consisting of six total dwelling units; install associated stormwater management; and to perform related site development activities. The application also includes a proposed amendment to Subsection 436b of the Zoning Regulations regarding terraces and utility equipment. *DECISION DEADLINE: 7/30/2015*

The following motion was made: That the Planning & Zoning Commission waive the process of reading the draft resolutions aloud because each member has had an opportunity to review the drafts prior to the meeting. The motion was made by Mr. Cunningham, seconded by Mr. Voigt and unanimously approved.

Commission members reviewed the draft resolution and had numerous clarifications and typographical changes that were discussed and agreed upon. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Sini, seconded by Mr. Olvany and unanimously approved. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 23, 2015**

Application Number: Proposed Amendment to Darien Zoning Regulations (COZR #1-2015)
Special Permit Application #287/Site Plan review
Land Filling & Regrading #349

Street Address: 40 Locust Hill Road
Assessor's Map #64 Lot #49

Name and Address of Applicant & Property Owner: Knobel Hill, LLC
23 Butler's Island Road
Darien, CT 06820

Name and Address of Applicant's Representative: Robert F. Maslan, Jr., Esq.
Maslan Associates

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30 Old King's Highway South
Darien, CT 06820

Activity Being Applied For: Proposing to demolish the existing structures on-site, apply the Active Senior Residential Overlay Zone to the subject property, and construct an "Active Senior Residential Development" under Section 430 of the Darien Zoning Regulations consisting of six dwelling units on the site and two additional below market rate units that would be off-site; install associated stormwater management; and to perform related site development activities. The application also includes a proposed amendment to Subsection 436b of the Zoning Regulations regarding terraces and utility equipment.

Property Location: The subject property is located on the south side of Locust Hill Road, at the southwest corner formed by its intersection with Settler's Trail.

Zone: R-1 Zone

Date of Public Hearing: April 28, 2015 continued to May 12, 2015 and May 26, 2015
Deliberations held on: June 2, 2015

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices
Dates: April 17 & 24, 2015

Newspaper: Darien News

Date of Action: June 23, 2015

Actions: Zoning Regulation Amendment-- ADOPTED WITH AN EFFECTIVE DATE OF SUNDAY, JULY 12, 2015 AT TWELVE NOON.

Special Permit/Site Plan, and
Land Filling & Regrading Application—

GRANTED WITH STIPULATIONS WITH AN EFFECTIVE DATE OF SUNDAY, JULY 12, 2015 AT 12:01 p.m.

Scheduled Date of Publication of Actions:
July 3, 2015

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 430, 850, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicants whose testimony is

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

1. The subject applications consist of the following:
 - a) **Zoning Regulation amendment**. A proposed amendment to Subsection 436b of the Zoning Regulations regarding terraces and utility equipment.
 - b) **Special Permit Application/Site Plan, Land Filling & Regrading Application**. The proposal is to demolish the existing structures on-site, apply the Active Senior Residential Overlay Zone to the subject property, and construct an “Active Senior Residential Development” under Section 430 of the Darien Zoning Regulations consisting of six dwelling units on site and two additional below market rate units off-site; install associated stormwater management; and to perform related site development activities.
 - c) **Requirement for elderly below-market rate units**. This includes the question of whether any elderly below market rate unit should be constructed on-site, off-site, consistent with Section 438 of the Zoning Regulations. Note that according to Section 438d of the Regulations, the Inclusionary Zoning provision of Section 580 does not apply to this proposal, since this overlay zone has a separate below market rate requirement.
2. In October 2014, the Darien Planning & Zoning Commission adopted an amendment to the Darien Zoning Regulations by establishing an overlay zone that would apply to larger sites in the R-1 Residence Zone served by public water supply and sanitary sewer. It allows multi-family age-restricted developments by Special Permit in the R-1 Zone, if the overlay zone is placed upon a property.

PUBLIC WATER AND SEWER

3. In order to establish an “Active Senior Residential Overlay Zone”, the site requirements of Section 433 of the Zoning Regulations must be met. The subject property at 40 Locust Hill Road is in the R-1 Residence Zone; and is at least three acres in size. It is served by public water. At the public hearing on this matter, it was noted that the Darien Sewer Commission recently approved a sewer extension in concept which would allow this property to tie into public sewer. Based on the proximity of the site to the downtown business area and the above noted criteria, the Commission finds that the subject property is appropriate for the “Active Senior Residential Overlay Zone”.
4. A Mandatory Referral under Section 8-24 of the General Statutes will be required for the proposed extension of the sanitary sewer line. It was noted that the Sewer Commission has approved the proposed extension in concept.

ZONING REGULATION AMENDMENT

5. Part of the application is to amend the Zoning Regulations regarding the terraces at grade so that they can be 25 feet instead of the originally adopted 40 foot from the property line and so that the

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transformer of the utility structures can be located within the setback area when necessary and if approved by the Commission. The Commission finds that the proposed amendments are reasonable and in compliance with the Town Plan of Conservation and Development and are appropriate.

OTHER PERMITS AND APPROVALS

6. The Darien Environmental Protection Commission (EPC) approved this project as part of EPC #7-2015 on April 1, 2015. That approval is hereby incorporated by reference. The Darien Architectural Review Board (ARB) approved this project as part of ARB #2-2015 on February 24, 2015. That approval is also incorporated by reference.

TRAFFIC/PARKING/SIGHT LINES/ACCESS

7. The proposed sidewalk shown on the plans would extend from the existing sidewalk on Locust Hill Road to the proposed driveway on Settlers Trail. The Commission finds that the new sidewalk shown on the submitted plans is appropriate, and will improve pedestrian access in the area. At the public hearing, one of the reasons given for the fact that they are not continuing the sidewalk along Settler's Trail to the south of the proposed driveway is because it would require the removal of many additional trees within the street right-of-way. The Commission concurs.
8. The applicant has proposed a driveway for the proposed development on Settler's Trail, with the existing driveway on Locust Hill Road to be reserved for emergency access only, which will have gates at both ends and a "no parking" sign on the development-side (the southernmost) gate.
9. The Fire Marshal wants to make sure that the emergency egress or access driveway from Locust Hill Road into the site will be hard surface material so that emergency vehicles can use it during all weather conditions. Attorney Maslan, who represents the applicant, said that they will probably use grass pavers so that it will look like a lawn area but it will support the weight of the large emergency equipment. He said that the applicant might also install asphalt in that area and then top it with stone so that it does not appear to be a typical black asphalt driveway. He said that there would be a gate near the street and a gate near the driveway so that the emergency access driveway is not used by vehicles except during emergencies.
10. The applicant shall have the option whether to install a pedestrian walkway on or adjacent to the emergency driveway so that residents within the development could access directly the existing Locust Hill Road sidewalk (without having to walk out the primary vehicular driveway to Settlers Trail and then down the new sidewalk along Settlers Trail). If installed, there shall be no vehicular access in the walkway.

BUFFERING/SCREENING/LANDSCAPING

11. Section 436c requires that a minimum 25 foot wide buffer area surround the proposed Special Permit use within the R-1 zone. The submitted plans include this required buffer area consisting of existing and proposed landscape materials. The plans also include a conservation easement area on the south side of the site. The Commission finds the proposed buffer and open space easement area to be appropriate and satisfactory.

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12. At the public hearing, it was noted that the trees to be removed and trees to be preserved are highlighted on the Site Utility Plan.
13. Wesley Stout, Landscape Architect, reviewed the colored plan of the trees to be removed. He said that approximately five trees will be planted for each one large tree to be removed. Ms. Cameron said that she wants the applicant to consider removing all of the Norway Maple trees because they are considered an invasive species. The Commission concurs with this suggestion, but it is not a mandatory requirement of this action.
14. Ms. Cameron suggested that more trees be added within the conservation area even if they are smaller native trees that will grow in that conservation area. The Commission concurs with this suggestion, but it is not a mandatory requirement of this action.

BELOW MARKET RATE UNITS

15. Attorney Maslan said that the applicant has made arrangements to purchase a two-family house on Leroy Avenue. Each of the dwelling units is approximately 1,300 square feet and these will serve as the two affordable housing units that will be age and income restricted. Detailed information will need to be submitted regarding the square footage of the affordable housing units because the new units to be constructed at the Knobel Hill site can be no more than two times the average square footage of the affordable units. Attorney Maslan said that the deed restriction will be placed on the affordable housing units prior to the request for the Certificate of Occupancy for the first new unit within the development on Locust Hill Road. Architect Robert Cardello said that the dwelling units that are proposed will be about 2,200 square feet with the potential for additional square footage on the second floor.

STORMWATER MANAGEMENT

16. Doug DiVesta, Professional Engineer, said that he has been reviewing the details and comments made by the Town's consulting engineer Todd Ritchie. Based on those comments, he has enlarged the rain garden area and said that a 50-year design storm would not exceed the limits of the embankments.

BLASTING/SITE DEVELOPMENT/PHASING

17. Doug DiVesta, Professional Engineer, said that they have tested the rock in the area and most of it seems friable which will allow it to be ripped out of place using large machines and therefore they will probably not need to do any blasting or hoe ramming. They may use a pneumatic drill to break the stone apart. He estimated that approximately 1,400 cubic yards of material will need to be cut or excavated from the site. This equates to approximately 90 truckloads of material over 60-90 day initial excavation. The applicant's engineer noted that some blasting or hoe-ramming may need to be done to implement the proposed plan if the rock is not friable. The Commission encourages blasting, since it may have less of an impact on neighboring properties.
18. The amount of blasting needed will be determined by how deep any proposed basements are for the proposed units. Professional engineer DiVesta said that the test borings are still being analyzed. The Commission encourages the applicant to minimize blasting by reducing the ceiling heights in the basements of the proposed units.

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19. It was noted that during the construction process there will be almost three acres of the site that will be disturbed at one time. Dust and erosion controls and temporary grass covers will be important to make sure that there are no adverse impacts on the neighboring property owners or the wetlands.

CONCLUSIONS AND FINDINGS

20. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.

21. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

22. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

23. The elements of the Site Plan, submitted as part of the application, accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.

24. The elements of the Site Plan, submitted as part of the application, **AS REQUIRED TO BE MODIFIED HEREIN**, accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Amendment to Darien Zoning Regulations (COZR #1-2015), is hereby adopted subject to the foregoing and following stipulations, modifications and understandings:

NEW WORDING IN BOLD, DELETIONS IN STRIKEOUT:

Changes to Section 436a of the Regulations:

- a. No structures, ~~terraces~~, swimming pools, or sports courts shall be located within the minimum yard areas. **Terraces at grade may be located at least 25 feet from property boundaries, where the Commission finds that such terraces are adequately screened to avoid negative impacts to abutting streets and residential properties. Power transformers and similar public utility equipment serving only the development may be located within required yards, where the Commission finds that such equipment is adequately screened to avoid negative impacts to abutting streets and residential properties.**

This amendment to Section 436a takes effect on July 12, 2015 at twelve noon.

NOW THEREFORE BE IT RESOLVED that Special Permit Application #287/Site Plan review, Land Filling & Regrading #349 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction, on-site work (including lighting and landscaping), and associated sidewalks and sight line improvements shall be in accordance with the following plans:

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- Proposed Site Utility Plan, Knobel Hill, LLC, 40 Locust Hill Road, by DiVesta Civil Engineering Associates, Inc., last revised 05/22/15, Sheet No. SE-1.
 - Proposed Sewer System & Water Main, Knobel Hill, LLC, 40 Locust Hill Road, by DiVesta Civil Engineering Associates, Inc., last revised 3/4/15, Sheet No. SE-2.
 - Sedimentation and Erosion Control Plan, Knobel Hill, LLC, 40 Locust Hill Road, by DiVesta Civil Engineering Associates, Inc., last revised 05/21/15, Sheet No. SE-3.
 - Details, Knobel Hill, LLC, 40 Locust Hill Road, by DiVesta Civil Engineering Associates, Inc., last revised 05/22/15, Sheet No. SE-4.
 - Sedimentation and Erosion Control Notes and Details, Knobel Hill, LLC, 40 Locust Hill Road, by DiVesta Civil Engineering Associates, Inc., last revised 05/22/15, Sheet No. SE-5.
 - Water Main Details, Knobel Hill, LLC, 40 Locust Hill Road, by DiVesta Civil Engineering Associates, Inc., last revised 3/4/15, Sheet No. SE-6.
 - Landscape & Lighting Plan, by Wesley Stout Associates, dated 3-5-2015, Sheet SP-1.0.
 - Wetlands Enlargement, by Wesley Stout Associates, dated 3-5-2015, Sheet SP-1.1.
 - Lighting & Planting Details, by Wesley Stout Associates, dated 3-5-2015, Sheet SP-2.0.
- B. All utilities serving this property shall be underground. These include, but are not limited to, electrical, telephone, cable TV, and all other wiring.

PRE-CONSTRUCTION

- C. The conservation easement area shown on the plans shall be properly monumented by a licensed land surveyor for clear demarcation. This monumentation shall be put in place prior to the filing of the development and/or project plans with the associated conservation easement wording in the Darien Land Records. This shall be accomplished prior to the issuance of a Zoning and Building Permit for the foundation for any on-site building.
- D. Prior to preparing the final mylar, unit numbers and street addresses shall be verified with the Assessor. Those should be included on the final mylar for filing. This mylar shall be filed along with any applicable deed restrictions required herein for age-restrictions.
- E. The Darien Zoning Regulations require that the size of the below market rate units be established in order to determine the maximum size allowed of the market-rate units. At the public hearing, the applicant noted that the purchase of 65-67 Leroy Avenue is imminent. That structure is now a two-family residence. The sizes were estimated to be 1,400 square feet each. If this property falls through, other options shall be pursued by the applicant. Once evidence of purchase and deed restrictions are implemented, the Zoning Enforcement Officer can approve Zoning and Building Permits for construction above the foundation level for structures at 40 Locust Hill Road. All deed restrictions shall be filed in the Darien Land Records.
- F. Before the issuance of any on-site Zoning and Building Permit, the applicant shall file two performance bonds with the Planning & Zoning Department.
1. A \$5,000 bond for sediment and erosion controls. Due to the nature of the project (the large extent of land disturbance involved, and the long construction time) the Planning and Zoning Commission will require a \$5,000 Performance Bond. This shall be in place for the extent of the work on the project. Once soil stabilization is completed per the approved plans, and the required as-built map and drainage certification submitted to the Planning & Zoning Office, the bond can be returned in full.

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2. A \$3,000 bond for plantings/landscaping. In order to assure the survival and healthy condition of the plants, and their replacement if they do not survive, prior to the issuance of a Zoning and Building Permit for any part of the first unit, the applicant is required to post a \$3,000 performance bond for the plantings. This shall be in place for two years from the date of the Certificate of Occupancy (CO) for the final on-site unit. After one planting season, the applicant may request that up to ½ of the bond be returned, if in the determination of Planning and Zoning staff, the plantings have survived. Two years after the completion of the planting, the applicant may request the return of the remaining balance of the bond. If in the determination of the Planning and Zoning staff, the plantings have survived and thrived, ½ of the bond may be returned.
- G. The applicant has proposed that all of the units will be served by a private driveway and not a street. Since there is no new public or private road construction and no extension of public utility facilities, the Commission waives the requirement for submission of a Performance Bond for street construction.
- H. The applicant shall ensure via notes on revised plans and/or on construction plans to be submitted that all of the Fire Marshal comments received March 20, 2015 are addressed. These are:
1. *Strongly recommend protection of houses with fire sprinkler systems;*
 2. *Verify adequate turning radius for fire apparatus*
 3. *Fire access road to be maintained and kept clear year round*
 4. *Verify adequate water supply for fire suppression*
 5. *All windows required for egress must be accessible from grade.*
- Any types of grass pavers to be used on-site shall be reviewed and acted upon by the Fire Marshal.

DURING CONSTRUCTION

- I. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- J. Since large expanses of land have the potential of being open for long periods of time, and this construction could take more than a year, in order to minimize erosion and for dust control, all on-site stockpiles shall be vegetated.
- K. At the May 26, 2015 public hearing, the applicant's landscape architect committed to removing three Norway Maples within the conservation easement area.
- L. In order to resolve existing sight line issues, work in the Locust Hill Road right-of-way near the Settler's Trail intersection shall be commenced as soon as possible and shall be completed prior to the issuance of a Zoning and Building Permit beyond the foundation for the first unit on-site.

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This includes, but is not limited to, the removal of trees within 30 feet of the intersection; removal of existing retaining wall and associated regrading; and removal of any telephone pole(s) within that 30 foot triangle. The reason for requiring the sight line improvements very early on in the construction process is so that the construction vehicles and workers will have an improved sight line throughout the anticipated multi-year construction process. The installation of the sidewalk along Settler's Trail and the final landscaping of the area will need to be completed prior to the request for the first Certificate of Occupancy within the development.

DRAINAGE/STORMWATER MANAGEMENT

- M. The applicant shall incorporate the recommendations outlined in comments received from peer engineer Todd Ritchie of Woodard & Curran.
- N. The applicant shall install the drainage system as shown on the submitted plans. The applicant/property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site will not have negative impacts upon the adjacent properties. If such problems do become evident in the future, the owner of the property shall be responsible for remedying the situation at such owner's expense and as quickly as possible. The applicant is responsible for the management of storm water throughout the development process, even before the final approved drainage system is installed. Proper provisions shall be made to assure that, for the many months while the site is disturbed, structures are being built and systems are being installed, runoff water will be directed into temporary on site drainage systems to assure that it will not adversely impact the nearby neighbors, streets, and/or stormwater sewers.
- O. It is incumbent upon the property owner(s) to maintain the installed drainage system, including, but not limited to, maintenance of the underground structures, (such as inspection and clean out once every 6 months or more frequently as needed). A long-term maintenance plan for drainage was submitted to the Planning and Zoning Commission file as Appendix C within the Site Engineering Report dated March 2015 from DiVesta Civil Engineering Associates. It shall be implemented by the property owner(s)/condominium association.
- P. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this approval. This Notice of Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 40 Locust Hill Road to maintain the on-site drainage facilities in accordance with the Drainage Maintenance Plan, and will alert future property owners of the on-site drainage facilities and the need to maintain said facilities to minimize impacts upon adjacent properties.

PARKING/TRAFFIC SAFETY

- Q. As noted above, all sight line related work shall be completed first, so that construction vehicles will have improved sight lines looking west down Locust Hill Road throughout the construction process.
- R. As recommended by the Police Department, the applicant shall install the advance notice, MUTCD compliant "intersection ahead" sign, to be viewable by westbound Locust Hill Road, traffic.

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- S. The proposed sidewalk (both on Locust Hill Road and Settler's Trail) shall be constructed according to the submitted plans prior to the issuance of a Certificate of Occupancy for the first on-site unit.

DEED RESTRICTIONS

- T. Deed restrictions on the below market rate housing units (both income and age restrictions) shall be filed in the Darien Land Records prior to the issuance of Zoning and Building Permits for new construction above the foundation for the second on-site building. Copies of those restrictions, which should include the entity certifying annually the income verification of the tenants, would need to be submitted for the record in this matter. Restrictions shall comply with Sections 434 and 586 and 587.
- U. On site dwellings shall be deed restricted to assure that any and all occupants shall be at least 62 years or older. On site units shall not be income restricted, but must be age restricted to comply with the intent and requirements of the Regulations allowing this Special Permit use within the R-1 single family residential zone.

POST-CONSTRUCTION

- V. A final "as-built" survey is hereby required for each phase to certify that the site improvements (including drainage and landscaping) are all in compliance with the approved plans. In addition, a Professional Engineer shall certify in writing that the required drainage work has been properly completed in accordance with the approved plans. A certification shall be submitted regarding the final building height of the buildings as constructed.
- W. All site work around and related to a particular building, including but not limited to curbing, paved parking spaces, drainage systems, safety signage, landscaping and other site improvements as shown on the approved plans shall be properly installed and completed prior to the use of and/or the issuance of a Certificate of Occupancy for that building.
- X. All landscaping shall be installed per the submitted Landscape Plan referenced in Condition A, above. Prior to implementation, any changes or substitutions must be reviewed and acted upon by the Planning and Zoning Commission.
- Y. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This would include, but not be limited to the following:
1. A Demolition Permit from the Building Department.
 2. Permits from the Fire Marshal will be needed to remove any existing underground oil tanks, to install any new oil tanks, and for removal of any above-ground or underground propane tanks.
 3. A Blasting Permit will also be required from the Fire Marshal for any proposed blasting.
 4. Sewer Connection Permits will be needed for the new units.
 5. The Darien Health Department will require that any existing on-site septic system(s) be located, and properly abandoned.
 6. Zoning and Building Permits. It is acknowledged that the applicant may wish to proceed with Foundation Permits separate from the buildings.

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7. It was noted in the ARB approval letter in February 2015, that a ground sign might be installed on the site. If the applicant wishes to proceed with such a sign, review and action by the Architectural Review Board will be required. Depending on the size and location of the sign, review and action by the Zoning Board of Appeals may also be required.
- Z. 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 this permit as it deems appropriate.
- AA. This permit shall be subject to the provisions of Sections 858, 1009 and 1025 of the Darien Zoning Regulations, including but not limited to implementation (i.e., the start of construction) of the approved plan within two years of this action (June 23, 2017). This approval may be extended as per Sections 858, 1009 and 1025.

All provisions and details of the plans, as required to be revised and modified herein, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void. All completed requirements and materials shall be completed and submitted to the Planning and Zoning Department within 90 days of this action, or this approval shall become null and void.

Chairman Cameron read the following agenda item:

Business Site Plan #168-F, Equity One, LLC--Trader Joe's, 430 Boston Post Road. Proposal to expand Trader Joe's into a portion of the space now occupied by Orvis and perform related site development activities. *DECISION DEADLINE: JUNE 23, 2015.*

Commission members discussed the draft resolution and agreed on several typographical corrections and clarifications. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Olvany, seconded by Mr. Sini and unanimously approved. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 23, 2015**

Application Number: Business Site Plan #168-F

Street Address: 430 Boston Post Road

Assessor's Map #35 Lot #1

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Name and Address of
Property Owners: Equity One, LLC
410 Park Avenue, Suite 1220
New York, NY 10022

Name and Address of Applicant &
Applicant's Representative: Wilder G. Gleason, Esq.
Gleason & Associates, LLC
455 Boston Post Road
Darien, CT 06820

Activity Being Applied For: Proposal to expand Trader Joe's into a portion of the space now occupied by Orvis and perform related site development activities.

Property Location: The subject property is located on the southeast corner of the intersection of Boston Post Road and Old King's Highway North.

Zone: DB-2 (Designed Business Two – commercial) Zone

Date of Public Hearing: May 5, 2015 continued to June 2, 2015

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices
Dates: April 24 & May 1, 2015 Newspaper: Darien News

Date of Action: June 23, 2015 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
July 3, 2015 Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 620, 900 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicants whose testimony is 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 review of the submitted application materials and related analyses, the Commission finds:

1. The proposal is to expand Trader Joe's, a commercial sales and service use, into a portion of the space formerly occupied by Orvis and perform related site development activities. There is no

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proposed increase to the overall size of the existing building, which is 19,618 square feet. The subject property is 1.9 acres and includes a building and associated on-site parking. Two driveways now exist—one on Boston Post Road, and the other on Old King's Highway North. The application also proposes to modify the internal parking layout and the egress driveway from the parking lot to the Boston Post Road.

2. The submitted 11" x 17" colored plan entitled, "Post Road Plaza 430 Boston Post Road" shows the location of the Salon, Orvis, Trader Joe's and Chase Bank as of 8/22/14. It also shows the proposed resultant elimination of the Salon, and the proposed spaces to be occupied by Orvis (5,753 sf); Trader Joe's (11,042 sf); and Chase Bank (2,823 sf). Orvis's relocation has already occurred, and there is no proposed change to the Chase Bank space.
3. The applicant noted that the proposal is to expand by a total of 2,565+/- square feet, the existing Trader Joe's use into space formerly occupied by Orvis which would result in their store being 11,042 square feet. Façade changes to the building were approved by the Architectural Review Board in February 2015 (ARB #3-2015).

DARIEN ZBA APPROVAL

4. The Zoning Board of Appeals (ZBA) approved this request as part of ZBA Calendar #18-2015 on April 8, 2015. This variance approval allowed for the expansion of the Trader Joe's commercial sales and service use which had been allowed to be in this location pursuant to a previous variance and stipulated judgment/settlement. That approval is hereby incorporated by reference.
5. In response to the ZBA approval, the Planning and Zoning Commission hereby finds that this use and its expansion are acceptable at this location.
6. At the public hearing, the Planning & Zoning Commission brought up the possibility of Trader Joe's employees parking off-site. The ZBA did note that this should be considered by the applicant, and the Planning and Zoning Commission agrees. This will free up parking spaces for customers, and minimize on-site parking and traffic conflicts.

TRAFFIC/PARKING

7. The Town hired Michael Galante of Frederick P. Clark Associates to review the proposed traffic and parking work done by John Canning of VHB. Mr. Galante prepared a report and spoke at the public hearings. He agreed with Mr. Canning that the "no left turn" out of the parking lot at Boston Post Road will result in increased safety. He noted that the proposed on-site directional signage would also be helpful in guiding customers to the Old King's Highway North driveway exit.
8. Attorney Gleason said that Trader Joe's entrance/exit will be on the left hand portion of the store space that they occupy and that the handicap parking spaces in that vicinity will be near the front door. Those handicap parking spaces will be relocated from their existing location in order to comply with the Building Code. There is no other change proposed to the amount or location of the on-site parking spaces.

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9. During the public hearing process, consideration was given to establishing a “no left turn” into the site from Boston Post Road. After some analysis and discussion, the Commission believes that the proposed improvements required herein will be a substantial improvement to the safety in the vicinity. These safety improvements include sight line improvements; on-site directional signage; and the establishment of “no left turn” out of the site.
10. The State of CT DOT prepared a letter dated May 29, 2015 which appears to approve the project with a number of comments/conditions. These comments/conditions are not inconsistent with this Resolution.
11. The elements of the Site Plan, submitted as part of the application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Business Site Plan #168-F is hereby modified and approved to allow the expansion of Trader Joe’s into the existing building space as shown on the submitted plans, and to modify the on-site parking area and to modify the egress driveway from the parking lot to the Boston Post Road and eliminate the left turn egress from the site to Boston Post Road, subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction and on-site work shall be in accordance with the following plans:
 - Site Plan, 436 Boston Post Road by VHB, last revised 5-14-2015, Drawing No. C-1. It is noted that final determination of the number and location of the handicapped-accessible parking spaces shall be made by the Building Official.
- B. There is no new impervious surface proposed as part of this application, and thus, the Commission waives the requirement for stormwater management under Section 880 of the Darien Zoning Regulations.
- C. The Commission finds that the existing loading area is sufficient in size to accommodate the store. No additional loading areas are required.
- D. As part of his review, the Fire Marshal submitted comments dated March 25, 2015. They are:
 1. Verify that egress will meet the remoteness requirements.
 2. How will loading dock be maintained clear for egress?These comments shall be addressed in the applicant’s Zoning and Building Permit application.
- E. In order to free up on-site parking, and thereby improve on-site traffic flow, the Commission strongly encourages the applicant to investigate and implement off-site parking of Trader Joe’s employees.
- F. The removal of landscaping near the sight line of the entrance driveway on Boston Post Road is an integral part of this approval. This will improve the sight lines looking out of the exit driveway for vehicles to turn right onto Boston Post Road.
- G. The final wording, size, design, and location of the proposed on-site directional signage shall be put forth to the Planning and Zoning Director, and shall be reviewed and acted upon by him prior to installation. Sheet C-1 shows three such directional signs.

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- H. The removal of landscaping to improve sight lines (Condition F, above); all on-site directional signage (as shown on Sheet C-1 and referred to in Condition G, above); off-site signage (required across Boston Post Road from the subject property noting “No left turn”); the concrete island near Boston Post Road (which will limit left turns onto Boston Post Road from the site); and other improvements required herein shall be fully completed before the issuance of a Certificate of Occupancy for the new space.
- I. The granting of this approval 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 review by the Darien Fire Marshal as part of the Zoning and Building Permits. Final review and approval by the State of CT DOT is required.
- J. This permit shall be subject to the provisions of Section 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (June 23, 2016). This may be extended as per Section 1028.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. All completed requirements and materials shall be submitted to the Planning and Zoning Department within 60 days of this action or this approval shall become null and void.

Chairman Cameron read the following agenda item:

Coastal Site Plan Review #151-B, Flood Damage Prevention Application #153-B, Land Filling & Regrading Application #353, M. Campbell & Paget MacColl, 22 Searles Road Proposal to construct additions and alterations to the existing single-family residence, and to perform related site development activities within regulated areas.

Commission discussed the draft resolution. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Voigt and seconded by Mr. Olvany. Mr. Cunningham and Mr. Sini abstained from voting because they had not attended the public hearing. The motion was passed by a vote of 3-0-2. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 23, 2015**

Application Number: Coastal Site Plan Review #151-B
Flood Damage Prevention Application #153-B
Land Filling & Regrading Application #353

Street Address: 22 Searles Road

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Assessor's Map #67 Lot #87

Name and Address of
Property Owners: M. Campbell & Paget MacColl
22 Searles Road
Darien, CT 06820

Name and Address of
Applicant Warrington Homes
98 Pear Tree Point Road
Darien, CT 06820

Name and Address of
Applicant's Representative: Jeff McDougal
William W. Seymour & Associates
170 Noroton Avenue
Darien, CT 06820

Activity Being Applied For: Proposal to construct additions and alterations to the existing single-family residence, and to perform related site development activities within regulated areas.

Property Location: The subject property is located on the west side of Searles Road at the southwest corner formed by its intersection with Cross Road.

Zone: R-1

Date of Public Hearing: June 9, 2015

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices
Dates: May 29 & June 5, 2015 Newspaper: Darien News

Date of Action: June 23, 2015 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: Newspaper: Darien News
July 3, 2015

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820, 850, and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant's representative whose testimony is 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.

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

1. The proposal is to construct additions and alterations to the existing single-family residence, and to perform related site development activities within regulated areas. The subject property is 1.15 acres, and is served by public water, and an on-site septic system. The only portion of work proposed within the flood zone is a retaining wall and some grading. All portions of new house additions and alterations will be at or above elevation 13.0.
2. The Environmental Protection Commission (EPC) approved this project as part of EPC #11-2015 on June 3, 2015. The Darien Zoning Board of Appeals approved this project on May 20, 2015 as part of ZBA Calendar #27-2015. Both of these approvals are hereby incorporated by reference.
3. This application was referred to the State of CT DEEP. They responded in an e-mail dated May 5, 2015 that they have reviewed the proposal, and find no inconsistencies.
4. Two rain gardens are proposed to address stormwater quality. The subject property is adjacent to Pound Gut.
5. The proposed activities, to be implemented with the conditions listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties.
6. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
7. The proposed activity is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes.
8. The potential adverse impacts of the proposed activity on coastal resources are acceptable.
9. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #151-B, Flood Damage Prevention Application #153-B and Land Filling & Regrading Application #353 are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
 - Topographic & Zoning Location Survey depicting Proposed Conditions 22 Searles Road prepared for M. Campbell MacColl Paget R. MacColl, by William W. Seymour & Associates, scale 1"=20', last revised April 1, 2015.

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- Site Plan prepared for MacColl Residence #22 Searles Road, by LBM Engineering, LLC scale 1"=20', dated April 9, 2015.
 - MacColl Residence 22 Searles Road, by Warrington Homes, LLC, booklet of floor plans and elevations, dated 4-9-2015, Sheets A-1 through A-7.
 - Landscaping Plan, MacColl, scale 1"=10', received April 14, 2015.
- B. During construction, the applicant shall utilize the sediment and erosion controls and tree protection illustrated on the "Site Plan" in Condition A, above, and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- C. Because of the minor nature of the site work involved in this project, the Commission hereby waives the requirement for a performance bond.
- D. Due to this property's location directly adjacent to Pound Gut, the Commission waives the requirement for stormwater management.
- E. The applicant's engineer shall prepare a Drainage Maintenance Plan for the two proposed rain gardens, and submit that Plan prior to the issuance of a Zoning or Building Permit. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the start of any filling or regrading work requested herein and prior to the issuance of a Zoning and Building Permit for the proposed additions and alterations.
- F. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. Prior to the request for the Certificate of Occupancy for the additions/alterations to the residence, the applicant shall submit verification in writing and/or photographs from the professional designer of the drainage system (rain gardens) that all aspects of the stormwater management and grading in the yard have been completed in compliance with the approved plans referred to in Condition A, above.
- G. Once the project is complete, and prior to June 23, 2016, the applicant shall submit a final "as built" map and/or other evidence that all work has been properly completed in accordance with the approved plans.
- H. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This includes the requirement for a Zoning Permit and Building Permit for the house addition.
- 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 this permit as it deems appropriate.

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J. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (June 23, 2016). This may be extended as per Sections 815 and 829f.

A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next sixty days and prior to the issuance of a Zoning and Building Permit for the additions and alterations to the residence.

Chairman Cameron read the following agenda item:

Land Filling & Regrading Application #355, John Barrett, 29 Greenleaf Avenue. Proposing to cut, fill, and regrade, and install stormwater management in association with the razing of an existing residence and construction of a new single-family residence, and perform related site development activities.

Commission members reviewed the draft resolution. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Voigt and seconded by Mr. Olvany. Mr. Cunningham and Mr. Sini abstained from voting because they had not attended the public hearing. The motion was passed by a vote of 3-0-2. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 23, 2015**

Application Number: Land Filling & Regrading Application #355

Street Address: 29 Greenleaf Avenue
Assessor's Map #28 Lot #5

Name and Address of
Property Owner: John Barrett
10 Edelweiss Lane
Darien, CT 06820

Name and Address of Applicant &
Applicant's Representative: Michael Smith
Michael Smith Architects
462 Danbury Road
Wilton, CT 06897

Activity Being Applied For: Proposing to cut, fill, and regrade, and install stormwater management in association with the razing of an existing residence and construction of a new single-family residence, and perform related site development activities.

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Property Location: The subject property is located at the northeast corner formed by the intersection of Greenleaf Avenue and Waterbury Lane.

Zone: R-1

Date of Public Hearing: June 9, 2015

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices
Dates: May 29 & June 5, 2015

Newspaper: Darien News

Date of Action: June 23, 2015

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
July 3, 2015

Newspaper: Darien News

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 850, and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicants whose testimony is 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 cut, fill, and regrade, and install stormwater management in association with the razing of an existing residence and construction of a new single-family residence, and perform related site development activities. The proposed residence will connect to public water and sewer.
2. At the public hearing, comments from the Public Works Department were discussed that soil data and percolation testing should be done to determine if the proposed infiltrators will work properly. The applicant's engineer noted that due to the weather, this work has not yet been done, but would be appropriate to complete.
3. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

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4. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling & Regrading Application #355 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the plans submitted to and reviewed by the Commission entitled:

- Site Drainage Plan 29 Greenleaf Avenue, by McChord Engineering Associates, Inc., last revised 5/5/2015, Drawing No. SE-1.
- Zoning Map of Property prepared for John Barrett & Michelle Barrett, by Dennis Deilus, dated 4/10/15.

The Zoning Map shall be modified by the surveyor to complete the Zoning Chart. It shall be submitted to the Planning and Zoning Office prior to the issuance of a Zoning or Building Permit for the replacement residence.

- B. The applicant's engineer shall perform percolation testing in the area of the proposed infiltrators. That information shall be submitted to the Planning and Zoning Department and reviewed by the Public Works Department prior to the issuance of a Zoning or Building Permit.
- C. During construction, the applicant shall utilize the sediment and erosion controls and tree protection illustrated on the "Site Drainage Plan" in Condition A, above, and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. Because of the minor nature of the site work involved in this project, the Commission hereby waives the requirement for a performance bond.
- E. A Stormwater Management Report dated February 25, 2015 was submitted to the Planning and Zoning Office. This report includes a Stormwater Facilities Maintenance Plan (Appendix C). A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the start of any filling or regrading work requested herein and prior to the issuance of a Zoning and Building Permit for the proposed replacement house. This notice will require the property owner and all subsequent property owners of 29 Greenleaf Avenue to maintain the subsurface detention systems, and will alert future property owners of the need to maintain said facilities to minimize any potential downhill impacts.
- F. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. Throughout the development of the site, even before the final drainage system is installed, the applicant must properly manage storm water runoff to avoid negative impacts to the neighbors and/or the street. Prior to the request for the Certificate of Occupancy for the new house, the applicant shall

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submit verification in writing and/or photographs from the professional designer of the drainage system that all aspects of the stormwater management and grading in the yard have been completed in compliance with the approved plans referred to in Condition A, above.

- G. Once the project is complete, and prior to the issuance of a Certificate of Occupancy for the new house, the applicant shall submit a final certification from the land surveyor, that all excavation, filling and grading work has been properly completed in accordance with the approved plans.
- H. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. A Demolition Permit is required from the Building Department. A Sewer Connection Permit from Darien Sewer Services is required. Any oil tank removal requires review and coordination with the Fire Marshal.
- I. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This includes, but is not limited to, a Demolition Permit, a Sewer Disconnect Permit, and Zoning and Building Permits.
- J. 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 this permit as it deems appropriate.
- K. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (June 23, 2016). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan, as required to be revised herein, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next sixty days and prior to the issuance of a Zoning and Building Permit for the replacement house.

Chairman Cameron read the following agenda item:

Coastal Site Plan Review #230-B, Flood Damage Prevention Application #294-A, Mark Florian, 129 Five Mile River Road. Proposing to remove existing stepping stones and to install bluestone steps down to the Five Mile River and to modify and add plantings between the pool and the River, and to perform related site activities within regulated areas.

Commission members discussed the draft resolution and the following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Olvany and seconded by Mr. Voigt. Mr. Cunningham and Mr. Sini abstained from voting because they had not attended the public hearing. The motion passed by a vote of 3-0-2. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 23, 2015**

Application Number: Coastal Site Plan Review #230-B
Flood Damage Prevention Application #294-A

Street Address: 129 Five Mile River Road
Assessor's Map #67 Lot #3B

Name and Address of Property Owner: Mark Florian
129 Five Mile River Road
Darien, CT 06820

Name and Address of Applicant & Applicant's Representative: Erik Pulkkinen
Robin Kramer Garden Design
3 Pinewood Road
Manchester By The Sea, MA 01944

Activity Being Applied For: Proposing to remove existing stepping stones and to install bluestone steps down to the Five Mile River and to modify and add plantings between the pool and the River, and to perform related site activities within regulated areas.

Property Location: The subject property is on the east side of Five Mile River Road approximately 950 feet south of its intersection with Davis Lane.

Zone: R-1/2

Date of Public Hearing: June 9, 2015

Time and Place: 8:00 P.M. Room 206 Town Hall

Publication of Hearing Notices
Dates: May 29 & June 5, 2015 Newspaper: Darien News

Date of Action: June 23, 2015 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: Newspaper: Darien News
July 3, 2015

The Commission has conducted its review and findings on the bases that:

- the proposed use and activities must comply with all provisions of Sections 400, 810, and 820 of the Darien Zoning Regulations for the Commission to approve this project.

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- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicants whose testimony is 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 remove existing stepping stones and to install bluestone steps down to the Five Mile River and to modify and add plantings between the pool and the River, and to perform related site activities within regulated areas. The goal is to replace the existing stepping stones down to the River with a more stable surface, such as bluestone with gravel. Plantings will be reorganized, and be made more dense, so as to minimize erosion on the existing slope.
2. The Environmental Protection Commission (EPC) approved this project as part of EPC #17-2015 on June 3, 2015. That approval is hereby incorporated by reference.
3. This application was referred to the State of CT DEEP. They responded in an e-mail dated May 22, 2015 that they have reviewed the proposal, and find no inconsistencies.
4. The proposed activities, to be implemented with the conditions listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties.
5. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
6. The proposed activity is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes.
7. The potential adverse impacts of the proposed activity on coastal resources are acceptable.
8. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #230-B and Flood Damage Prevention Application #294-A are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
 - Design Plan, Florian Residence 129 Five Mile River Road, by Robin Kramer Garden Design, scale 1/8"=1', dated May 1, 2015.

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- Buffer Planting Plan, Florian Residence 129 Five Mile River Road, by Robin Kramer Garden Design, scale 1/8"=1', dated May 1, 2015.
- B. Because of the minor nature of the site work involved in this project, the Commission hereby waives the requirement for a performance bond.
- C. No sediment and erosion controls were shown on the submitted plans, and it is likely that due to the nature of the work, that none will be needed. If, however, during construction, it is determined that sediment and erosion controls may be needed, the applicant shall utilize sediment and erosion control measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. Due to this property's location directly adjacent to the Five Mile River, and the fact that the amount of new impervious surface is little, if any, the Commission waives the requirement for stormwater management. A landscaped buffer now exists adjacent to the Five Mile River, which improves water quality. By adding the proposed plantings and making the area plantings more dense, the property owner is supplementing that existing vegetated area near the Five Mile River.
- E. Once the project is complete, and prior to June 23, 2016, the applicant shall submit photographs and/or other evidence that all work has been properly completed in accordance with the approved plans.
- F. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- G. 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 this permit as it deems appropriate.
- H. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (June 23, 2016). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

At about 9:35 p.m., Chairman Cameron read the first public hearing agenda item:

PUBLIC HEARING

Land Filling & Regrading Application #356, LTB Properties, LLC, 74 Brookside Road.
Proposing to fill and regrade in association with the construction of a replacement residence and

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new driveway and to perform related site development activities. *TO BE OPENED AND IMMEDIATELY CONTINUED TO 7/28/2015.*

Chairman Cameron announced that this matter will be opened and immediately continued without testimony to the Planning & Zoning Commission meeting scheduled on July 28, 2015 in Room 206 of Darien Town Hall.

Chairman Cameron read the following agenda item:

Land Filling & Regrading Application #354, Daniel & Amy Bradley, 27 Pasture Lane. Proposal to raze the existing house and construct a new, replacement single-family residence with associated stormwater management and regrading, and to perform related site development activities. *WITHDRAWN.*

Chairman Cameron announced that this application has been withdrawn. Chairman Cameron then read the following agenda item:

Continuation of Public Hearing regarding Site Plan Application #289/Special Permit, Land Filling & Regrading #351, 1950 Post Road, LLC, 1950 Boston Post Road. Proposing to: remove the existing structures on the site; build a two-story mixed use building on the NB Zone portion of the site; build a two story carriage house with a one bedroom residence above a garage in the R-1/2 Zone; and perform related site development activities. The subject property is located on the south side of Boston Post Road, directly across from its intersection with Garden City Road, and is shown on Assessor's Map #51 as Lot #40 in the NB and R-1/2 Zones.

Attorney Robert Maslan said that since the previous meeting, they have conducted more test holes and done further analysis of the site. They have also had numerous conversations with the staff, the neighbors and the designers. He said that rather than proceeding with the current application, he asked the Commission to consider re-aligning the zone boundaries as noted in the Town Plan. He said this is appropriate because the building placement is very difficult due to the zoning restrictions of the NB Zone only being 100 feet deep. He noted a letter of support from the adjacent property owner. He reviewed a color copy of the Zoning Map that now shows property lines and said that when the zone boundaries were established parallel to the street the maps did not contain the property lines. Now it makes more sense to align the zone boundary lines with property lines in many instances. He said that in this case, the Commission should consider re-aligning the NB Zone boundary line to coincide with many of the rear lot lines in the area. Mr. Ginsberg provided copies of a 2014 letter from Mr. Cerussi of 12 Rings End Road in which he expressed concern for a small parcel of land at 10 Rings End Road, which is within the NB Zone but which Mr. Cerussi feels should not be developed for commercial purposes. Mr. Cerussi suggests that that area be re-zoned for residential purposes to coincide with the zone boundary line.

Attorney Maslan asked if the applicant should proceed with the current application or pursue an Amendment of the Zoning Map to revise the commercial district boundary. He said that he felt the NB Zone appears to have been created for what was already there and developed rather than planning out what could be re-developed in the future. Commission members noted that there might also be a need to amend some of the NB Zoning Regulations to make sure that the adjacent residential properties are adequately protected from potential negative impacts of commercial development if the NB Zone line

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is adjusted. They said that they were not making any promises or commitments regarding re-zoning of the properties but they did recommend that the applicant pursue the re-zoning application. Attorney Maslan said he would withdraw the pending application.

At about 9:55 p.m., Chairman Cameron then read the following agenda item:

Business Site Plan #24-X/Special Permit, C2 Education, 25 Old King's Highway North (Goodwives Shopping Center). Proposal to establish C2 Education as a personal service use within Goodwives Shopping Center in a 2,458+/- square foot space formerly occupied by Learning Express. The subject property is situated on the south side of Old King's Highway South, approximately 600 feet east of its intersection with Sedgwick Avenue and is shown on Assessor's Map #71 as Lot #19, in the DC Zone.

Brad Arnow was present to represent the applicant. Mr. Ginsberg said that the proposed use is a personal service business, which would take the place of Learning Express that already occupies the space. His understanding is that children would be dropped off at the site and then their parents would pick them up after the 60 – 90 minutes lesson. It would not be unusual for the parents to shop at other businesses in the Goodwives Shopping Center while the children are in the educational facility. Mr. Arnow said that business does operate year-round and is open Monday through Saturday but is not open on Sunday. In response to questions, Mr. Arnow said that the front window of the business will still be a clear window that is used as a display space rather than being walled off or blocked.

Commission members reviewed the application materials. There were no comments from the public regarding the application. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this application and will render a decision at a future meeting. The motion was made by Mr. Olvany, seconded by Mr. Sini and unanimously approved.

Chairman Cameron read the following agenda item:

Coastal Site Plan Review #288-B, Flood Damage Prevention Application #329-B, Land Filling & Regrading Application #308-B, John & Jeanne-Marie Scura, 27 Brush Island Road. Proposing to raze the existing residence and garage/studio and construct a replacement residence with associated patio and pool, served by an on-site septic system and municipal water service, and to perform related site development activities within regulated areas. The subject property is situated on the north side of Brush Island Road, approximately 1,350 feet west of its intersection with Nearwater Lane and is shown on Assessor's Map #56 as Lot #16, in the R-1/2 Zone.

Tom Nelson, Professional Engineer from McChord Engineering, explained that this property consists of approximately one acre of land and is adjacent to Holly Pond. Much of the property is in within the 1% flood plain with an anticipated flood elevation of 14 feet above NAVD. He said that the plan is to demolish the existing house and to build a new house. They would raise the existing grades in the vicinity of the house from 11 or 12 up to 14 or 15 so that the house will no longer be in the Flood Hazard Zone. They will re-use the existing driveway at the street but the new driveway will rise to meet the new garage level. He said that the house will be served by a new septic system and is served by public water. The storm drainage system incorporates a rain garden to accommodate the first inch of rainfall. They are concentrating on water quality rather than stormwater detention.

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Mr. Nelson said that they had obtained approval the Health Department and from the Environmental Protection Commission but they cannot proceed with the filling and regrading until they obtain an approval from the Planning & Zoning Commission. Commission members discussed the trees to be removed to accommodate the regrading and the trees to be preserved. It was noted that the rain garden will also double as a landscape buffer adjacent to Holly Pond. In response to questions, Mr. Nelson said the applicant hopes to obtain all approvals in the near future so that demolition of the old house can commence by the end of the summer.

There were no comments from the public regarding the application. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Olvany, seconded by Mr. Sini and unanimously approved.

At about 10:05 p.m., Chairman Cameron read the following agenda item:

Land Filling & Regrading Application #357, Julie Pagnozzi, 87 Old King's Highway South. Request to allow the placement of fill, regrading, and an associated retaining wall constructed within fifteen feet of a property line to remain. The subject property is situated on the south side of Old King's Highway South, approximately 600 feet west of its intersection with Andrews Drive and is shown on Assessor's Map #63 as Lot #78, in the R-1/2 Zone.

Julie Pagnozzi, owner of the property, and Robert Calve, contractor/builder, were present to explain the application. The plans approved with the Zoning Permit for the addition to the house specified that there was to be no filling or regrading along the westerly boundary line. Mr. Calve said that in order to create a safer back out area from the garage, some boulders were placed near the westerly boundary line and some fill was used to raise the grade level in that area. He said that he worked closely with the neighbor whose biggest concern was to keep the stormwater from the Pagnozzi property from running into the neighboring property. Mr. Calve said that in order to achieve that, they placed a series of Belgian blocks along the top edge of the fill so that stormwater from the driveway would flow toward the street rather than the neighbor. He estimated that they used approximately 75 cubic yards of fill material to achieve the regrading that has taken place. They recently appeared before the Environmental Protection Commission because some of the filling is within the 50 feet of the wetlands which is on the neighboring property. Mr. Calve said that several Cultec drainage units were installed in the front yard to accommodate the runoff water from the gutters and leaders of the addition to the house. He said that no drainage system was installed for the driveway but the driveway is only compacted gravel. It is not paved. He said that if it is paved in the future, they could install more Cultec units in the yard to accommodate the runoff from the driveway or they could install catch basins in the driveway now and direct that water into the existing Cultec units that have been installed.

Mark DeAngelo of 89 Old King's Highway South said that his concerns had been addressed and he has had no problems with water runoff toward his property. He said that the work seems to have been done in a satisfactory manner.

There were no comments from the public. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a

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future meeting. The motion was made by Mr. Olvany, seconded by Mr. Sini and unanimously approved.

Chairman Cameron then read the following agenda item:

Approval of Minutes

May 5, 2015 Public Hearing/General Meeting
May 12, 2015 Public Hearing/General Meeting
May 26, 2015 General Meeting

Due to the late hour, the Commission members decided to review draft minutes at a future meeting.

There being no further business, the following motion was made: That the Planning & Zoning Commission adjourn the meeting. The motion was made by Mr. Olvany, seconded by Mr. Sini and unanimously approved. The meeting was adjourned at 10:12 P.M.

Respectfully submitted,

David J. Keating
Planning & Zoning Assistant Director

06.23.2015min