

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
September 7, 2010**

Place: Room 119, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Conze, Spain, Cameron, Hutchison, Voigt, Riccardo

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

FILMED BY: Channel 79

PUBLIC HEARING

Chairman Conze read the following agenda item:

Continuation of Public Hearing regarding Coastal Site Plan Review #257, Flood Damage Prevention Application #289, Land Filling & Regrading Application #245, Dale & Hillary Miller, 5 Tokeneke Beach Drive. Proposing to raze the existing residence and demolish the existing pool, and to construct a new single-family residence and pool and to perform related site development activities within regulated areas. The subject property is located on the east side of Tokeneke Beach Drive approximately 500 feet south of its intersection with Contentment Island Road, and is shown on Assessor's Map #67 as Lot #67, and is in the R-1 Zone. *PUBLIC HEARING OPENED ON JULY 27, 2010, AND WAS IMMEDIATELY CONTINUED TO SEPTEMBER 7, 2010. APPLICANT HAS GRANTED AN EXTENSION OF TIME UNTIL OCTOBER 5, 2010 TO CONTINUE THE PUBLIC HEARING. THEREFORE, THIS ITEM WILL BE IMMEDIATELY CONTINUED TO TUESDAY, OCTOBER 5, 2010.*

It was noted that the Public Hearing will be continued at the applicants' request on October 5, 2010.

GENERAL MEETING

Chairman Conze read the following agenda item:

Discussion, deliberation, and possible decisions regarding the following:

Special Permit Application #66-L, Coastal Site Plan Review #234-A, Site Plan Application #259-A, Darien YMCA, 2420 Boston Post Road. Proposal to a) reconstruct westerly portion of existing building which houses Holly Pond School; b) construct a youth gymnastics addition to the building; and c) renovate and enlarge the existing parking lot with new sidewalk, associated landscaping, and drainage; and perform related site development activities within a regulated area. *PUBLIC HEARING CLOSED 7/6/2010. DECISION DEADLINE: 9/9/2010.*

A draft resolution had been distributed to the Commission members for review prior to the meeting. A revised version of that draft incorporated the comments made by some of the Commission members. Mr. Ginsberg summarized the proposed findings and proposed conditions of approval.

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Mr. Voigt said that he had carefully reviewed all the materials, including the letters from the neighbors, and after a month of thinking about this matter, had come to the conclusion that it would be a significant benefit to the community if this expansion were to take place. The on-site parking would be expanded to accommodate the activities of the YMCA. During construction, typical sediment and erosion controls must be utilized, and once the facilities are in operation the YMCA needs to carefully control and monitor the uses and the parking associated with those uses. It seems that the parking is a problem during mid-morning, but that is not the time that the gymnastics facility will be very active. He said that the setbacks from the neighboring property owners, particularly on the west side of the property, will be improved, and there will be an improved drainage system to manage the stormwater runoff before it is discharged to Holly Pond. The relocation of the dumpster will be farther away from the neighbors than the present location, and the internal sidewalk within the site will provide better safety for pedestrians walking from the parking area to the YMCA facility. The proposed use involves no change in use of the hours of operation. He felt that the Special Permit standards had been satisfied.

Mr. Spain said that many of the items and objectives discussed in the deliberations session had been incorporated into the draft resolution. He could not reach the same conclusion about the proposed gymnastics facility because he feels that the YMCA is already at the limit of its impact upon the neighboring single-family residential properties. He said that the importance of the proposed activities should not overly influence the Commission members or outweigh the impacts of the proposed activity upon the neighborhood. He said that the draft resolution contains many conditions and modifications that are very important, but he still will not vote for the proposed resolution.

Mr. Conze said that during the 1980s he had served on the Board of the YMCA and at that time there were many discussions about the YMCA staying relevant to the community. In 1995, the Y applied to the Planning and Zoning Commission when he (Mr. Conze) was no longer on the Board of the YMCA and was a member of the Planning and Zoning Commission, but he abstained from the decision to avoid any perception of a conflict of interest. That approval was granted with numerous conditions and stipulations. He said that the current application should similarly be approved with the conditions and limitations as noted in the draft resolution. He said that there is no real traffic impact on the residents on Seagate Road or any of the adjacent side streets. He said that the YMCA will have the responsibility to effectively manage the uses and events and parking schedule to avoid any traffic or parking impacts upon the neighbors.

The following motion was made: That the Commission adopt the following resolution to approve with conditions and stipulations, the YMCA's application. The motion was made by Mr. Hutchison, seconded by Mr. Voigt. Voting in favor were Messrs. Conze, Hutchison, and Voigt along with Ms. Cameron and Ms. Riccardo. Opposed was Mr. Spain. The motion passed by a vote of 5-1.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
SEPTEMBER 7, 2010**

Application Number: Special Permit Application #66-L, Coastal Site Plan Review #234-A,
Site Plan Application #259-A

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Street Address: 2420 Boston Post Road
Assessor's Map # 53 Lot #60

Name and Address of Property Owner: The Darien Young Men's Christian Association (YMCA)
2420 Post Road
Darien, CT 06820

Name and Address of Applicant: Robert F. Maslan, Jr., Esq.
And Applicant's Representative: Maslan Associates, PC
3 Parklands Drive, Suite 207
Darien, CT 06820

Activity Being Applied For: Proposal to a) reconstruct westerly portion of existing building which houses Holly Pond Nursery School; b) construct a youth gymnastics addition to the building; and c) renovate and enlarge the existing parking lot with new sidewalk, associated landscaping, and drainage; and perform related site development activities within a regulated area.

Property Location: The subject property is located on the south side of Boston Post Road, approximately 350 feet east of its intersection with Weed's Landing.

Zone: R-1/2

Date of Public Hearing: June 1, 2010 continued to July 6, 2010
Deliberations held on: July 20, 2010

Time and Place: 8:00 P.M. Room 206 (6/1) Auditorium (7/6) Town Hall

Publication of Hearing Notices
Dates: May 20 & 27, 2010 Newspaper: Darien News

Date of Action: September 7, 2010

Action: GRANTED WITH STIPULATIONS AND MODIFICATIONS

- construct westerly portion of existing building which houses Holly Pond Nursery School;
- construct a new gymnastics addition to the building;
- renovate and enlarge existing parking lot with associated landscaping and drainage; and perform related site development activities within a regulated area.

Scheduled Date of Publication of Action: September 17, 2010 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, 810, 1000 and 1020 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 is described in detail in the application, the submitted plans, and the statements of the applicant 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:

Background

1. The principal opposition to the proposed changes at the YMCA were voiced by residents of nearby streets such as Seagate Road. However, they offered no expert evidence to counter the applicant's traffic expert's conclusions. And the only exit and entrance driveways to the subject property are onto the Boston Post Road and not onto the concerned neighbors' streets.
2. This application is very similar to a previous application heard by the Commission in 2008 (Special Permit Application #66-K, Coastal Site Plan Review #234, Site Plan Application #259). That application was granted in part with stipulations and denied in part, and consisted of four aspects:
 - a) reconstruct westerly portion of existing building which houses Holly Pond Nursery School;
 - b) construct a youth gymnastics addition to the building;
 - c) construct an indoor lap pool addition;
 - d) renovate and enlarge existing parking lot with associated landscaping and drainage; and perform related site development activities within a regulated area.
3. The subject application consists of only three aspects—
 - a) reconstruct westerly portion of existing building which houses Holly Pond Nursery School;
 - b) construct a youth gymnastics addition to the building;
 - c) renovate and enlarge existing parking lot with associated landscaping and drainage; and perform related site development activities within a regulated area.The proposed construction of the indoor lap pool addition has been deleted from the subject application. The Commission's 2008 decision (the September 23, 2008 Adopted Resolution) was submitted within a book of Appendices submitted during this public hearing process, and is therefore part of the record in this matter. In 2008, the Commission approved the plans to: reconstruct the westerly portion of existing building which houses Holly Pond Nursery School; construct an indoor lap pool addition; and renovate and enlarge the existing parking lot with associated landscaping and drainage; and perform related site development activities within a regulated area. The Commission denied the portion of the application to construct a youth gymnastics addition to the building.
4. The subject YMCA building is about 50,000 square feet, and the application proposes to expand it via a 10,000+/- square foot addition for gymnastics. The submitted plans show existing building coverage of 14.77%. The proposed plans show that if the entire application were approved, building coverage would be 19.5%. This is still below the maximum 20% allowed within the R-1/2 residential Zoning district. The subject YMCA property is 7.22+/- acres.

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5. The submitted application materials presented a number of developments at the YMCA which have occurred since the 2008 application to the Commission. On pages 2 and 3 of the submitted application packet, the applicant notes nine numbered developments which have occurred since 2008. These nine numbered developments, which have occurred since 2008, include the following:
 - 1) A vision of cooperation with the Board of Education;
 - 2) Use of technology for on-line program registration rather than in-person program registration;
 - 3) Improved scheduling of programs to minimize parking conflicts;
 - 4) Purchase of adjacent Atkinson property at 2390 Boston Post Road;
 - 5) Sidewalks, Police traffic control during Special Events and neighbor liaison;
 - 6) Elimination of half-day kindergarten by the Board of Education;
 - 7) The Little Gym establishment (a new privately-operated business on Center Street in Darien) resulting in a decrease in the pre-school gymnastics participants;
 - 8) Membership decline since 2008;
 - 9) Recent discussions concerning possible location of a pool on Town owned property.Although these all do not have the same impact on the YMCA, they are all factors in the reconsideration of the subject application.
6. At the public hearing, the Commission took testimony regarding a pending Title IX issue/complaint related to the Darien High School women's gymnastics team. These were also presented as issue for consideration, but this Title IX issue/complaint is not directly a P&Z land use issue. The Commission does acknowledge that the Title IX issues/complaint increases the desirability of constructing a new gymnastics area. The need to satisfy Title IX doesn't, by itself, justify an approval.
7. The 2008 application proposed four changes to the property. This application proposes three--the nursery school reconstruction, parking lot changes, and construction of gymnastics addition. The indoor lap pool has been eliminated. The Commission acknowledges that the subject application, because the pool has been deleted, presents a less intense application than the 2008 request.
8. In the 2008 application, the Planning and Zoning Commission approved an indoor lap pool addition to the building which extended out the back of the building towards Holly Pond. This pool was approved to extend to within 100 feet of Holly Pond. The Environmental Protection Commission (EPC) also approved this project in 2008. It is important to note that this was the closest development to Holly Pond, and thus, the deletion of this aspect should be a benefit to the environment.
9. Based on prior Special Permit applications by the YMCA, a 1995 Stipulated Judgment, and subsequent approvals by the Commission, the Planning and Zoning Commission receives annually a list of Special Events to occur at the YMCA. These are events that are anticipated to attract more than 350 persons to the site at once and which, as a result, have an impact on parking and traffic. Only 25 Special Events are permitted per year, and the list of Special Events each year must be approved annually by the Commission. The Commission has also limited the YMCA to 7500 members part of its prior approvals.

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10. The Environmental Protection Commission (EPC) approved the YMCA's 2008 application at its meeting of July 9, 2008 as part of EPC #26-2008. That approval is hereby incorporated by reference. On May 27, 2010, the EPC sent a one-page memo with comments regarding the subject application.
11. The Architectural Review Board (ARB) approved the building design on May 20, 2008 (ARB #22-2008).

a) Raze and reconstruct westerly portion of existing building which houses Holly Pond Nursery School;

12. One aspect of this application is that the Holly Pond Nursery School will be demolished and rebuilt. The nursery school is now 11'9" from the westerly property line. The nursery school's proposed location is 41 feet from the property line. Additional screening/landscaping is included as part of this proposal. There will be a dedicated drop-off and pick-up area. The intent of the project is not to increase enrollment at the school, which now has 220 students, but to provide better facilities for the students and a safer drop off / pick up area.
13. Also as part of this application, a new entry to the YMCA building and an arbor walkway has been proposed, as well as improvements to the lobby entry area.
14. The first phase of the project is to construct the proposed gymnastics addition so that the nursery school program can temporarily be located in that addition while the existing nursery school is demolished. The second phase is to construct the new nursery school and relocate the nursery school into its rebuilt facilities.

b) construct a new gymnastics addition to the building, and relocate the gymnastics program from Goodwives Shopping Center.

15. The YMCA Gymnastics program currently rents space at the Goodwives Shopping Center. The application proposes to relocate that activity from the Goodwives Shopping Center to the YMCA property at 2420 Boston Post Road. The new addition would be 10,140 square feet (approximately 150'+/-x 65'+/-).
16. Also as part of this proposal, and as shown on Sheets LP.1 and SE2 of the plans, the YMCA proposes to replace the eight foot high board fence along the westerly property line. They will be adding landscaping along all of the property lines. Directly to the east of the new board fence to be placed along the western property line, they are proposing an eight foot high fence with plantings, including 21 American Holly, 17 Scintillation Rhododendron, five 8-10' white spruce, 14 8-10' high Serbian Spruce, and 4 8-10' high Oriental Spruce. There will be a hedge to confine the outdoor school playground area. The property owner will be stabilizing the area near Holly Pond. And along the easterly part of the property, five new 8-10' spruce trees will be planted to supplement the existing buffer. An additional 100 feet of eight foot high board fence will be installed near the eastern property line to screen a driveway next to the building.
17. It was noted that the proposed modifications are not designed to increase membership. There is no proposal to adjust the existing membership limit as any part of this application. It should be noted that although participants in the YMCA gymnastics program are generally members of the

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YMCA, they currently do not come to the Boston Post Road facility to participate in the gymnastics program or events. If the proposed gymnastics facility is approved at the subject location, the YMCA's membership would not necessarily change. However, the demand for on site parking, vehicular trips to and from the site, and the number of large group activities at the site will increase to reflect the relocation of the gymnastics program and related events.

18. Many of the letters received from the neighbors as part of the public hearing process, and the testimony from the neighbors received at the hearing raised concerns regarding the gymnastics building and the intensity of use that the gymnastic program would bring to the site.
19. As noted in the 2008 Commission decision denying the gymnastics facility, some Commission members believed that the maximum development potential of the site has been reached or exceeded, and that the YMCA could not accommodate any more activity on-site. The Commission acknowledges that in the past, the gymnastics program has been moved off-site, which has relieved some of the intensity of use on the property.

c) renovate and enlarge existing parking lot with associated landscaping and drainage;

20. As part of this application, and to improve pedestrian safety, there is a new Nursery school drop-off area proposed near the front of the YMCA building. Other proposed changes to the parking lot will make the traffic islands more regular in shape and expand the parking lot westerly 40-45 feet. The parking lot will be expanded from 196 current spaces to 221 spaces. New sidewalks are shown on the plan, and the property owner will also increase and improve the series of storm water management and cleansing facilities. A new set of galleries/underground pipes is proposed.
21. The Commission finds that the proposed new drop-off area will eliminate some need for parking and that the additional parking that is proposed will continue to help keep vehicles off the Boston Post Road. The extra proposed parking spaces are expected to accommodate regular YMCA activities and relieve the strains on the parking lot that can occur during the Special Events which the Commission approves to occur at the YMCA each year
22. The Commission heard evidence at public hearing nights on June 1, 2010 and July 6, 2010, and it deliberated on that evidence on July 20, 2010.
23. 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.

SPECIAL PERMIT AND SITE PLAN FINDINGS

24. As required by Section 1005a, the Commission finds that the location and size of the use, the nature of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that, as revised, the application is in harmony with the orderly development of the district in which it is located.

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25. Per Section 1005b, the Commission finds that the application, as required to be modified herein, and the location and nature of the proposed use, is such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
26. The Commission finds that the elements of the Site Plan submitted as part of the Special Permit application shall accomplish the objectives for Site Plan approval as specified in Subsection 1024.
27. Per Section 1005d, the Commission finds that the design, location, and specific details of the proposed use and site development, as required to be modified herein, will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.
28. The Commission finds, per Section 1005g, that consideration has been given to the protection, preservation and/or enhancement of the natural environment.
29. The location and size of the use and the nature and intensity of the proposed operation, as required to be modified herein, conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
30. 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.
31. 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.
32. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.
33. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would mitigate any adverse impacts by the proposed activity on coastal resources.

NOW THEREFORE BE IT RESOLVED that Special Permit Application #66-L, Coastal Site Plan Review #234-A, and Site Plan Application #259-A are hereby GRANTED WITH STIPULATIONS subject to the foregoing and following stipulations, modifications and understandings

- A. Construction and other activity shall be in conformance with the plans entitled:
 - Darien YMCA Phase II Additions Holly Pond Nursery School, Gymnastics April 16th, 2010, by James G. Rogers Architects, all plans last revised 4/16/10,
 - Staging and Phasing Plan, Sheet No. C1.1.
 - Landscape Plan, Sheet No. LP.1.
 - Site Layout Plan, Sheet No. SE.1.

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Site Grading and Soil Erosion Control Plan, Sheet No. SE2.

Site Utility Plan, Sheet No. SE3.

Construction Notes and Details, Sheet No. DT1.

Proposed Basement Plan, Sheet No. A1.0.

Ground Floor Plan, Sheet No. A1.1.

Second Floor Plan, Sheet No. A1.2.

Roof Plan, Sheet No. A1.3.

Exterior Elevations, Sheet No. A2.0

- Proposed Ground Floor Plan Phase II Additions by James G. Rogers Architects dated June 1, 2010.
- Proposed Second Floor Plan Phase II Additions by James G. Rogers Architects dated June 1, 2010.

ALL PLANS SHALL BE MODIFIED WITH THE ARCHITECTURAL CHANGES AS REQUIRED PER CONDITION B, BELOW.

CONDITIONS INCLUDED IN THIS APPROVAL, WHICH WERE NOT WITHIN THE 2008 DECISION:

B. The proposed architectural design needs to conform to the residential architecture of the neighborhood, including the use of peaked roofs, and less glass. The Commission hereby requires the following modifications to the proposed architecture of the building per Section 1005 of the Darien Zoning Regulations. The Commission believes that these modifications are necessary to protect public health, safety, convenience and property values, and are needed for the Commission to make the requisite Special Permit findings above. The required architectural changes in a modified design are as follows:

- i. The entry arbor shall be modified. A cloister made up of white wood pillars shall be used (similar to the cloisters now on the nursery school wing shown in the submitted photo entitled, "Existing Entry"). The proposed lobby addition (as shown on the June 1, 2010 Proposed Elevations) shall have ½ as much glass.
- ii. The gymnastics center addition shall have less glass and more brick. At least ½ the glass on the front façade and ½ of the glass on the main entry façade shall be eliminated. Any windows/glass to be used shall be no lower than four feet from the grade around the gymnastics area. This will help it blend in with the residential neighborhood. This change will reduce the possibility of light emissions at night within the neighborhood. Landscaping or ivy may be added in front of the building façade to "break up" the façade.
- iii. The nursery school wing shall have pitched roofs. The windows facing the parking lot (the front elevation) shall be more residential in nature, and shall include shutters. (similar to the nursery school wing shown in the submitted photo entitled, "Existing Entry"). The submitted plans entitled, "Typical Holly Pond Nursery School Classroom" dated June 2, 2010, show large six paned window extending from nearly floor to ceiling. The windows on this façade shall be more residential in nature, and reduced in size by at least 33% (allowing the top two panes of window to remain).
- iv. The entry area at the end of, and extending beyond, the arbor shall have less glass and more brick. At least ½ of the glass windows shall be eliminated. This change will reduce the possibility of light emissions at night within the neighborhood.

Revised architectural plans shall be submitted to the Planning and Zoning Office prior to the issuance of a Zoning or Building Permit. The Zoning Enforcement Officer shall review the revised plans to ensure full compliance with this resolution.

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- C. The YMCA shall hire and pay for police traffic control at the entrance of Seagate Road and Weed's Landing during P&Z approved YMCA Special Events. If necessary, the YMCA staff may be required to park at the nearby Church of Christ Scientist during Special Events. There should be no parking on Boston Post Road relating to YMCA regular activities. In this approval, the Commission is approving added parking spaces to accommodate the routine day-to-day YMCA activities within their site and within the designated parking areas on their site.
- D. The Commission hereby limits enrollment at the nursery school to a total of 220 students (not 220 at any one time). Any change to this number will require review and action by the Commission.
- E. As noted herein, the Commission has required for a number of years, the annual approval of any Special Events to be held at the YMCA. To minimize impacts on neighbors and traffic and parking, no gymnastics meet can be held at the same time as a Special Event (as defined by previous YMCA approvals) or when another intense use of the YMCA facilities is expected to attract attendance by more than 150 people at one time. Also to minimize impacts on the local area, the Commission limits the number of formal gymnastics meets to a maximum of 25 per calendar year. The list of proposed scheduled gymnastics meet dates shall be given to the Planning and Zoning Office at least 30 days prior to the first meet during each calendar year. Depending on the number of expected participants and attendees at a gymnastics meet, a gymnastics meet may or may not be considered a Special Event. There shall be no more than one Special Event held on any day.
- F. No YMCA programs shall start or end within fifteen minutes of the start or end of nursery school sessions, nor within fifteen minutes of the start or end of any Special Event (as defined by previous YMCA approvals). This specific program management will assist in minimizing parking and traffic impacts.
- G. By January 1, 2011, the YMCA shall post a notice conspicuously within the building that vehicles not parked in designated areas will be towed; and it shall implement a functioning towing program with a responsible towing service which can and will respond quickly to calls from the applicant to remove all vehicles not properly parked on its site. This will help in resolving the vehicles illegally parked on site. The Commission acknowledges that the parking lot addition, and the design of the proposed additions, including bio-swales, should help minimize illegal on-site parking. While parking is now allowed on Boston Post Road in front of the YMCA property, the Commission believes that this is not as safe as having YMCA member and visitor vehicles park on-site within designated striped areas on the YMCA property.
- H. By November 7, 2010 (within the next 60 days) and prior to the issuance of a Zoning or Building Permit for the proposed construction, a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, including any required revisions, it shall be filed in the Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 2420 Boston Post Road to maintain the on-site drainage facilities, and will alert future property owners of the on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill

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impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this approval by the Planning and Zoning Commission.

- I. The Commission does not at this time authorize any new or modified use of the former Atkinson property at 2390 Boston Post Road for any use other than as a single-family residence. It is not now considered part of the Special Permit regarding the YMCA property. Any change in use of that 2390 Boston Post Road property requires review and action by the Planning and Zoning Commission. While the residence can house member(s) of the YMCA staff and/or their family, it cannot be used as “living accommodations and/or dwelling units in conjunction with a Special Permit use...” per Section 405 of the Zoning Regulations without a Special Permit from the Commission.
- J. During the public hearing, testimony was heard regarding the proposed Dumpster and transformer locations. The Commission hereby requires that the Dumpster be located as shown on the submitted Landscape Plan, Sheet No. LP.1. That plan shows the relocation of the Dumpster from the west side of the property to the east side of the property. The new dumpster pad will be fenced, and be placed to the west of an existing board fence. As shown on the Landscape Plan, it is about 80’ from the Dumpster enclosure fence to the nearest non-YMCA owned property line. The Dumpster enclosure area shall be neatly maintained, and the doors shall remain shut at all times that someone is not loading or unloading garbage. The property owner is responsible for maintaining this trash area, including ensuring that it is emptied frequently enough to minimize odors. It is imperative that the doors remain shut when not in use. As discussed at the Public Hearing, the applicant indicated that the proposed transformer could be relocated to be farther away from the residential neighbors. The Commission requires that the transformer be relocated so that a new position is farther from the neighbors and is properly screened and shielded from view of the neighbors. The relocation position shall be subject to review and action by the Director of Planning and Zoning acting in his administrative capacity.
- K. While the gymnastics addition is being built and while it is temporarily used as the nursery school, the parking lot expansion is to take place. The YMCA must be very careful to make sure that the construction activity and site disturbance do not block or disrupt regular traffic flow on nearby streets, nor should these projects create a reduction of the needed on-site parking. There shall be no parking for any YMCA activity or function within the required buffer areas adjacent to the neighbors, in landscape areas, in required Fire Lanes or emergency access lanes, on the Boston Post Road nor on any nearby residential street(s). Before the gymnastics facility is used for any gymnastics program (training, practice or meets), the expanded parking area and all of the associated landscaping and drainage work, must be completed.
- L. The 8’ high screening fence as listed on the Landscape Plan (Sheet LP.1) shall be a stockade board fence made of wood.

CONDITIONS INCORPORATED HEREIN, WHICH WERE ALSO INCLUDED IN THE 2008 DECISION:

- M. In their July 15, 2008 letter, the adjacent property owners, the Shakers, requested that a two foot high berm be constructed on the YMCA property to minimize potential drainage impacts. The Commission believes that the installation of such a berm will assist in minimizing potential

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stormwater impacts on adjacent properties. Therefore, the construction of that berm is a condition of this approval, and shall be completed within 30 days of the start of construction of the parking area or the gymnastics addition, whichever occurs first. The berm that was previously approved by the Commission in 2008 is part of this approval. It must be located such that trees are not killed by filling at the roots. This berm should be located by the landscape team to avoid such problems. The purpose of the berm is to minimize any drainage impacts on adjacent properties, and ensure that the construction does not discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.

- N. Prior to planting the trees on the eastern part of the property within 50 feet of Holly Pond, the YMCA shall consult with the neighbors in this vicinity (Shaker and Wright) to possibly move them slightly so as not to impact their views. This minor relocation of some of the proposed trees shall be reviewed and is subject to action by the Planning and Zoning Director.
- O. As part of this application, a specific drainage plan was proposed and must be installed and maintained. The YMCA shall continue the maintenance program that involves cleaning of the catch basins and infiltrator system at least three times per year. Prior to the occupancy of the first addition, a final as-built certification from the project engineer shall be submitted once the required drainage has been installed.
- P. In order to minimize impacts of vehicles, vehicle lights, and noise, early arriving employees (arrivals prior to 8am) shall not then park on the parking areas closest to neighbors, both to the west and to the east. This will help minimize the potential impacts of vehicles, vehicles lights and noise on neighbors.
- Q. It is the YMCA's responsibility to monitor programs and parking. They shall adjust their programs and utilize off-site parking as necessary to minimize parking congestion and the use of on-street parking. The Commission strongly recommends that the YMCA publicize better to its members the peak usage times of the building, and when large events and Special Events are scheduled to occur. This would allow members to understand peak periods of usage of the YMCA, and possibly adjust their schedules to use the YMCA at other times in order to minimize on-street parking.
- R. Sediment and erosion controls shall be installed to properly manage storm water runoff and to minimize any adverse impacts during the construction 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 consistent with the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- S. All other conditions, stipulations, and requirements of all prior Special Permits, including Special Permit #66-J shall remain in full force and effect.
- T. Once each addition and portion of site work is completed, and prior to the use of the additions or issuance of a Certificate of Occupancy, a final "as-built" drawing along with written verifications prepared by the project architect and project engineer are hereby required, to certify that the site improvements (including drainage) are all in compliance with the approved plans.

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- U. The granting of this Permit does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to, approval from the State Traffic Commission prior to the issuance of a Zoning or Building Permit for the project.
- V. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- W. This permit shall be subject to the provisions of Sections 1009 and 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (September 7, 2011). This may be extended as per Sections 1009 and 1028.

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. All completed requirements and materials, including the submission of revised plans and the filing of a Special Permit form and Drainage Maintenance Plan in the Darien Land Records, shall be done within 60 days of this action in order to finalize this approval or this approval shall become null and void.

Chairman Conze read the following agenda item:

Special Permit Application #125-D/Site Plan, Darien Junior Football League (DJFL), Holahan Field, 2 Renshaw Road. Proposing to install three temporary lights at Holahan Field for DJFL team practices on weekdays. The subject property is located on the northeast corner of the intersection formed by Renshaw Road and Park Place, and Holahan Field is behind Town Hall. The property is shown on Assessor's Map #41 as Lot #85, in the R-1/3 Zone. *DECISION DEADLINE: 9/30/2010.*

The following motion was made: That the Planning and Zoning Commission waive the reading aloud of each draft resolution because the Commission members have had an opportunity to review the draft prior to the meeting. The motion was made by Mr. Hutchison, seconded by Mr. Voigt and unanimously approved.

Mr. Ginsberg summarized the draft findings and stipulations. Mr. Voigt said that he would suggest that sound baffles be recommended by the Planning and Zoning Commission, but not made a mandatory condition of the approval. The sound baffles would be located between the temporary generators and the neighboring properties. Mr. Conze agreed that the DJFL should use their best efforts to utilize noise baffles, and should also make their best effort to eliminate the need for the diesel powered generators.

Ms Riccardo said she watched the DVD of the Public Hearing, and has reviewed all the application materials. She added that she is also familiar with this application, and the similar application at the High School, because both are substantially similar to applications made by the DJFL in 2009. Accordingly, she said she is familiar enough with the two applications to vote on them.

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The following motion was made: That the Commission adopt the following resolution to approve with conditions and stipulations the DJFL application. The motion was made by Mr. Voigt, seconded by Mr. Hutchison and unanimously approved.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
September 7, 2010**

Application Number: Special Permit Application #125-D/Site Plan
Darien Junior Football League (DJFL), Holahan Field

Street Address: 2 Renshaw Road
Assessor's Map #41 Lot #85

Name and Address of:
and Property Owner: Town of Darien
2 Renshaw Road
Darien, CT 06820

Name and Address of Applicant &
Applicant's Representative Darien Junior Football League (DJFL)
c/o Guy Wisinski
35 Scofield Farms Road
Darien, CT 06820

Activity Being Applied For: Proposing to install three temporary lights at Holahan Field for DJFL team practices on weekdays in October and November of 2010.

Property Location: The subject property is located on the northeast corner of the intersection formed by Renshaw Road and Park Place, and Holahan Field is behind Town Hall.

Zone: R-1/3

Date of Public Hearing: July 27, 2010

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

Publication of Hearing Notices

Dates: July 16 & 23, 2010 Newspaper: Darien News & Stamford Advocate

Date of Action: September 7, 2010 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: Newspaper: Darien News
September 17, 2010

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

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- the proposed use and activities must comply with all provisions of Sections 400, 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 sketch, and the statements of the applicant 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 Commission notes that a very similar application was submitted by DJFL last year, and approved by the Planning and Zoning Commission. That approval was for use of temporary lights for a limited time in the fall of 2009 at Holahan field. DJFL has re-applied for use of temporary lights in 2010, and this application is a follow-up to the 2009 application (Special Permit Application #125-C/Special Permit).
2. In 2009, DJFL received approval to use temporary lights at Darien High School. They have also applied for such use in 2010 and 2011, which is the subject of a related application decided separately from this one.
3. The applicant is a youth sports association which conducts football practice and game activities for youngsters in the Town of Darien, starting in the primary grade age levels up into middle school age. It was formed more than twenty years ago with fewer than 100 youngsters playing, and now has more than 500 players on a variety of teams and age levels. Prior to 2008, it functioned successfully over these years using Town fields and facilities under the auspices of the Town Park and Recreation Commission without the installation or use of artificial lights.
4. The application is to install three temporary lights at Holahan Field for DJFL team practices on a maximum of 30 weekdays in 2010. DJFL received specific authorization from the Darien Parks and Recreation Commission to proceed with this application for this specific field. It also uses other fields owned by the Town, including some located at one or more public schools. The number, height, location and use of the proposed temporary portable lights were described at the public hearing. The purpose of the temporary portable lights is to have football practices on Holahan field later in the day during the shorter daylight weeks. The proposed temporary lights would allow lighted practices after sunset. The applicant is not expanding the football practice schedule in terms of numbers and duration of practice sessions.
5. Section 405b of the Darien Zoning Regulations allows lighting or illumination of recreation facilities as an Accessory Use Requiring a Special Permit. That Section reads as follows:

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b. Outdoor recreational uses and tennis courts. The lighting or illumination of recreational facilities is permitted provided that such lighting shall create no hazard or nuisance upon adjacent properties with reference to the following standards:

- (1) The source of such lights shall be concealed from surrounding residential properties;*
- (2) All lighting shall be located and be of such design that no illumination shall be directed toward surrounding residential properties;*
- (3) No lighting facilities shall be mounted at a height greater than 20 feet above grade.*

A Special Permit also must satisfy Section 1005 of the Darien Zoning Regulations. Twenty foot high lights are consistent with local zoning in Section 405b. Any lights that would be higher are not consistent with current zoning.

6. At the public hearing, the representatives from the DJFL noted that the proposal is to install three temporary diesel generator-powered light stands to allow DJFL practices at Holahan field weekdays only from Monday October 11 to either a) the date that the last DJFL team is eliminated from the playoffs or b) Friday November 19, 2010, whichever comes first. It was explained that October 11 to November 19 (15 weekdays in October and 15 weekdays in November) is the maximum usage, not necessarily the actual usage. It also was noted that DJFL has held practices on Holahan field for many years. The usage at that field will decrease as DJFL teams get eliminated from the playoffs. Practices are not usually held on Mondays, which also decreases the amount of days the lights are likely to be on.
7. The applicant requested to have the lights on from 5:30 p.m. to 7:00 p.m., with practice generally ending at or about 7:00 p.m., and giving everyone time to exit the field.
8. The applicant noted, and the Commission agrees, that this is a very limited proposal for a limited duration. The details presented to the Commission were satisfactory for this trial period. The Commission is looking for the DJFL to manage this temporary lights program. Use of this field is authorized by the Parks and Recreation Commission.
9. The subject application is solely for portable, lights to be used on a temporary basis. The usage of the lights was specifically defined and limited by the applicant within the application materials and at the public hearing. Any request for lighting beyond November 19, 2010 requires a subsequent Special Permit application to this Commission.
10. The Commission notes that Holahan field is used for many purposes throughout the year. The Commission acknowledges that this field is likely not suitable for permanent lights at any height due to this multi-purpose nature. Fields and historic use of this property is not typical of a Town Hall field, but rather a school field which it was in the past until 1983.
11. In a post-season written report to this Commission following last year's temporary use of lights at this location, and during the hearing on the current application, the DJFL reported that they sought to arrange for utility powered temporary lights this year but encountered a number of difficulties. They also presented testimony that sound absorbing and deflecting

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baffles or shields could be used to reduce the sound impact of generators upon residents of nearby streets.

12. The information gathered during the period of this year's trial operation nonetheless could be helpful in any future analysis of light proposals for the subject property. The Commission notes that because the period proposed this year is longer than in 2009, there can be other stipulations required by the Commission to ensure that the lights do not have a detrimental impact on the neighborhood. The Commission notes that some of the expressed concerns were due to the proposed use of diesel generators for the lights. If there is a future request, the Commission could be expected to encourage identifying and, if practicable, implementing ways to power the lights without the use of diesel generators, and powering them via a silent source, such as utility power.
13. It was clear from the applicant's presentation that no different or more intense activity or use is being proposed as part of this application. The existing afternoon and early evening football practices on Holahan field now occur, and will continue to occur. Only football practice sessions for Darien Junior Football League teams are proposed to occur under the subject lights. No other use of the lighted field is being requested.
14. This Commission specifically finds that the applicant has operated a highly successful youth sports program for many years, and it has grown and prospered without the use or need for artificial lights. No showing was made at the hearing that applicant's continued successful operation will depend in any material way upon its access to lighted practice fields at any time during its regular season or post-season.
15. The subject property is in an R-1/3 (residential) zone. This request includes tight control of ambient and direct light to minimize the impact on the neighbors' residential properties.
16. During the public hearing in 2009 on a related temporary lights application at this location, the applicant noted that sometimes, parents of DJFL players will turn on the headlights of their vehicles located in the Town Hall rear parking lot in order to provide light for the players. These lights face neighbors on Cherry Street. The Commission has concern regarding this practice, as these lights could shine into Cherry Street residences directly contrary to the provisions of Section 405b(2) of the Darien Zoning Regulations. The proposed portable lights configuration is facing away from Cherry Street residences. The Commission has received no evidence that this problem occurred in 2009, as DJFL took efforts to eliminate that practice. The normal youth sports activities which this Commission has approved for this location by the Town and by the Park and Recreation Commission does not allow such nuisance activity vis-à-vis surrounding neighbors' residences.
17. At the public hearing in 2009, neighbors voiced their concerns with the proposal. Their concerns included the lights and noise of later practices, the noise and smell of the proposed generators used to power the lights, as well as traffic on St. John's Place and Cherry Street from drop-off and pickup of DJFL players.
18. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public

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health, safety and welfare. An important aspect of this determination is the fact that this will be a trial use for a limited time, such that any impact upon property values and normal residential levels of nighttime quiet residential use will not be unreasonable given such a short time period of operation.

19. 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 residential areas, and the suitability of such actions to the area for which it is proposed.
20. The nature of the proposed lighting is such that this trial project will not unreasonably hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
21. The site plan has been reviewed by the Commission and is in general compliance with the intent, purposes and objectives of Section 1020.
22. The design, location, and specific details of the proposed use will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole. The activity is not expected to add to the traffic volumes in and out of the Town Hall parking areas beyond what DJFL practices currently entail.
23. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations, particularly because it seeks a short term trial period activity.

NOW THEREFORE BE IT RESOLVED that Special Permit Application #125-D/Site Plan are hereby modified and granted subject to the foregoing and following stipulations, conditions, modifications and understandings:

- A. Installation of the portable, temporary 20 foot high lights shall be in **general** accordance with the sketch entitled, "Approximate Location of the Three Lights Towers at Holahan Field-2010". Slight positioning adjustments may be made in the field to minimize impacts, but should be substantially similar to the placements shown on that sketch. In addition to careful positioning of the light stands to eliminate glare on neighbors' residences, applicants shall use their best efforts to install sound baffles or shields to absorb, reduce, and deflect the sound of the generators and the diesel engines from those residences and/or provide direct power to the lights.
- B. The lights (at a maximum of 20 feet high) shall only be turned on for DJFL practices during the time frame specified herein: Monday October 11, 2010 through Friday, November 19, 2010, 5:30 p.m.-7:00 p.m. These are the times proposed by the applicant in page 2 of its July 27, 2010 submission to the Commission. Only DJFL personnel shall be allowed to turn on the lights and turn them off. They shall be locked when not in operation.

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- C. As teams get eliminated from the playoffs, and fewer children are practicing, DJFL is encouraged to continue to move the lights further away from the neighbors, and use fewer lights, as less field space may be needed during the end of the 30-day use period.
- D. Similar to last year, the DJFL shall notify DJFL parents that turning on their vehicle headlights during practice or after practice beyond normal driving needs is no longer permitted. It is recommended that this notice be done via e-mail and also with a sign at the Holahan Field site.
- E. No players or coaches shall be picked up or dropped off on St. John's Place or on Cherry Street. Anyone dropping off or picking up shall do so from the Town Hall parking lot. It is recommended that DJFL notify parents of this via e-mail and with a sign at the Holahan field.
- F. On Mondays through Thursdays, the 20 foot high portable lights may stay on the field at their normal operating locations. On Friday nights or on Saturday mornings, and if required by the Park and Recreation Director, the lights shall be rolled back by the cemetery (near the 8-man sled) so that the fields may be used by other teams over the weekend.
- G. A contact phone number for DJFL shall be submitted to the Planning and Zoning Office before October 11, 2010 and prior to the installation of the portable lights. This should be a phone number where someone can be contacted when the lights are in use and immediately thereafter. This will allow the neighbors to contact someone directly if they believe that any of the conditions herein are not being complied with, or if the lights are not turned off at the correct time. Any phone calls regarding the lights during the trial period shall be logged, and included in the subsequent "post-operation" report required by the Commission herein.
- H. Within 60 days after the final light use allowed under this decision (such final use date expected to be on or before November 19, 2010), DJFL shall prepare a written report outlining the following: when the lights were used; any complaints regarding the noise, light, or other potential impacts to the neighbors; and what improvements could be made to minimize potential impacts (if any) were similar temporary lights to be used in the future. In order for the Planning & Zoning Commission to get a better understanding of how this trial period has worked, a copy of said report shall be submitted to the Planning & Zoning Office before January 31, 2011, so that the Commission can discuss said report at a meeting in late January or February 2011. It will also allow the DJFL to consider what they would do or could do differently, and to better understand what impacts the lights may have had.
- I. The granting of this Special 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. **The Commission hereby confirms that any future application for lights, whether temporary or permanent, shall require subsequent review and action by the Planning and Zoning Commission.**
- 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,

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deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke these permits as it deems appropriate.

All provisions and details of this decision shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final plan by the Chairman. A Special Permit form shall be filed in the Darien Land Records prior to the temporary installation of the lights.

Chairman Conze read the following agenda item:

Special Permit Application #188-D/Site Plan, Darien Junior Football League (DJFL), Darien High School, 80 High School Lane. Proposing to utilize six (6) portable lights at the Darien High School Stadium Field for seasonal fall use by Darien Junior Football League. The subject property is located on the north side of High School Lane approximately 1,200 feet west of its intersection with Middlesex Road, and is shown on Assessor's Map #9 as Lots #80 and #81, R-2 Zone. *DECISION DEADLINE: SEPTEMBER 30, 2010.*

Ms Riccardo said she watched the DVD of the Public Hearing, and has reviewed all the application materials. She added that she is also familiar with this application because it is substantially similar to the application made by the DJFL in 2009. Accordingly, she said she is familiar enough with this matter to vote on the application.

Minor modifications to the draft resolution were discussed and agreed upon by all members.

The following motion was made: That the Commission adopt the following revised resolution to approve with conditions and stipulations the DJFL proposal for temporary use of the lights at the High School facility. The motion was made by Ms. Cameron, seconded by Mr. Spain and unanimously approved.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
September 7, 2010**

Application Number: Special Permit Application #188-D/Site Plan
Darien Junior Football League (DJFL)
Darien High School, 80 High School Lane

Street Address: 80 High School Lane
Assessor's Map #9 Lots #80 & #81

Name and Address of:
Property Owner: Town of Darien
2 Renshaw Road
Darien, CT 06820

Name and Address of Applicant & Darien Junior Football League (DJFL)

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three-year approval for high school team use was granted, and a one year use for DJFL practice was granted. The DJFL also received approval for temporary portable lights for Holahan field on a trial basis for use in the late fall of 2009 (Special Permit Application #125-C), and has re-applied for lights during 2010 at that location as well.

3. The applicant is a youth sports association which conducts football practice and game activities for youngsters in the Town of Darien, starting in the primary grade age levels up through middle school age. It was formed more than twenty years ago with fewer than 100 youngsters playing, and now has more than 500 players on a variety of teams and age levels. Prior to 2008, it has functioned successfully over these years using Town fields and facilities under the auspices of the Town Park and Recreation Commission and the Board of Education without the installation or use of artificial lights.
4. The application is to utilize six (6) portable lights at the Darien High School Stadium Field for seasonal fall use by Darien Junior Football League (DJFL) for team practices on a maximum of 15 weekdays both in 2010 and in 2011. DJFL received specific authorization from the Darien Board of Education to proceed with this application for this specific field. The number, height, location and use of the proposed temporary portable lights were described at the public hearing. The purpose of the temporary 20 foot high portable lights is to have football practices on the high school Stadium Field during the early evening. The proposed temporary lights would allow lighted practices after sunset on some weeknights in the later part of autumn. The applicant is not expanding its existing football practice schedule.
5. The proposed 20 foot high lights are the maximum height allowed under the Darien Zoning Regulations—the Commission cannot approve lights higher than 20 feet under the current Regulations.
6. As respects the administration of activities on properties owned by the Town but dedicated to one of the public schools operated by the Board of Education, community activities, which are consistent with the primary educational use of the school facilities, are and have been traditionally administered by the Board of Education, subject to the application of such limitations as are contained in the Town Plan and land use regulations, as is all Town property.
7. Section 405b of the Darien Zoning Regulations allows lighting or illumination of recreation facilities as an Accessory Use Requiring Special Permit. That Section reads as follows:
*b. Outdoor recreational uses and tennis courts. The lighting or illumination of recreational facilities is permitted provided that such lighting shall create no hazard or nuisance upon adjacent properties with reference to the following standards:
The source of such lights shall be concealed from surrounding residential properties;*

All lighting shall be located and be of such design that no illumination shall be directed toward surrounding residential properties;

No lighting facilities shall be mounted at a height greater than 20 feet above grade.

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8. An important factor for this Commission in its consideration of this application is the location of the High School in a fully developed residential zone, surrounded on all sides by single-family houses; and with the Stadium Field, in particular, located adjacent to a portion of that neighborhood. The Commission's application of its own Regulations to this request for a Special Permit requires that these location and proximity factors be considered fully in assessing each element of those regulations.
9. During the 2009 Fall Sports season at Darien High School, an experimental or trial use of 20 foot high portable lights was carried out at the High School's Stadium Field after approval by the Planning & Zoning Commission. This allowed use by the high school varsity football team on up to 11 weekday practice sessions under the lights for a maximum of 33 hours. The DJFL also received approval to use those temporary lights at the high school in 2009 for a maximum of 15 days—a maximum of 22 hours. In 2008, the Commission allowed two DJFL practices totaling three hours. The 2008 approval ran from November 20 to December 5, 2008.
10. In the weeks following the 2008 trial use of the lights, the Darien Board of Education conducted a study and survey concerning the practice sessions and the use of the portable lights, and about the impact of these activities on the residential neighborhoods surrounding the High School. A January 29, 2009 five-page report with attachments was prepared by Donald P. Fital, Superintendent of Schools, and was briefly discussed by the Commission at the Commission's general meeting on March 10, 2009. The report primarily focused upon the use of the practice lights by the High School team and not on the two DJFL sessions. During the recent public hearing on the subject application, the use of the lights and the Fital report were discussed, and input from the general public was considered.
11. The DJFL has practiced at the Darien High School for a number of years. With the exception of the two evening trial use of practice lights in 2008, and the temporary portable lights approved by the Commission for two locations in 2009, these DJFL teams have not held their outdoor practice sessions at any Darien Town or School facilities under artificial lights.
12. This Commission specifically finds that the applicant has operated a highly successful youth sports program for many years, and it has grown and prospered without the use or need for artificial lights. No showing was made at the hearing that applicant's continued successful operation will depend in any material way upon its access to lighted practice fields at any time during its regular season or post-season.
13. In 2008, the Commission approved a trial of 20 foot high portable lights at the high school Stadium Field. This trial allowed the DJFL to practice on two weekdays under the lights. The lights used for that trial were run off diesel-fueled generators. The proposal for 2009 included temporary lights which were "hard wired" to use utility supplied electric power and not run from their own generators.
14. At the public hearing, the representatives from the DJFL noted that the proposal is to allow DJFL practices at the stadium field on weekdays only from the first day the lights are put into use by the Darien High School teams, to the earlier of a) the date that the last DJFL team

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is eliminated from the playoffs; or b) the Friday before the DJFL's Championship game weekend (typically the weekend prior to Thanksgiving), whichever comes first. It was noted that November 1 to November 19 (15 weekdays in November 2010) is the maximum usage, not necessarily the actual usage. The usage would decrease as DJFL teams get eliminated from the playoffs. It was also noted that practices are not usually held on Mondays, which also decreases the number of days the lights are likely to be on for DJFL teams.

15. The applicant has requested to have the lights on from 5:30 pm (or immediately following the practice of any DHS team using the field, whichever is earlier) to 7:00 pm. It is important to note that the Darien High School teams who use temporary practice lights at the stadium field are generally finished with their use of the lights by 5:30 p.m., sometimes earlier. The DJFL application seeks use of the lights after the DHS teams are finished for the day. Thus, the request from DJFL is for approximately 1 ½ hours on a maximum of 15 days—a maximum of approximately 22 hours of use at this location. All of this is in addition to any possible use of lights for practices at Holahan Field, which is the subject of a separate but related application (Special Permit Application #125-D/Site Plan).
16. The applicant noted, and the Commission agrees, that this is a very limited proposal for a limited duration. The details presented to the Commission were adequate for it to gain a sufficient understanding of the proposed activity. The Commission is looking for both representatives of the DJFL and representatives from the Darien Board of Education to manage this temporary lights program to ensure full compliance with Section 405b of the Darien Zoning Regulations.
17. The subject application is solely for six portable, lights to be used for practices only (not games) on a temporary and trial basis, only during certain weekdays in November 2010 and November 2011. The usage of the lights was specifically defined by the applicant within the application materials and at the public hearing. Any request for lighting beyond November 2011 requires a subsequent Special Permit application to this Commission.
18. The information gathered during this maximum 15 day trial period nonetheless could be helpful in any future analysis of light use proposals for the subject property. The Commission notes that if the trial period proposed had been for a longer span of weeks, there could have been other stipulations required by the Commission to ensure that the lights and activities would not have an impact on the neighborhood. During the hearing for this application, a neighbor appeared and presented photographs taken from various neighborhood locations which showed direct light from the fall 2009 use of the temporary practice lights at the DHS stadium field here involved. They also showed reflected light from these practice lights.
19. It was clear from the applicant's presentation that no different or more intense use is being proposed as part of this application. The existing late afternoon and early evening football practices on the Stadium Field now occur, and will continue to occur. Only football practice sessions for Darien Junior Football League teams are proposed to occur under the subject lights. No competitive games are allowed. No other use of the lighted Stadium Field is being requested.

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20. The Commission notes that the lights as proposed herein are a Special Permit use within a single-family residential neighborhood. The Commission believes that a longer-term approval for lights beyond those contained in this approval and the related Special Permit Application #188-B/Site Plan for the Board of Education could have unacceptable impacts on the neighbors and upon neighboring properties. It is incumbent upon the DJFL and the Board of Education to continue to work toward improvements which will minimize any potential impacts from the lights and the lighted activities on neighbors and neighboring properties.
21. The 2006 Town Plan of Conservation and Development provides for the preservation of the residential character of Darien.
22. The Plan also notes Darien is fully developed, and the Commission acknowledges the resultant scarcity of public resources and potential strain on adjoining land uses. This strain is particularly evident in the neighborhoods surrounding all of Darien's public schools and Town-owned properties and the need for athletic fields and open space to accommodate both public and private use.
23. The Commission acknowledges the need to closely monitor the use of these field resources to ensure minimal encroachment on neighboring residential development.
24. Any incremental use and physical enhancement to the existing fields and facilities is subordinate to maintaining the character and quiet enjoyment of these preexisting neighborhoods. The Commission has traditionally maintained the preservation of residential character with regard to any increased use of adjacent properties.
25. An important aspect of this determination is the fact that this will be a trial use for a limited time, such that any impact upon property values and normal residential levels of nighttime quiet residential use will not be unreasonable given such a short time period of operation, approximately 15 weekdays in both 2010 and in 2011.
26. Given the short and limited duration of the proposed use, the location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
27. 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.
28. The limited nature of the proposed lighting is such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
29. The site plan has been reviewed by the Commission and is in general compliance with the intent, purposes and objectives of Section 1020.
30. The design, location, and specific details of the proposed use will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the

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patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

31. 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 Special Permit Application #188-D/Site Plan is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Installation and use of the portable, temporary lights shall be in accordance with the plan approved by the Commission as part of Special Permit Application #188-C/Site Plan (the 2009 DJFL application) entitled,
- “Proposed Fall Seasonal Portable Light Units Darien High School Stadium Field”
Application for Special Permit August 10, 2009.
- This plan shows the proposed location of six (6) proposed Fall seasonal portable light units not more than 20 feet above grade (non-generator units). All six lights shall be per the plans submitted to the Commission.
- B. Based upon the potential needs of some DJFL teams’ early evening practice sessions a Special Permit for a trial use of six portable light stands, as described during the public hearing, shall be granted to the applicant for use at the Stadium Field. The lights may be used beginning as soon as Monday, November 1, 2010. The last day of practice lights use in 2010 shall be no later than Friday November 19, 2010 or when the last DJFL team is eliminated from the playoffs, whichever comes first. The 2011 dates approved herein shall be per the submitted application materials, and formally determined by DJFL in 2011, consistent with this decision.
- C. The lights shall only be turned on for DJFL practices during the time frame specified herein: weekdays only, Monday November 1, 2010 – Friday, November 19, 2010, 5:30 pm (or immediately following the practice of any DHS team using the field, whichever is earlier) until 7:00 pm. Thus, the Commission is approving a maximum light use of 15 weekdays. The dates in 2011 will be slightly different, but the hours of operation the same as approved herein for 2010.
- D. The Commission realizes that one of the difficulties of controlling the light spillage and the reflection of the light off the windows of the school is related to the maximum allowed height of 20 feet. At that height, the fixtures must be pointed at a certain angle to direct light onto the playfield. The Commissions hereby grants approval for the applicant (at their discretion) to coordinate with the Board of Education and the Director of Planning & Zoning to arrange for one demonstration each season with one or more of the lights up higher (but not beyond 40 feet) so that the fixtures can be directed more downward and less “sideways”. This demonstration can occur from 7-7:45 p.m. on one night each season (ie. once in the fall of 2010 and/or once in the fall of 2011). No practice or game shall occur during this demonstration, but rather, this higher light demonstration will allow DJFL and/or the Board of Education to measure, analyze and document the differences in light spillage. If any such higher elevation demonstration(s) take

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place, suitable notice to the neighbors shall be given in a manner approved by the Planning & Zoning Director.

Because of the similarity of this application with the prior application for temporary portable lights at Darien High School for use by DJFL (which was Special Permit Application #188-C/Site Plan), the following conditions of approval, which were included in that approval are also hereby included in this approval (with some date changes, and other minor changes in Conditions K and L, as appropriate):

- E. The lights herein are proposed for a very limited duration. Any longer duration would trigger increased scrutiny by the Commission per the Darien Zoning Regulations. Similarly, this request/approval is not for games--only practice, and no use on weekends. Any game or weekend usage would also trigger increased scrutiny by the Commission.
- F. The physical plant staff at the High School and DJFL representatives shall have full control of the light units; the power connections for them shall be deactivated when they are not in use at the panel that feeds the lights and the panel door will be locked; and, while the base fixtures for each of the light stands will house a locked diesel generator, these motors will not be operated during use of the lights, and the units' fuel tanks shall contain no fuel.
- G. The Commission requires that all electrical cords meet all applicable code requirements and be inspected by the Fire Marshal or the Building Inspector prior to their use.
- H. The Commission strongly recommends that the DJFL work in concert with the Board of Education in providing screening in the form of plantings on the High School property, which may help minimize any impact of these temporary lights.
- I. Because it is possible that the four fall high school teams which have been given approval as part of the Board of Education lights application (Special Permit application #188-B/Site Plan) are eliminated from the playoffs prior to November 19, 2010 (with the associated end date yet unknown in 2011), there is a chance that the lights may be in use only by DJFL on certain weekdays. Conversely, if DJFL teams get eliminated earlier, it is possible that the lights may be in use by only one or more high school teams on certain weekdays. It is also possible that the lights may not be used on certain weekdays within the total approved period due to practice schedules. Whether or not all of the permitted times and dates are used, no dates or hours of lighted practice sessions are authorized beyond those set out in paragraphs B and C of this decision.
- J. A contact phone number for DJFL shall be submitted to the Planning and Zoning Office before October 29 and prior to the installation of the portable lights. This should be a phone number where someone can be contacted when the lights are in use and immediately thereafter. This will allow the neighbors to contact someone directly if they believe that any of the conditions herein are not being complied with, or if the lights are not turned off at the correct time. Given the fact that the physical plant facilities of the High School will have direct control of the connections to the lights, neighbors may also call the High School contact numbers. Any phone calls regarding the lights during the trial period shall be logged, and included in the subsequent "post-operations" report required by the Commission herein.

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- K. Within 60 days after the final light use allowed under this decision (such final date expected to be in November 2011), DJFL shall prepare a written report outlining the following: when the lights were used; any complaints regarding the noise, light, or other potential impacts to the neighbors; and what changes could be made to minimize potential impacts (if any) were temporary lights to be used in the future. In order for the Planning & Zoning Commission to get a better understanding of how this trial period worked, they are requiring that a copy of said report be submitted to the Planning & Zoning Office before January 31, 2012, so that they can discuss said report at a meeting in late January or February 2012. This meeting will allow the Commission to hear first-hand from both the DJFL and the neighbors about these temporary portable lights. It will also allow the DJFL to consider what they would do or could do differently, and to better understand any impacts that the lights may have had. If a 40' demonstration is conducted, the results should be included in the report required by this paragraph.
- L. The Commission has a high degree of concern about evening disturbances in the quiet neighborhood where the High School is located. At the hearing, some guidance and arguments were presented on ambient or background noise and light levels in the evening. Should other similar applications be made for temporary practice lights during evening hours, the Commission will need to determine whether, in this neighborhood, the activities approved herein on a trial basis are suitable, reasonable, and acceptable after 6 p.m., or whether they institute an unacceptable intrusion upon the neighbors. The Commission strongly recommends that during the trial period the light and sound from the High School Stadium Field location be analyzed by professional experts. This would allow the DJFL to include this information in its "post-operations" report. Given the lights visible, direct and reflected, at some nearby residences in 2009, as shown for example by the neighbors' photos at the public hearing, this Commission can be expected to require compliance with its Zoning Regulations Sections 405b (1) and (2) by any future applicant seeking approval of practice lights at the Stadium Field. The interim time is more than sufficient to make such improvements as may be necessary to comply with these provisions.
- M. The granting of this Special 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. The Commission hereby confirms that any future application for lights, whether temporary or permanent, shall require subsequent review and action by the Planning and Zoning Commission.
- N. 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 these permits as it deems appropriate.

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 plan. A Special Permit form shall be filed in the Darien Land Records prior to the temporary installation of the lights or use of the lights by DJFL.

Chairman Conze read the following agenda item:

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Business Site Plan #275/Special Permit, Noroton Heights Shopping Center (tenant: Phil's Grill), 340 Heights Road. Proposing to establish a restaurant with seasonal outdoor dining in the space formerly occupied by Roxy Video, within Noroton Heights Shopping Center. The subject property is located on the north side of Heights Road. *DECISION DEADLINE: SEPTEMBER 30, 2010.*

Ms. Riccardo said that she had reviewed the DVD regarding this matter, and is familiar with the application materials but will not vote on the matter.

Mr. Spain said that the draft resolution was well done, and cautioned that the control of odors will be needed in order to avoid any odors impacting the residential neighborhood and the nearby businesses. It is up to the applicants to do whatever is necessary to control the odors emitted from the proposed operation.

The following motion was made: That the Commission adopt the following resolution to approve with conditions and stipulations the proposed restaurant use in the Noroton Heights Shopping Center. The motion was made by Ms. Cameron and seconded by Mr. Hutchison. All members of the Commission voted in favor except for Ms. Riccardo, who abstained. The motion was carried by a vote of 5-0-1.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
September 7, 2010**

Application Number: Business Site Plan #275/Special Permit
Noroton Heights Shopping Center (tenant: Phil's Grill)

Street Address: 340 Heights Road
Assessor's Map #75 Lots #22 - #24

Name and Address of Applicant &
Applicant's Representative: Wilder G. Gleason
Gleason & Associates, LLC
455 Boston Post Road, Suite 201
Darien, CT 06820

Name and Address of
Property Owner: Noroton Heights Shopping Center
Darien, CT 06820

Activity Being Applied For: Proposing to establish a restaurant (to be known as Phil's Grill) with seasonal outdoor dining in the space formerly occupied by Roxy Video, within Noroton Heights Shopping Center.

Property Location: The subject property is located on the north side of Heights Road approximately 250 feet east of its intersection with Hollow Tree Ridge Road.

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Zone: DC

Date of Public Hearing: July 27, 2010

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

Publication of Hearing Notices

Dates: July 16 & 24, 2010

Newspaper: Darien News and Stamford Advocate

Date of Action: September 7, 2010

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
September 17, 2010

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 630, 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 applicant 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 establish a restaurant with seasonal outdoor dining in the space formerly occupied by Roxy Video, within Noroton Heights Shopping Center. The applicant noted that as part of the restaurant, a wine/beer license may be pursued with the State of Connecticut. A restaurant with at least 800 square feet of indoor floor space devoted to customer seating area is a Principal Use requiring a Special Permit, per Section 634b of the Darien Zoning Regulations. The submitted plans show 930 square feet of customer seating area indoors, consisting of 57 seats.
2. As part of this application, a new outdoor seating/dining area would be created in the front of the building (facing Heights Road). Part of the existing lawn in this area will be replaced by composite permeable pavers, and some new landscaping installed, as shown on the submitted Landscaping and Fence Plan dated 06.15.10. The outdoor seating area would be about 720 square feet in size, and contain eight tables and thirty-two (32) seats. Each table will have an umbrella over it.

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3. The Architectural Review Board (ARB) reviewed the signage for this project at its July 20, 2010 meeting. In a July 21, 2010 letter, it was noted that the two new wall signs and changes to the building were approved by the ARB. That approval is hereby incorporated by reference.
4. The applicant represented the following proposed hours of operation within the application materials: Sunday through Saturday a maximum of 11 a.m. to 9:30 p.m. Generally, six employees and a manager would be present on-site.
5. A site plan for the subject property was submitted for the record showing that there are now multiple buildings on the property and over 100 parking spaces. The application performed an informal parking study of the on-site parking, which reflected sufficient parking available for the proposed restaurant. Section 905 of the Zoning Regulations allows the Commission to consider joint parking for the various businesses on the subject property. Within a 06.15.2010 two-page Phil's Grill Parking Survey and related June 18, 2010 application narrative submitted by the applicant, and as described at the public hearing, it was demonstrated that sufficient parking is available around and near the restaurant. The Commission hereby finds that the proposed capacity of parking meets the intent of the requirements.
6. At the public hearing, the applicant noted that there is now an enclosed dumpster in the rear of the property (in the northwest corner of the subject property). There is also a dumpster in the front of the building right below the stairs. The dumpster in the front of the building is now used by Heights Pizza. Because of the location of the dumpster in the northwest corner of the property near residential properties, the applicant has confirmed that the proposed restaurant will use the dumpster at the bottom of the stairs in the front of the building, which is now used by Heights Pizza. The applicant noted that the existing dumpster will likely need to be increased in size, and emptied more frequently.
7. Deliveries will be to the north and/or west of the building. The Commission believes that if properly managed, deliveries will not interfere with the day-to-day operations of the Noroton Heights Shopping Center.
8. Three new above ground propane tanks are shown on the plans. Per the Fire Marshal's comments, these tanks may need to be relocated slightly in order to comply with the Fire Code.
9. The proposed restaurant with associated outdoor seating would have a greater parking requirement than the video store which was previously in this location. At the public hearing, the applicant was able to demonstrate that the existing on-site parking, which is shared by multiple stores on the subject property would be sufficient. During the public hearing, it was noted that one of the existing on-site parking spaces will have to be changed to a handicapped-accessible space.
10. The location and size of the use, the nature of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that the application is in harmony with the orderly development of the district in which it is located.

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11. The location and nature of the proposed use, is such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
12. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
13. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or increase unsafe traffic conditions between adjoining developments and the district as a whole.

NOW THEREFORE BE IT RESOLVED that Business Site Plan #275/Special Permit is hereby modified and approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The Commission hereby approves the following plans received in the Planning and Zoning Department entitled:
 - Proposed Floor Plan, by Jones Green Design, dated 07.15.10.
 - Proposed Phil's Grill Patio, Landscaping & Fence Plan, CT, by Joes Green Design, dated 06.15.10.
 - Palmer's Market, Site Plan, date 6/22/98.Final details of the interior floor plan may be modified subject to final approval by the Fire Marshal, Health Director, Planning & Zoning Director, and Building Official. Any final floor plans must be consistent with representations made at the public hearing by the applicant and be consistent with this Resolution. The Commission hereby requires that any final interior floor plans specifically allow for public access through the proposed multiple doors, and that there be no more than 57 interior seats and 32 exterior seats. The Commission also approves, if required by the Building Official, a modification in the existing on-site parking area to add a handicapped parking space near the proposed restaurant.
- B. All deliveries to this proposed restaurant shall be made between 8 A.M. and 11:30 A.M., in order to minimize impacts to the neighboring residential properties to the north and west and the neighboring tenant(s) at 340-365 Heights Road, and to minimize parking conflicts with other businesses at 340-365 Heights Road.
- C. Due to the scope, nature, and/or amount of work proposed within the application, the Commission hereby waives the requirement for Stormwater Management in Section 880 of the Darien Zoning Regulations. Although 720 square feet of existing lawn is being converted for outdoor dining use, the applicant will use composite permeable pavers for that area.
- D. The Commission hereby waives the requirement for a formal off-street loading space under Section 909 of the Darien Zoning Regulations. The Commission finds that the rear and side of the building are sufficient for loading and unloading of trucks. All loading and unloading shall be scheduled and coordinated so as to not interfere with arrival or dismissal of the scheduled classes in Elements, an adjacent yoga facility.

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- E. Because of this property's proximity to a residential zone, it is imperative that odors be minimized via a properly designed and functioning exhaust system. In order to minimize potential odors, the Commission hereby requires that the exhaust system include at a minimum, a CaptiveAire kitchen hood with high performance grease filters and to direct the exhaust away from the Residential Zone. This shall include an extension on the exhaust fan to direct the exhaust air away from the residential properties along West Avenue and along Hollow Tree Ridge Road. The filtering and exhaust system is to be designed and installed in a manner that allows it to be easily and inexpensively upgraded in the future if odor is a problem. Prior to the issuance of a Certificate of Occupancy or restaurant opening for business, documentation shall be provided by the exhaust system installer to the Planning & Zoning Department that the proposed system has been properly installed. The tenant is responsible for assuring that the venting system functions properly at all times. The proposed venting system shall be installed per the approved plans and per the requirements of the Darien Health Department, Fire Marshal and Building Department. The continuing operation of and proper regular maintenance of the ventilation system (as recommended by the manufacturer or as required by the Darien Health Department) to prohibit the discharge of odors to the surrounding uses and/or properties is the responsibility of the restaurant operators and the owner of the property. The system shall be operated and maintained to minimize the emission of odors that could or would negatively impact adjacent property and/or be a potential nuisance to nearby residents. If, in the opinion of the Zoning Enforcement Officer (ZEO), there is a persistent recurring odor, the ZEO shall contact the tenant. Odor complaints from commercial and/or residential neighbors shall also be reviewed and investigated by the ZEO. The tenant shall then take appropriate measures to minimize odors, including, if necessary in the judgment of the ZEO, the updating and improvement of the ventilation and exhaust system, including, if required by the ZEO, the installation of a full water wash filter system. In order to better understand how the proposed kitchen exhaust system functions, the tenant shall submit a short written report to the Commission in August 2011, noting the experience up to that point with the kitchen exhaust, whether the venting has proven to be sufficient, whether complaints have been received, and what actions have been taken to (a) ensure that there have been no fumes or odors, and/or (b) to respond to said complaints.
- F. The submitted Exterior Elevation and Signage Package Plans show the location of the proposed outdoor seating/dining. All umbrellas for the outdoor seating/dining areas cannot have any writing or advertising on them. The outdoor tables, associated umbrellas and and chairs shall be stored indoors during the off-season.
- G. Because of the restaurant's proposed location (adjacent to a residential zone), the Commission hereby limits the proposed hours of operation to be a maximum of 11 a.m. to 9:30 p.m. The Commission understands that employees will need to arrive earlier and stay later, thus employees may arrive up to 1 ½ hours before opening, and stay up to 1 ½ hours after 9:30 p.m. Any hours longer than those will require subsequent review and action by the Planning & Zoning Commission.
- H. Due to the proximity of the proposed restaurant to the residential neighbors, no entertainment, music, or use of amplifiers or speakers shall be permitted outside the building. Any such activities within the building shall be controlled to the extent that they are not noticeable outside of the building.

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- I. No signs shall be placed on the subject property restricting or limiting parking for any one specific business of the property by customers or employees of these businesses or tenants or at 340 Heights Road.
- J. Prior to the issuance of a Certificate of Occupancy for the proposed use, site improvements and changes shall be completed. These include, but are not limited to, landscaping, new black iron fence, and the installation of a larger Dumpster(s) to the south and east of the outside dining area shall be established per the representations at the public hearing. The Dumpster enclosure area shall be neatly maintained, and the doors shall remain shut at all times that someone is not loading or unloading garbage. The applicant is responsible for maintaining this shared trash area, including ensuring that it is emptied frequently enough to minimize odors. Although the trash facility area may be shared with other uses on the 340-364 Heights Road properties, the applicant and landlord shall be responsible for the upkeep and maintenance of the area, and replacing the Dumpster enclosure fencing if needed.
- K. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- L. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agencies. This includes, but is not limited to, final approval from the Darien Health Department and the Darien Fire Marshal. The grease trap will need to be inspected by the Public Works Department.
- M. This permit shall be subject to the provisions of Section 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (September 7, 2011). This may be extended as per Section 1009.

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, the signing of the final approved plans by the Chairman, and filing of the Special Permit form in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

Chairman Conze read the following agenda item:

Coastal Site Plan Review #209-A, Flood Damage Prevention Application #288, William & Rose-Marie Shanahan, 58 Sunswyck Road. Proposing construction of a fixed timber pier, ramp and floating dock on the westerly shore of the property and to perform related site activities within regulated areas. The subject property is located on the east side of Sunswyck Road approximately 630 feet south of its intersection with Tory Hole Road, and is shown on Assessor's Map #62 as Lot #22-1, and is in the R-1 Zone. *DECISION DEADLINE: SEPTEMBER 30, 2010.*

Ms. Riccardo said that she will abstain from voting on this matter.

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The following motion was made: That the Commission adopt the following resolution to approve the application with conditions and stipulations. The motion was made by Mr. Spain and seconded by Ms. Cameron. All voted in favor except for Ms. Riccardo. The motion passed by a vote of 5-0-1.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
September 7, 2010**

Application Number: Coastal Site Plan Review #209-A
Flood Damage Prevention Application #288

Street Address: 58 Sunswyck Road
Assessor's Map #62 Lot #22-1

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

Name and Address of:
Property Owner: William & Rose-Marie Shanahan
5 Conant Place
Darien, CT 06820

Activity Being Applied For: Proposing construction of a fixed timber pier, ramp and floating dock on the westerly shore of the property and to perform related site activities within regulated areas.

Property Location: The subject property is located on the east side of Sunswyck Road approximately 630 feet south of its intersection with Tory Hole Road.

Zone: R-1

Date of Public Hearing: July 27, 2010

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

Publication of Hearing Notices

Dates: July 16 & 24, 2010

Newspapers: Darien News & Stamford Advocate

Date of Action: September 7, 2010

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
September 17, 2010

Newspaper: Darien News

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

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- 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.
- 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.

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

1. The owner proposes to install a 4' x 110' fixed timber pier, a 3' x 30' aluminum gangway, and a 10' x 10' floating dock within Scott's Cove.
2. As noted at the public hearing, the applicant received approval from the State of Connecticut Department of Environmental Protection (DEP) in Permit #200900780-KF for this work. The DEP Office of Long Island Sound Programs sent an e-mail dated July 15, 2010, noting that "...[a]s the applicant has obtained the necessary authorizations for the proposed pier, ramp and dock, we find no inconsistencies in the proposal...". The applicant has also received the required approval from the Army Corps of Engineers (Permit No. NAE-2010-81). It was noted during the public hearing that the State of CT DEP required that a boat cradle be installed by the applicant as part of the State approval.
3. The potential adverse impacts of the proposed activity upon coastal resources, as designed are minimal and are therefore acceptable.
4. 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.
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, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 (the Connecticut Coastal Area Management Act) of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would minimize any adverse impacts by the proposed activity on coastal resources.
7. The proposed activities, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.

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NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #209-A and Flood Damage Prevention Application #288 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the plans entitled:
 - Proposed Plan & Section Shanahan Residence, by Roberge Associates Coastal Engineers, LLC, dated 12/1/08, Sheet No. D-02.
 - Proposed Plan & Section Shanahan Residence, by Roberge Associates Coastal Engineers, LLC, dated 12/1/08, Sheet No. D-04.
 - Proposed Plan & Section Shanahan Residence, by Roberge Associates Coastal Engineers, LLC, dated 12/1/08, Sheet No. D-05.
 - Overall Grading Plan, by Gregory Lombardi Design Incorporated, dated 12/15/08, Sheet L1.00.
- B. The proposed activity is consistent with the goals and policies in Section 22a-92 (the Connecticut Coastal Area Management Act) of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would mitigate any adverse impacts by the proposed activity on coastal resources.
- C. Due to the location of the subject property and the scope, nature and amount of work proposed within the application, the Commission hereby waives the requirement for stormwater management per Sections 888a(1) and 888a(3) of the Darien Zoning Regulations.
- D. During construction, the applicant shall utilize any 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. The Planning and Zoning Department shall be notified prior to commencement of work and after any 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.
- E. Prior to September 7, 2011, as-built maps, surveys and/or other documentation shall be submitted to the Commission to verify that the dock has been installed and completed in accordance with the approved plans. No deviation or alterations from the approved plans shall be permitted except with the prior written permission of the Commission.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- G. 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.

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H. This permit shall be subject to the provisions of Section 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (September 7, 2011). This may be extended as per Section 829f.

All provisions and details of the plans 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.

Chairman Conze read the following agenda item:

Business Site Plan #138-A/Special Permit, William Raveis Real Estate, 22 Old King's Highway South. Proposing to construct additions and alterations to the existing commercial building (including a handicap ramp) and to perform related site development activities; and application for a Special Permit for a first floor real estate office use within the CBD Zone. The subject property is located on the west side of Old King's Highway South, approximately 50 feet south of its intersection with Center Street, and is shown on Assessor's Map #72 as Lot #36, and is in the CBD (commercial) Zone. *DECISION DEADLINE: SEPTEMBER 30, 2010.*

Mr. Hutchison recused himself from participation in order to avoid the perception of a conflict of interest. He left the room.

Mr. Conze summarized the draft resolution, particularly Stipulation B concerning revisions necessary to the architecture of the building. He said that the use is not the problem, but the architecture needs to be improved.

Ms. Riccardo said she will abstain from voting on this matter.

The following motion was made: That the Commission adopt the following resolution to approve the application with conditions and stipulations. The motion was made by Ms. Cameron and seconded by Mr. Spain. Voting in favor were Ms. Cameron and Messrs. Spain, Voigt and Conze. Mr. Hutchison did not vote because he had left the room, and Ms. Riccardo abstained. The motion was approved by a vote of 4-0-2.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
September 7, 2010**

Application Number: Business Site Plan #138-A/Special Permit
William Raveis Real Estate

Street Address: 22 Old King's Highway South
Assessor's Map #72 Lot #36

Name and Address of Applicant & Applicant's Representative: Wilder G. Gleason, Esq.
Gleason & Associates, LLC
455 Boston Post Road, Suite 201

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Darien, CT 06820

Name and Address of
Property Owner: William Raveis Real Estate
7 Trap Falls Road
Shelton, CT 06484

Activity Being Applied For: Proposing to construct additions and alterations to the existing commercial building (including a handicap ramp) and to perform related site development activities; and application for a Special Permit for a first floor real estate office use within the CBD Zone.

Property Location: The subject property is located on the west side of Old King's Highway South, approximately 50 feet south of its intersection with Center Street.

Zone: CBD (commercial) Zone

Date of Public Hearing: June 22, 2010 and immediately continued to July 27, 2010

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

Publication of Hearing Notices

Dates: June 10 & 17, 2010

Newspaper: Darien News

Date of Action: September 7, 2010

Action: APPROVED WITH CONDITIONS AND
MODIFICATIONS

Scheduled Date of Publication of Action:
September 17, 2010

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 650, 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 applicant 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 construct additions and alterations to the existing commercial building (including a handicap ramp) and to perform related site development activities; and application for a Special Permit for a first floor real estate office use within the CBD Zone.

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Section 654d of the Darien Zoning Regulations allows a first floor real estate office if the Commission makes a finding that “retail/commercial sales and service use of such space is impractical, undesirable, and/or inconsistent with the standards under Section 1005h.”

2. The existing two-story building has a total of 2,726+/- square feet (2,726 according to the Assessor’s Records, and 2,743 according to the submitted Zoning Location Survey). The proposal is to add about 360+/- square feet, bringing the size of the building to 3,161+/- square feet. The entire building is now used as a real estate office.
3. The Zoning Board of Appeals (ZBA) granted variance requests (Calendar #38-2010) on June 16, 2010. Those variances were from Sections 656, 904, 923.1c and 923.6 of the Zoning Regulations, to allow the construction of additions, with parking and signage. That ZBA approval is hereby incorporated by reference.
4. At the public hearing, the applicant noted the presence of a Sycamore Tree and Japanese maple on the subject property, both of which are to be preserved as part of this application. The proposed plan shows only one tree to be removed—a 15” maple in the rear corner of the property.
5. One development option presented to the Commission was whether the area adjacent to Center Street will be a sidewalk or landscaping. The applicant met with the Board of Selectmen, who said any constructed sidewalk and associated improvements should be constructed to “Model Block” standards. This would include the proposed lights as shown on the submitted Development Plan.
6. The Architectural Review Board (ARB) acted upon this application at its July 20, 2010 meeting. That ARB decision was confirmed in a July 21, 2010 letter from Susan Lawrence to Wilder Gleason, specifically noting that “...the Board voted to approve Option D of the application as the most appropriate design in which to re-orient and make changes to the facades of the building...” The Planning and Zoning Commission notes that in this specific downtown location, the Commission believes that in order to protect adjacent and nearby property values, features of a more a traditional style building is warranted. The photographs shown and submitted at the July 27th public hearing show adjacent and nearby buildings. The Commission finds that some slight changes in the architecture of the proposed building addition are required to make the requisite Special Permit findings under Section 1005 of the Darien Zoning Regulations.
7. As noted by the applicant, this building project will create an informal “pass-through” or access from the Center Street South municipal parking lot through to Old King’s Highway South. Such an access will assist in the Commission’s long-term goal of making downtown more walkable, as well as having downtown activity reoriented to be more “north-south” than “east-west”. The Commission is not requiring the establishment of a formal pedestrian access easement, noting that the submitted Development Plan approved herein show no fences, gates or other impediments to pedestrian access alongside the building through to Old King’s Highway South. The submitted Development Plan also does not show any garbage cans or outdoor storage in this access area--either of which would inappropriately impede or inhibit pedestrian access and passage.

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SPECIAL PERMIT AND SITE PLAN FINDINGS

8. As required by Section 1005a, the Commission finds that the location and size of the use, the nature of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that, as revised, the application is in harmony with the orderly development of the district in which it is located.
9. Per Section 1005b, the Commission finds that the application, as required to be modified herein, and the location and nature of the proposed use, is such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
10. The Commission finds that the elements of the Site Plan submitted as part of the Special Permit application shall accomplish the objectives for Site Plan approval as specified in Subsection 1024.
11. Per Section 1005d, the Commission finds that the design, location, and specific details of the proposed use and site development, as required to be modified herein, will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.
12. The Commission finds, per Section 1005g, that consideration has been given to the protection, preservation and/or enhancement of the natural environment. Tree protection will be used to preserve the significant on-site trees.
13. The location and size of the use and the nature and intensity of the proposed operation, as required to be modified herein, conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.
14. The Commission notes that the subject property has been used as a real estate office for several years. The Commission has considered the presence of off-street parking in direct proximity of the site, the character of surrounding uses, convenience of pedestrian access, and location within the CBD. The Commission hereby finds that retail/commercial sales and service use of such space is impractical, undesirable, and/or inconsistent with the standards under Section 1005h.

NOW THEREFORE BE IT RESOLVED that Business Site Plan #138-A/Special Permit is hereby modified and approved subject to the foregoing and following stipulations, modifications and understandings:

- A. As required to be modified herein, the Commission approves the following plans received in the Planning and Zoning Department, entitled:
 - Development Plan Commercial Development William Raveis Real Estate by Rocco V. D'Andrea Inc., dated 5-10-10.

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- Zoning Location Survey Proposed Addition Survey of Property Located at 22 Old King's Highway South by Laferriere Associates, dated May 14, 2010.
- William Raveis Real Estate 22 Old Kings Highway South Addition and Alterations by Sound Architecture, dated 05/11/10, Drawing Number: L101, A101-A102, A201-A202. (WITH THE ARCHITECTURAL CHANGES AS REQUIRED TO BE MODIFIED PER CONDITION B, BELOW)

The Development Plan and Zoning Location Survey show the proposed additions and alterations to the existing building as well as removal of the existing picket fence and landscaping which now exist between the building and the Center Street South municipal parking lot.

- B. The Commission hereby requires the following modifications to the proposed architecture of the building per Section 1005 of the Darien Zoning Regulations. The Commission believes that these modifications are necessary to protect public health, safety, convenience and property values, and are needed for the Commission to make the requisite Special Permit findings above. The required architectural changes are as follows:
1. There shall be paned glass with smaller windows on the façade facing Center Street and the Center Street South municipal parking lot;
 2. There shall be mullions on the windows facing Center Street and the Center Street South municipal parking lot;
 3. Real estate listings are only to be on the windows facing 24 Old King's Highway South (along the proposed informal pedestrian access walkway to Old King's Highway South). No listings shall be placed in windows on the front of the building facing Old King's Highway South, facing the neighboring property at 20 Old King's Highway South, or the "rear" of the building facing the municipal parking lot;
 4. Less glass shall be used on the part of the addition facing Center Street;
 5. The proposed rooflines shall be pitched, rather than flat.
- Revised architectural plans shall be submitted to the Planning and Zoning Office prior to the issuance of a Zoning or Building Permit. The Zoning Enforcement Officer shall review the revised plans to ensure full compliance with this resolution.
- C. Due to the nature of the proposed use, the Commission hereby waives the loading space under Section 909 of the Zoning Regulations.
- D. In order to address stormwater management, the applicant submitted a June 1, 2010 letter from professional engineer Anthony D'Andrea of Rocco V. D'Andrea, Inc. Mr. D'Andrea noted that the proposed building and associated handicapped access ramp are proposed over an already impervious area. The Commission finds, under Section 888a(3), that due to the scope, nature, and/or amount of work proposed with the application, the stormwater management requirement is waived.
- E. As noted by the applicant, this building project will create an informal "pass-through" or access from the Center Street South municipal parking lot through to Old King's Highway South. Such an access will assist in the Commission's long-term goal of making downtown more walkable, as well as having downtown activity reoriented to be more "north-south" than "east-west". The Commission is not requiring the establishment of a formal pedestrian access easement, noting that the submitted Development Plan approved herein show no fences, gates or other impediments to pedestrian access alongside the building through to Old King's Highway South.

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One or two days each year, the applicant may explicitly prohibit use of the walkway by the general public to avoid any claim of an easement or a right of public passage through the private property. The submitted Development Plan also does not show any garbage cans or outdoor storage in this access area--either of which would inappropriately impede or inhibit pedestrian access.

- F. Because of the proposed location of the real estate office within downtown Darien and the nature of the proposed real estate use, the Commission does not limit the proposed hours of operation.
- G. No Dumpster or trash area is shown on the submitted plans and none is approved herein. Any future request for a Dumpster or outdoor trash area will require review and action by the Planning and Zoning Commission as a modification of this Site Plan/Special Permit.
- H. Prior to the issuance of a Certificate of Occupancy for the proposed additions to the building, all site improvements and changes shall be completed. These include, but are not limited to, the new sidewalk and two associated street lights, which shall be constructed per "Model Block" standards, and established per the representations at the public hearing and in the submitted plans.
- I. No request for exterior seating, storage or activity was included as part of this application. Any such request will require subsequent review and action by the Planning & Zoning Commission.
- 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 the permit as it deems appropriate.
- K. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agencies. This includes, but is not limited to, final approval from the Darien Department of Public Works for a Street Opening Permit (for the construction of the sidewalk and associated improvements on Town property), and the Darien Fire Marshal.
- L. This permit shall be subject to the provisions of Sections 1009 and 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (September 7, 2011). This may be extended as per Sections 1009 and 1028.

All provisions and details of the plans, as required to be modified herein, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations, the signing of the final approved plans by the Chairman, and filing of the Special Permit form in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

Mr. Hutchison returned to the meeting. Mr. Conze then read the following agenda item:

Discussion only regarding the following item:

Proposed Amendment to Zoning Map (COZM #1-2010) and Proposed Amendment to Zoning Regulations (COZR #2-2010), Thomas E. Golden Realty, Co., 169 Noroton Avenue LLC, &

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Noroton Heights Shopping Center Inc., 22 through 346 Heights Road; 72 Edgerton Street, and Edgerton Street (Map #75 Lot #30); and 273 West Avenue. Proposing to amend the Zoning Regulations to establish a new overlay zone—the Noroton Heights Mixed Use (NHMU) 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 entitled, “Noroton Heights Mixed Use Zone (NHMU)” and to modify existing Sections 311 (Zone Classifications), 905 (Joint Parking) and 907 (Parking Structures) of the Zoning Regulations. 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. *PUBLIC HEARING CLOSED ON 7/27/2010. DECISION DEADLINE: 9/30/2010, UNLESS EXTENSION OF TIME IS GRANTED BY APPLICANT.*

Mr. Ginsberg summarized the application, and noted that this is a proposal to create an overlay zone covering the commercial portions of the community between Hollow Tree Ridge Road, Noroton Avenue, West Avenue and Heights Road.

Mr. Conze said that the general topic of redevelopment of this area has been discussed for years because the shopping center and adjacent commercial uses were built in the 1950s and ‘60s. When Mr. Golden discussed redevelopment proposed only of his property, the Commission asked him to take a bigger picture approach to the entire area. This will need to include building design, parking, drainage, traffic management, and all other factors. It is better to have the Commission review the concept of an overall redevelopment rather than having this happen on a site-by-site and uncoordinated manner.

Ms. Riccardo noted that the Change of Zone Regulations will not solve the drainage problem for the entire zone or for the Noroton Heights neighborhood. The existing drainage problems will need to be improved in that local area. Mr. Hutchison said that he felt that the proposed regulations only establish minimal standards to manage the existing drainage coming through the area, and that it would be appropriate for the Commission to ask the applicants what they can do to improve the drainage problems that are experienced in the vicinity.

Ms. Cameron said that she felt that the intense redevelopment of the area is more than the area can handle.

Mr. Conze said that as each application is proposed, detailed drainage and traffic plans will need to be submitted. It is not possible for the applicants to go to the expense of developing those detailed plans until they know what will be allowed with respect to the amount of building and type of uses. Thus, the proposed amendment of the Regulations would give the property owners and applicants the parameters regarding what they will be allowed to develop.

Mr. Hutchison noted that no redevelopment would be allowed as a “right” unless the proposal complies with existing Zoning Regulations. In order to utilize the benefits of the proposed overlay zone, the applicant will need to improve the conditions with respect to traffic, drainage and/or other matters. Unless the Commission finds that there is sufficient improvement, then there will be no approvals granted.

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Mr. Spain noted that when the Chase Bank site was redeveloped, the Commission and applicant worked together to actually improve the drainage situation so that less water flows from the site towards the low point on Heights Road. Also traffic and parking were properly managed. These improvements were expensive, but resulted in a better condition for the entire community.

Mr. Conze said that the Commission needs to look at the aggregate and cumulative impact of the proposed changes. Mr. Hutchison said that the Commission should not amend the Regulations to limit the parking waiver to 50% in all the commercial zones. He said that they should also not allow parking structures in all commercial zones, only in this new Overlay Zone.

Mr. Spain said that if the Commission has good experiences with the proposed redevelopment in the Noroton Heights District with respect to the parking waivers and parking structures, then the Commission could change the Regulations to allow parking structures in other commercial zones.

Mr. Conze suggested that the staff discuss the proposed amendments with Town Counsel to see if there are any legal issues that must be addressed.

Mr. Ginsberg said that the Commission will meet next on September 14th and September 28th. The deadline for action on this matter is September 30, 2010. Hopefully, by the meeting of the 28th he will have a draft resolution to review and act upon.

Mr. Hutchison said that he noted that the proposed regulations with respect to 35% building coverage seemed appropriate, but the proposed heights increases were questionable. He said that the staff should prepare an analysis of what the maximum development potential could be for the entire neighborhood.

Chairman Conze read the following agenda item:

Business Site Plan #205-D/Special Permit, 205 Post Road Development Partners, LLC, 205 Boston Post Road, SB-E Zone.

Requested extensions of time to commence and complete project.

The commission members noted that the request had been submitted for a one-year time period, but they felt that extension would be too long. They agreed that a six month extension to commence work would be appropriate, and another 6 months to complete the work would be appropriate.

The following motion was made: That the Commission grant an extension of approximately six months to require that the work be commenced by March 8, 2011, and that the work be completed in accordance with the Special Permit by September 8, 2011. The motion was made by Mr. Hutchison, seconded by Ms. Cameron and unanimously approved.

Approval of Minutes

July 13, 2010 Public Hearing

The following motion was made: That the Commission adopt the minutes of July 13th as drafted and subject to the correction of minor typographical errors. The motion was made by Mr. Voigt, seconded by Ms. Riccardo and unanimously approved.

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July 20, 2010 Public Hearing/General Meeting

The following motion was made: That the Commission adopt the minutes of July 20th as drafted and subject to the correction of minor typographical errors. The motion was made by Ms Cameron, seconded by Ms. Riccardo and unanimously approved.

July 27, 2010 Public Hearing

The following motion was made: That the Commission adopt the minutes of July 27th as drafted and subject to the correction of minor typographical errors. The motion was made by Ms Cameron and seconded by Mr. Spain. All voted in favor except for Ms. Riccardo who was not present at the meeting.

Any Other Business (Requires two-thirds vote of Commission)

The Chairman asked if there was any other business. Mr. Ginsberg said that he would like to discuss 20 West Avenue with the Commission, and the proposed solar panels at the school facilities. The following motion was made: That the Commission discuss two items under "Other Business". The motion was made by Mr. Hutchison, seconded by Mr. Voigt and unanimously approved.

20 West Avenue

Mr. Ginsberg indicated that the former bank building and financial service offices on West Avenue are currently vacant, and the property owner will be making cosmetic improvements in the near future. The Commission members may notice construction type activity such a replacement roof and new front walkway and landscaping. No specific use has been proposed at this time.

Proposed Solar Panels at Ox Ridge School and at Darien High School

Mr. Ginsberg explained that the Board of Education is proposing to install solar panels at the Ox Ridge School and at Darien High School. These will be photovoltaic panels to convert sunlight into electricity. The panels would be located on the roof of each building. Mr. Conze said that is a potential problem with glare impacting the neighboring properties. Commission members concluded that there was no need for Special Permit or Site Plan approvals because there would be no change to the use or the site, only to the buildings.

Mr. Ginsberg said that the Architectural Review Board had reviewed the proposal and approved the design. The new photovoltaic panels create much less of a glare problem than older panels from 10 or 15 years ago.

There being no further business, the meeting was adjourned at 9:43 p.m.

Respectfully submitted,

David J. Keating
Assistant Director