

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING
OCTOBER 6, 2015**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Cameron, Cunningham, DiDonna, Olvany, Sini, Jr., Voigt (arrived at 8:25 P.M.)

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

Channel 79

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

PUBLIC HEARING

Continuation of Public Hearing regarding Special Permit Application #15-N/Site Plan, Land Filling & Regrading Application #44-B, Wee Burn Country Club, 410 Hollow Tree Ridge Road. Proposal to: incorporate 480 and 490 Hollow Tree Ridge Road into the site; improve and expand the driving range and practice area; expand on-site parking; and perform related site development activities. The subject property is situated on the east side of Hollow Tree Ridge Road, approximately 400 feet north of its intersection with Hanson Road and is shown on Assessor's Map #7 as Lots #62, #63, #64, and #66, in the R-2 Zone. *DEADLINE TO CLOSE PUBLIC HEARING IS: OCTOBER 6, 2015 UNLESS EXTENSION IS GRANTED BY APPLICANT.*

Mr. Sini indicated that he would not participate in this matter and to avoid any potential conflict of interest, he removed himself from the Commission table.

Attorney Bruce Hill represented the applicant. Mrs. Cameron said that she has worked on a very part-time basis as a bookkeeper for the condominium association that owns the adjacent property on Hollow Tree Ridge Road. She said she feels that she can and will review and act upon the application in a fair and unbiased manner and then asked if there was any objection to her participation in this matter. Attorney Hill said that he had no objection to her participation.

Attorney Hill said that the Club and their consultants have met with many neighboring property owners as well as having corresponded via emails and in person. He reviewed the revised site plans that incorporate planting and landscaping details, lighting fixtures and a general lighting plan, and a more robust planting and buffering plan to address concerns of the neighbors. He said that there is a reduction in the grass parking area capacity and there is an improved lighting plan. There is also increased space between the poles that will support the netting adjacent to the practice driving range. The size of the arborvitae to be installed has been increased and that evergreen landscape area will be more dense. He said that there are more hedges to be planted to provide additional screening between the condominiums and the golf club parking areas. He said that they also removed the proposed cart parking area that had been shown on previous plans. Attorney Hill explained that there is a revised table of landscaping materials to indicate the number of trees to be removed and the number of trees to be added. He said all of the revised plans are dated October 1, 2015.

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Bill Kenny, Landscape Architect, showed photographs of the existing 50 foot tall support posts for the existing netting at the north end of the driving range. He reviewed the revised buffer Landscaping Plan by Fazio and the revised detailed sheet that he, Mr. Kenny, had prepared. Mr. Kenny said that there will be a 10 to 15 foot deep lawn and dogwood trees extending from the paved portion of Hollow Tree Ridge Road toward the Golf Club parking area that is proposed. The dogwood trees are approximately 30 feet on center and there is a stone wall in that area. Beginning at the stone wall, there is a woodland buffer area that will be maintained and enhanced. Following that, there will be an evergreen tree and shrub area that has been widened since the previous discussions. That landscape area has also been extended from 370 feet long shown on the previous plan to now be 560 feet along the street. The plan also eliminates one curb cut at number 490 Hollow Tree Ridge Road and a large spruce tree will be planted in that area to fill in the gap and therefore minimize visibility of the Golf Club activities. The remaining driveway will have a curve in it to avoid a visual straight line from the street into the Club site. The emergency vehicle egress driveway will have a gate (at the north end of the parking lot), and will have paved driveway with stabilized edges.

Mr. Kenny said that the fourth layer of planting will be immediately adjacent to the netting. He said that the poles for the netting will not be aligned with the emergency egress driveway and therefore the poles should not be visible from Hollow Tree Ridge Road. He said that from the street to the netting is a distance of approximately 110 to 150 feet. Mr. Kenny said that the improvements to the Landscaping Plan also include additional planting to protect the neighbors to the south. This includes adding shrubs that are least 6 foot tall and reducing the lighting along the pathway to be low bollard lights.

In response to questions, Attorney Hill said that the distance from the neighbor to the southernmost pole will be 240 feet. Rachel Calemno, Lighting Consultant, said that she had met with the neighboring property owners and submitted samples of fixtures to be used at the site. They have considered using lowered light poles to reduce the height from 12 feet to 10 feet. But due to the potential for bright or hot spots and some dark spots, they would keep the tall light poles. They will install 12 foot high plants to screen the light source from the neighbors. They have also included light bollards on the south side to minimize any potential light intrusion toward the neighbors in the south.

Mr. Olvany said that he thought that there was already a 16 foot tall hedge between the Wee Burn Country Club parking area and the condominiums to the south. Ms. Palembo said that they would be adding more screening and buffer plants in that area. Attorney Hill said that he would email photographs of that area to Mr. Ginsberg for inclusion in the file.

Jack Orchulli of 446 Hollow Tree Ridge Road thanked the Club for incorporating the changes and modifications that resulted from the discussions with the neighbors. He said that adding evergreens to the hedge will address part of the light issue. He said that the emergency egress driveway is to be installed and asked if that could be used as an entrance and a routine exit, not just for emergency situations. That would reduce the amount of traffic using the driveway adjacent to the condominiums to the south. In response to questions, he was told that there were 32 car parking spaces in the proposed overflow grass parking lot and 72 paved parking spaces shown on the proposed Site Plan.

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James Fulton of 6 Nolen Lane said that he was pleased with the response of the Club to the concerns of the neighbors. He has written down and submitted to the Commission a list of 8 potential conditions of approval. He suggested that the Commission adopt those conditions so that it would make enforcement at a later date much easier if it is necessary. He said that draft stipulation for condition number 5 indicates that he wants 20 foot tall evergreen trees planted to provide effective screening and buffering at 490 Hollow Tree Ridge Road which is across the street from Nolen Lane. He said that he likes the current plan and wants it approved with the conditions that he suggests.

A gentleman from 10 Nolen Lane said that he agrees with Mr. Orchulli. He also read a note from his neighbor, John Wolcott that indicates that if the Club wants to increase the height of the safety net from 40 feet tall to anything taller, they would need to return to the Planning & Zoning Commission and request the change. That would give the people on Nolen Lane a chance to review the proposal. The gentleman from 10 Nolen Lane said that he concurs with Mr. Fulton's suggested, stipulated conditions.

Attorney Hill said that if, in the unlikely event that the height of the netting needs to be increased, then the Club would need to return to the Planning & Zoning Commission. With respect to the proposed stipulation, he said that the Club agrees, but should refer to the plans which were submitted which relate to the agreements, particularly Item No. 4.

Mr. Cunningham asked about the overflow parking area. Attorney Hill said that 72 new, paved parking spaces are being proposed and they will be used routinely by the Club for members or guests or employees. There is also a grass, overflow parking area that will be gated and locked except for occasions when the Club expects a large crowd and will therefore need that additional parking area. After that special event, the grass overflow parking area will again be gated off to prevent its use or access.

There being no further comments, the following motion was made: That the Commission close the Public Hearing and will render a decision at a future date. The motion was made by Mr. Olvany seconded by Mr. Voigt and unanimously approved.

At about 9:00 p.m., Mr. Sini returned to the Commission as Chairman Cameron read the following agenda item: **Amendments to Darien Zoning Map (COZM2-2015), Amendment to Darien Zoning Regulations (COZR4-2015) put forth by 1950 Post Road, LLC.** Proposing to: 1) amend the Darien Zoning Map by changing the current boundary between the NB Zone and the R-1/2 Zone to run along the property boundaries, rather than being 100 feet from the Boston Post Road right-of-way; and 2) amend Section 604(c) of the Darien Zoning Regulations to allow dwelling units on upper floors: The Zoning Map amendments would rezone the following parcels from being split-zoned, to be entirely within the NB Zone: 1926, 1936, 1950 & 1958 Boston Post Road (shown on Assessor's Map #51 as Lots #38, #39, #40, and #41). The parcel which will be rezoned to become entirely within the R-1/2 Zone is 8 Ring's End Road (Map #51, Lot #34). Parcels in the vicinity which will not be changed: 1910 and 1918 Boston Post Road and 6 Ring's End Road. They are shown as Lots #35, #36, & #37.

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Chairman Cameron said that the proposed amendments of the Zoning Map and Zoning Regulations would be discussed first. After that discussion, the next item on the agenda will be the specific site development that is proposed for 1950 Boston Post Road.

Attorney Robert Maslan represented the property owner and said that they are proposing to amend the Zoning Map to shift the zoning boundary that separates the residential zone from the business zone. At present, the business zone only extends 100 feet south of the Boston Post Road, yet the property extends approximately 250 feet south of the Boston Post Road. Attorney Maslan said that in the 1920s, when the zoning boundaries were first established, they were frequently drawn as being parallel to the streets, regardless of where property lines were located or would be located in the future. At that time, there were no parking requirements because few people owned cars and most cars were parked on streets. Later, the Zoning Regulations included parking requirements and were clarified to indicate that business related parking could not occur in the residential zones.

Attorney Maslan said that the proposed amendment of the zone boundary line is in compliance with several portions of the Town Plan of Conservation & Development which he submitted. He noted that in Chapter 9, the Town Plan indicates a hesitancy to rezone residential property to commercial due to the need to protect residential character. He said that in this case, rezoning will result in only the parking area being in the residential zone and adequate and sufficient buffer areas will need to be provided to protect the nearby residential properties. The proposed rezoning on the south side of the Boston Post Road would affect properties at 1958, 1950, 1936 and 1926 Boston Post Road. He said that there is also a very small piece of property at 10 Rings End Road which is residential use that would be changed from business to residential zone.

Attorney Maslan noted that the neighbors have indicated that a small house at 6 Rings End Road is technically in the Neighborhood Business Zone although it is a residence. He said that at some point that business property might be merged with other business property to which it is adjacent or the small property might accommodate a small house. He said whether the existing small house and small property stays in the Neighborhood Business Zone or is changed to the Residential Zone is a decision for the Commission. Attorney Maslan said that the minimum buffer area of the commercial use and activity including parking and access driveways to the nearest residential property needs to be at least 25 feet. He said that the Regulations could be changed to mandate that no buildings are placed in the portion of the land to be changed from residential to business and those areas can only be used as the buffer areas and as parking, but not active principal business structures.

Attorney Maslan said that in addition to the proposed amendment of the Zoning Map, he is also proposing an amendment to the Zoning Regulations that would clarify that dwelling units in the NB Zone are only permitted on the upper floors of existing buildings. He proposes to delete the word existing so that a newly constructed building, or a building to be constructed, could be approved with the second or third floor being residential use.

Thomas Cerussi of 12 Rings End Road explained that his property is a rear lot which is adjacent to 1950 Boston Post Road. He said his backyard is adjacent to what is currently a residential zone, but which is proposed to become a business zone that would have the parking lot at 1950 Boston Post Road. He asked if the owner of 1950 Boston Post Road had standing to request the zone change for

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other properties, none of the owners of which are present. Chairman Cameron said that the applicant does have standing and that all of the other property owners were notified. Mr. Ginsberg confirmed that the other owners were notified.

Mr. Cerussi said that he had discussions with Mr. Vaccaro, the owner of 1950 Boston Post Road and expressed his concerns about safety and noise and nuisance and privacy and other issues. He said that he can foresee some kind of amendment to the Regulations. He said that Mr. Vaccaro has agreed to a 30 - 35 foot wide buffer (instead of the normally required 25 foot wide buffer) and that a fence would be installed along the boundary line. Mr. Cerussi said that he would prefer not to have the zone boundary changed adjacent to his property. He said that the property at 6 Rings End Road should be changed to a residential zone because it does contain a small residence.

Carolyn Gaffney of 8 Rings End Road said that the changes may have negative impacts on the daily lives of adjacent residential property owners and may affect property values due to the increase of noise and odor and light and activity on the business properties. She said that currently the commercial buildings along the Boston Post Road are generally old homes that have been converted to business use. She said that when they get replaced with new commercial buildings, the design and character of those new commercial buildings should be in keeping with the area.

Attorney Maslan responded that anyone can apply to the Planning & Zoning Commission for a change of the Zoning Regulations or a change of the zoning boundary. There is no need for special standing or ownership to be involved. He said that in the Neighborhood Business Zone all uses are Special Permit uses. This gives discretion to the Commission on what they approve and they need to determine that it will not negatively affect the neighboring residential area.

Mr. Ginsberg said that this application was referred to the Western Connecticut Council of Government (which replaced the South Western Regional Planning Agency – SWRPA) and they found that it would have minimal inter-municipal impact. He said that the response from Captain Anderson of the Police Department was that when a Site Plan is submitted, he will review the Site Plan.

The Commission discussed whether they should close the public hearing or keep it open. They concluded that it would be best to keep the public hearing open and will resume the hearing on this matter on October 27, 2015 at 8:00 P.M. in Room 206.

At about 9:45 p.m., Chairman Cameron then read the following agenda item:

Business Site Plan Application #289-A/Special Permit, Land Filling & Regrading #351-A, 1950 Post Road, LLC, 1950 Boston Post Road. Proposing to: demolish the existing structures on the site; build a two-story mixed use building with associated on-site parking; and perform related site development activities. The subject property is located on the south side of Boston Post Road, directly across from its intersection with Garden City Road, and is shown on Assessor's Map #51 as Lot #40 in the NB and R-1/2 Zones. There is a related application to rezone the subject property to be entirely within the NB Zone.

Attorney Robert Maslan represented the applicant and explained that this Business Site Plan and Special Permit are dependent upon the Commission's approval of the Change of Zone boundary and

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the change in the Regulations. He said that on September 8th, the Architectural Review Board reviewed the design of the proposed building and granted their approval. He said Town Historian, Marian Castell, wanted her e-mails and the background regarding the old building to be part of the record. Attorney Maslan said he had no objection to that.

Attorney Maslan said that the entire site is approximately 0.75 acres and the proposal is to remove the old building and replace it with a new building that will have a mix of business and residential use. The building will be located on the portion of the property adjacent to the Boston Post Road and will have approximately 4,122 sq. ft. of footprint. The second floor will be slightly larger. The ground floor will be used for retail purposes. The second floor will contain 4 apartments. There will be no third floor. Parking for the building would be located to the rear and each parking space will be 9 feet wide and 20 feet deep with a 24 foot backup aisle.

Attorney Maslan said that the previous plan had two separate buildings, one close to the Post Road which would contain business use and some residential use upstairs and a second building in the residential zone which would contain only garage spaces on the ground floor and an apartment on the second floor. The previous application was withdrawn because there were significant questions about whether it complied and whether it could or would be approved. If the change of zone amendment is adopted, then the proposal is to have a single building near the Boston Post Road and have parking located to the rear.

Jim Schettino, Project Architect, said that the proposed building is reoriented so that the ridge line would be parallel to the Boston Post Road and the parking would be located to the rear. The building has been designed to have a residential feel even though the ground floor will be a retail use. The second floor apartments will each contain approximately 995 square feet, and the building height will be less than 28 feet, as measured by the Darien Zoning Regulations. Roof mounted utilities will be hidden from view because of the roof design. A copy of the Architectural Review Board letter of approval was submitted.

James Schettino explained that the 4,123 sq.ft. of retail use on the ground floor will require 28 parking spaces because the Zoning Regulations require one space for each 150 square feet of commercial floor space. The Regulations also require 2.5 parking spaces per residential unit, therefore 10 parking spaces are required for the residential component. A total of 38 on-site parking spaces are required by the Regulations.

John Martucci, Professional Engineer and designer of the drainage system said that the previous plan had included a single drywell to collect water from the driveway, parking area and building. The new plan incorporates a series of galleries to manage storm water on the site. He said that the new model block sidewalk design will be used along the front of the property and a new lamp post will be installed. Street trees will be installed per the Regulations. He said that lighting of the parking lot will include Apex lighting fixtures which will provide a clear cutoff to prevent glare toward the residential neighbors. Sixteen foot tall light poles are proposed and there will be five of them in the parking lot. He said that he understands that the height of those will need to be reduced to 12 ft. to comply with the Regulations. He said that the new parking lot will be approximately three feet higher than the existing grade in order to create a level parking area that does not drain toward the neighbors.

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Sara Ungemack McCool, Landscape Architect, said that she has prepared the Planting Plan and has included additional evergreen trees which are shown in the dark green color on the drawings. Light green is used to illustrate deciduous trees. She said that the new evergreen trees will grow 40 feet tall and that they are using arborvitae because they are fast growing and will fill in the voids. Arborvitae will be used in the shade of the existing maple trees and they will grow well. She said that a solid fence has been proposed on the east and south boundaries of the property to provide separation of the business parking area from the nearby residential neighbors. She said that in the front of the building, two cherry trees and two dwarf trees will be installed near the sidewalk.

Thomas Cerucci of 12 Rings End Road asked for details about the size of the trees, when they are to be planted. He said the taller trees would be better than using short trees and that an 8 foot fence might be more protective of the residential character rather than a standard 6 foot tall fence. He said that the large 40 inch diameter maple tree on the rear portion of the property is in need of proper care and might need to get replaced.

Mrs. Cameron asked if it was possible to remove the Norway maple trees because those are now considered an invasive species.

After a brief discussion, the Commission decided to continue the public hearing regarding this matter on October 27th at 8:00 P.M. in Room 206 of Town Hall.

Chairman Cameron then read the following agenda item:

Amendment of Special Permit Application #22-P/Site Plan, Coastal Site Plan Review #27-E, Flood Damage Prevention Application #20-E, Land Filling & Regrading Application #325, Tokeneke Club, Inc., 4 Tokeneke Beach Drive/Butler's Island Road. Proposal to add transformer platform and stair adjacent to the east side of the new clubhouse addition, and to modify the plaza deck near the tennis area. The subject property is located on the south side of Butler's Island Road at the southeast corner formed by its intersection with Tokeneke Beach Drive, and is shown on Assessor's Map #67 as Lot #83 in the R-1 Zone.

Mr. DiDonna recused himself from the meeting at this point.

Attorney Wilder Gleason said that after the Club obtained its approvals from the Planning & Zoning Commission, the Connecticut Light & Power Company required more detailed plans. Transformers were to be installed on poles and the control system would be in a room in the new building. After CL&P was taken over by Eversource, the requirements for the power supply changed. Now Eversource requires that a separate platform be constructed on the east side of the property and a separate control area be constructed as well. A mock-up or temporary installation was built on the site so that everyone could see what it would look like. It was determined by the Club and neighbors that the Eversource type design was not acceptable. They have since redesigned the power transformers to be on an elevated platform next to the east side of the building. The new plan highlights the area in question in the pink color. The transformers and controls system will not be nearly as noticeable as the previous design on the east end of the site.

Mr. Gleason said the timeline on this matter is critical because the Club needs to delay certain work until the power transformer issue gets resolved. He asked for the Commission to take action on this

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matter as quickly as possible. There were no comments from the public regarding the plans. The following motion was made: That the Commission close the public hearing regarding this matter. The motion was made by Mr. Olvany, seconded by Mr. Sini and unanimously approved.

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

The motion was made to discuss and possibly act upon the Tokeneke Beach Club application for a new transformer under "Other Business". The motion was made by Mr. Sini, seconded by Mr. Voigt and unanimously approved.

The Commission members discussed the request to install a transformer and electrical control system that is different than what was originally installed. They noted that the neighbors had no objection to the revised plan for the system adjacent to the east side of the building. They concluded that the transformer would have no impact on coastal resources and that the only thing needed would be the Engineering Certification of the platform to make sure that it will withstand floor forces.

The following motion was made: that the Commission approved the request to modify the previous Site Plan and Special Permit to now allow the electrical transformer and electrical control system as shown on the most recently revised plan to the immediate east of the proposed building. This approval is granted subject to the condition that engineering certification of the platform be submitted to verify that the platform structure will withstand flood forces.

A motion was made by Mr. Olvany, seconded by Mr. Sini and unanimously approved.

The following motion was made: That the Commission adjourn the meeting. The motion was made by Mr. Sini, seconded by Mr. Voigt and unanimously approved. The meeting was adjourned at 10:40 P.M.

Respectfully submitted,

David J. Keating
Planning & Zoning Assistant Director