

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING MEETING
NOVEMBER 25, 2014**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

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

STAFF ATTENDING: Ginsberg, Keating
RECORDER: Syat

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

PUBLIC HEARING

Continuation of Public Hearing regarding Proposed Amendment to the Darien Zoning Map (COZM #2-2014), Special Permit Application #246-B/Site Plan #251-B, Land Filling & Regrading Application #184-B/lot line adjustment, Sun Homes Darien, LLC, 36, 42 (formerly 0), and 48 Wakemore Street. Proposing to establish the Designed Community Residential (DCR) overlay zone on parcels totaling approximately 2.49+/- acres, and razing the existing three structures on those properties and constructing ten new structures containing fourteen market rate units and two affordable units to become Kensett II, and performing related site development activities. The subject properties are located on the north side of Wakemore Street approximately 1,025 feet east of its intersection with Hoyt Street, and are shown on Assessor's Map #8 as Lots #226/227 (36 Wakemore Street), #228/229 (42 Wakemore Street), and #230 (48 Wakemore Street), now in the R-1/3 Zone. *PUBLIC HEARING OPENED 10/28/2014. APPLICANT HAS GRANTED EXTENSION OF PUBLIC HEARING TIME UNTIL JANUARY 6, 2015.*

It was noted that the public hearing regarding this will be continued on January 6, 2015 at 8:00 P.M. in Room 206 of the Darien Town Hall.

Chairman Cameron read the following agenda item:

Special Permit Application #60-M/Site Plan, Land Filling & Regrading Application #121-B, Country Club of Darien, 300 Mansfield Avenue. Proposing to implement alterations to the existing main clubhouse, including alterations and addition to the existing "Medallion Room" and Terrace; alterations to the landscape of the "South Lawn and Pub Patio" and alterations to the existing roof along the west façade; and to perform related site development activities. The subject property is located on the east side of Mansfield Avenue approximately 1,200 feet north of its intersection with Buttonwood Lane, and is shown on Assessor's Map #5 as Lot #40 in the R-2 Zone. *PUBLIC HEARING POSTPONED TO JANUARY 6, 2015.*

Chairman Cameron announced that the public hearing was postponed until January 6, 2015 in Room 206 of the Darien Town Hall.

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Chairman Cameron read the following agenda item:

Special Permit Application #277-A/Business Site Plan #248, Day Street Development, LLC, 13 Grove Street, CBD Zone. Request for Le Boudoir, a personal service use, for a 1,250+/- square foot portion of the first floor of the building at 13 Grove Street. The subject property is located on the southwest corner formed by the intersection of Day Street and Grove Street, and is shown on Assessor's Map #73 as Lot #15& #16 in the CBD Zone.

Attorney Amy Zabetakis represented the property owner and explained that Le Boudoir is a proposed tenant of +/- 1,250 sq.ft. within the building at 13 Grove Street. She explained that it is a high end business that provides hair blow-out services and cosmetic sales and services. She said that in the center area of the store, there will be display and sales of retail products. This display and sales area is centrally located so that as clients are located in the store they can see the products for sale. It will be a total of 12 customer service seats available. Two of them are washing stations and six of them are for hair blow-out and for make-up application. She said that on a typical busy weekday, they might have 5 of the 6 seats occupied for people being serviced and two more people having their hair washed. It was also noted that there is a party/bridal room so that a small group of customers can have hair and make-up series as well spray tanning and other special services.

The owner of Le Boudoir explained that the bridal party room is typically most used during the spring and summer months. He said it is not unusual for the bridesmaids to have their hair done while the bride is getting special treatment. He said this type of service often occurs early on Saturday mornings. He said that the business concept is to have customers in and out fairly quickly and a bridal party might involve only three customer cars because the ladies come together. He said it is not typical for each customer in the bridal party to have their own vehicle at the site.

Attorney Zabetakis said that it is typical that the service provider will be taking care of one client at a time and the maximum number of cars that would need parking could be calculated as two per station (8 stations, thus 16 cars). She said to deal with this, the business owner will arrange to have their employees park off-site and, at busy times, if needed, valet parking will be provided.

Mr. DiDonna said that there are recommendations in the Traffic and Parking Study and that utilizing valet parking was one of those recommendations.

Attorney Zabetakis said that they are arranging to use the private parking lot on Leroy and West Avenues for busy times and for employees. She said that this is not a hair cutting salon where clients would need to spend a lot of time. She said that the operator has indicated that if clients need to wait for three or more minutes, he will lose the customer.

The owner said that they only blow out the hair. They do not provide hair cutting or hair coloring or other services.

Attorney Zabetakis said that during peak periods, they will need 5 parking spaces on the site for customers. She said that at the time of approval, it was clear that some customers of the businesses on the property will need to park in the municipal lot or use on-street parking. She said that whether it is a

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purely retail business or the proposed Le Boudoir personal service use, the customers will need to park in municipal parking or use on-street parking.

Mr. DiDonna said that the original approval was for typical retail shops and stores, not for a service such as this.

Mr. Olvany said that people utilizing the business will park on the street as he did earlier in the day or will use the large parking lot across the street.

Albert Orlando, property owner, said that he conducted his own Parking Study recently. He said that some of the on-site parking was due to Blue Mercury employees. He said that he and the owner of 1015 Boston Post Road, the other commercial building on the same property, will be installing signs in the common parking lot to indicate that the parking is only for patrons of the businesses. He said that there are 3 apartments on the second floor of each of the buildings on the property, thus there are a total of 6 apartments. He said that his experience is that no more than three of the residents park in the on-site parking lot during the day. He said that he counted numerous on-street and on-site and municipal parking lot spaces that were available during all times of the day. He said that on average, at least 35 parking spaces were available in the immediate vicinity.

Mrs. Cameron said that some of those parking spaces are dedicated to the Glassmeyer development that is surrounded by the municipal parking lot across the street.

Attorney Zabetakis said that the commuter parking spaces are not included in this count of available parking spaces. She said that the hours of Le Boudoir will be from 8:00 A.M. on Saturday and 9:00 A.M. on other days of the week until the early evening. She said that the landlord or business operator will purchase parking stickers so that all of the employees will be able to legally park in the municipal parking spaces, municipal parking lots or the private lot. She said that it will be necessary for Mr. Orlando and the owner of the commercial building on the property, Mr. Kleban, to check the site periodically to make sure that the tenants continuously comply with all conditions of the lease, including making sure that the employees park off-site.

In response to questions, Mr. Orlando said that approximately 746 sq.ft. of first floor retail space is still available in the Kleban building and approximately 1,500 sq.ft. would still be available in his building at 13 Grove Street. He said that he has no intention to come back to the Commission with another service business type use. He said that he has rejected many potential tenants who operate hair salons or similar service businesses.

Attorney Zabetakis said that if there is a question regarding a good tenant, they will come back to the Commission for clarification whether it is a retail use or a personal service business. She said that she has trouble making the distinction since the Regulations are not as clear as they could be.

Mr. Orlando said that if it is assumed that twice as much retail space is still available, and there is an average of 6 parking spaces currently used for the Blue Mercury business and his proposed use, then if the other half is rented, then all 12 on-site parking spaces will be fully utilized by the customers and clients of the commercial tenants.

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Attorney Zabetakis said that every retail use is not the same and that some retail tenants have customers that stay for longer periods of time. She said that the Milone & McBroome Parking Study indicates that the proposed Le Boudoir use will not create a parking demand greater than a retail use which is allowed as of right. She said that if you are a business located downtown or if you are a patron of a business located in the downtown area, you know that you will need to park in the vicinity and walk to one or more businesses.

Attorney Zabetakis said that the buildings on the commercial property have been constructed in accordance with the approved plan and the parking has been constructed according to the approved plan. They are now working with what is available on-site and in the vicinity.

There were no comments from the public regarding the proposed application. 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.

At about 8:45p.m., Chairman Cameron read the following agenda item:

Continuation of Public Hearing regarding Special Permit Application #282, Carmen Molinos, 16 Stony Brook Road. Proposing to construct a 30' x 60' sport court and to perform related site development activities. The subject property is located on the east side of Stony Brook Road approximately 530 feet north of its intersection with West Avenue, and is shown on Assessor's Map #18 as Lot #85 in the R-1 (residential) Zone. *PUBLIC HEARING OPENED 10/28/2014. DEADLINE TO CLOSE PUBLIC HEARING IS 12/1/2014, UNLESS EXTENSION OF TIME IS GRANTED BY APPLICANT.*

Attorney Michael Nedder explained that the property owners wish to install a proposed sport court that will measure 30 feet by 60 feet, and a viewing area measuring 15 feet by 20 feet on a 2.3 acre site. The revised plan includes the necessary regrading and storm water management elements.

Steve Trinkaus, Professional Engineer, explained that usually a sports court like this will involve insulation of a 12 inch deep gravel base to avoid frost heave of the surface. Usually the surface material is about 2 inches of pavement. After some discussion about the depth of the base, Attorney Nedder said that the base will vary between 6 and 12 inches and Mr. Trinkaus said that it will be placed on well drained soils so that any surface water can drain down through the gravel base and there will be no frost heaves.

Attorney Nedder said that there will be no light fixtures of the sports court and that it will be used for basketball and tennis and roller hockey and similar activities. No additional lighting will be installed on the house and directed toward the sports court.

Attorney Nedder said that they did investigate other locations on the site because the proposed location will require the removal of some trees. He said that the other locations were not as desirable for the applicants because they would eliminate some of the grass play area. They will be installing a wooden buffer area to separate the sports court from the neighboring properties.

Mrs. Cameron expressed her concern about removing so many trees and said that it might be better to use an existing cleared area.

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Mr. Trinkaus said that the existing rain garden on the rear portion of the property was designed by him, but was not built in accordance with the approved plans. The current proposal for a sports court involves rebuilding and expanding the rain garden area to make sure that it accommodates the previously approved addition to the house and the sports court and paved viewing area adjacent to the sports court.

Mrs. Cameron noted that there is no Certificate of Occupancy for the addition that was built years ago. Robert Calve responded that his company was hired to build the addition, but they were not the landscaper and they were not responsible for the construction of the rain garden. He understands that the rain garden needs to be completed before the Certificate of Occupancy will be obtained.

Mrs. Molinos said that she has done an excellent job of planting other portions of the property and does not know how a rain garden works. She will gladly do the work to complete the old rain garden, but has put that on hold waiting for final instructions from the EPC staff and depending on how the Planning & Zoning Commission responds to the pending application.

Robert Calve said that the berms for the rain garden were constructed and some plants were installed, but they have died. With respect to the regrading in the area of the sports court, he said that there is a large boulder that will need to get removed, but he believes that it is not solid ledge.

Mr. Trinkaus agreed that the rock appears to be a large surface rock, not part of a ledge. He said that not blasting is needed for the proposed sports court or viewing area. Mr. Trinkaus said that the area is well drained and that considerable advancement has been made in the design and implementation of rain gardens within the past five years. He noted that a swale will be installed to direct water from the sports court to the rain garden and the regrading is outside EPC's review and jurisdiction area.

Mr. DiDonna noted that the Arborist Report indicates that 10 large trees will need to be removed for the sport court installation.

Mr. Trinkaus said that the three or four large trees need to be removed and the other trees were smaller. He said that they are adding in various spruce trees as screening to protect the neighbors. He said spruce trees are being used rather than hemlock or white pine that will often lose their lower limbs. He said that the spruce trees will grow well in this area. In response to questions, he said that four or more additional spruce trees could be added on the east side of the proposed sports court to provide additional screening for that neighbor to the east.

Mr. Ginsberg noted that there is a memo from Richard Jacobson, staff to the Environmental Protection Commission and there are some comments from the Public Works Department regarding the engineering of the project.

There were no comments from the public regarding the application. Mrs. Cameron said that she wants to get a more detailed construction sequence for the rain garden completion and then the issuance of the Certificate of Occupancy and then a permit for the sports court. She said that a revised landscaping plan is also necessary. She wondered whether it is possible to plant within the wetland regulated area without obtaining a permit.

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Mr. Ginsberg said that it does not make sense to cut trees in order to plant trees.

Mr. Trinkaus said that he will work with the staff to resolve the planting questions. With respect to timing, he said that it is possible to shape the retention area now and do the planting in the spring time.

The Commission members felt that it would be necessary to get the planting completed prior to the C of O.

Mr. Trinkaus said that temporary planting could be done now and then the final planting could be done in April and could be guaranteed by a Performance Bond.

Commission members felt that a Performance Bond might be necessary.

Mr. Cunningham said that the sports court measuring 30' x 60' is fairly large and will be available for various recreating type uses.

There were no comments from the public. 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. Cunningham and unanimously approved.

At about 9:20 p.m., Chairman Cameron read the following agenda item:

Special Permit Application #9-C, Flood Damage Prevention Application #2-A, First Congregational Church of Darien, 11 Brookside Road. Proposing to renovate and construct alterations to the existing building (the former ABC House)--to establish a youth center for church youth programs, a meeting room, and a residence for an Associate Pastor; within a regulated area. The subject property is located on the west side of Brookside Road approximately 120 feet south of its intersection with Boston Post Road, and is shown on Assessor's Map #16 as Lot #92-#95 in the DB-1 Zone.

Mr. Voigt departed and did not participate in any of the discussion regarding this matter.

Architect Neal Hauck represented the First Congregational Church which is the owner of the property at 11 Brookside Road. They are seeking an amendment of the Special Permit regarding the use of the structure. He said that the building was mostly used as a single family house since it was built in 1888, but, most recently it had been used as the ABC of Darien (A Better Chance of Darien). ABC of Darien has found a new location for its residential program and now the Church wishes to re-use the building at 11 Brookside Road. The lower level (basement level) that is accessed via the parking lot to the rear of the building will be a use group meeting area. The first floor which is at street level will have a new front door to access a community meeting room. The rear portion of the first floor will be part of the residence of the Associate Pastor. The second floor will be bedrooms which are part of the residence for the Associate Pastor.

Mr. Hauck said that the Fire Marshal has reviewed the plans and has determined that it is not necessary to have a fire sprinkler because there will be appropriate fire separation between the uses.

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Mrs. Cameron said that she is familiar with the building due to her past involvement with ABC of Darien.

Mr. Ginsberg said that it appears that there will be a decrease in the intensity of use of the lower level because there will no longer be living space.

Mr. Hauck agreed and said that they had obtained a variance from the Zoning Board of Appeals. Part of that variance includes lifting up the mechanical equipment in that lower level so that the equipment will be above the expected flood level.

Mr. Hauck explained that this whole building is included in the Boston Post Road Historic District of Darien and he submitted a 1983 letter from the State regarding that. There is also a letter dated November 24, 2014 from the Town Historian.

The expected flood level in the area is 52.1 ft. above NAVD 1988. Darien requires that the lowest floor be at least one ft. above this base flood elevation. The actual floor level of the basement of the lower level is at 51.4 ft. A variance had been granted by the Zoning Board of Appeals to allow the existing floor level to remain unchanged even though it is below the flood level. There is no expansion of the building which would trigger the need for a permit from the Environmental Protection Commission.

Mr. Hauck explained that this is a very old building located very close to Brookside Road. It is immediately adjacent to 51 space parking lot that services this building and the First Congregational Church of Darien which is across the street.

Mr. Ginsberg said that the applicant had sent notification to neighboring property owners within 100 ft. of the site. There were no comments from the public regarding the pending application.

Mr. Olvany and Mr. DiDonna said that they appreciated the sensitive treatment and preservation of the old historic building. The following motion was made: that the Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Olvany, seconded by Mr. Sini and unanimously approved.

Chairman Cameron read the following agenda item:

Land Filling & Regrading Application #337, Ellie Eglin, 210 Leroy Avenue. Proposal for cutting, filling, and regrading associated with the construction of a replacement single-family residence and swimming pool and to perform related site development activities. The subject property is located on the north side of Leroy Avenue approximately 100 feet east of its intersection with Middlesex Road, and is shown on Assessor's Map #6 as Lot #3 in the R-1 Zone.

Doug DiVesta, Professional Engineer, represented the applicant and submitted revised plans that reflect the recent Environmental Protection Commission action. It includes the relocation of a level spreader and a boulder line. He said that the neighboring property owner is still in the process of reviewing the plan and so the applicant has requested that discussion on this matter be continued until January 2015.

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Mrs. Cameron said that she was happy to oblige, but said that a proper anti-tracking pad must be installed where the driveway is adjacent to the street.

Mr. DiVesta said that he will tell the contractor to take care of that matter.

There were no comments from the public. The hearing regarding this matter will be continued at 8:00 P.M. in Room 206 of the Darien Town Hall on January 6, 2015.

Chairman Cameron read the following agenda item:

Special Permit Application #283, Land Filling & Regrading Application #336, David & Helen Lowham, 67 Peach Hill Road. Proposing to fill and regrade and install stormwater management in association with a replacement single-family residence, install a sports court at the end of the proposed driveway, and to perform related site development activities. The subject property is located on the north side of Peach Hill Road approximately 2,000 feet west of its intersection with Mansfield Avenue, and is shown on Assessor's Map #6 as Lot #137 in the R-2 Zone.

Douglas DiVesta, Professional Engineer, represented the property owner and applicant. He explained that a Zoning and Building Permit had been obtained for the construction of a replacement house. As part of that approved plan, the filling and regrading is contained within 25 ft. of the proposed structure and is not within 15 ft. of any property line. The applicant seeks to extend the filling and regrading and this additional work will require a Special Permit from the Planning & Zoning Commission. In addition, the applicant seeks approval for the installation of a sport court to the northwest of the proposed structure. Mr. DiVesta explained the storm water flow has been calculated from all of the proposed impervious surfaces including the house, driveway, turnaround area and sports court. The drainage system that has been approved by the staff for the house will satisfy the requirements for all of the proposed impervious structure.

Mr. DiVesta submitted an email from a neighbor about the project and confirms that there will be no lighting of the sports court. He also noted that trees will be planted to the north and west of the sports court to provide shielding for the benefit of the neighbors.

Mrs. Cameron asked about the possible use of a rain garden on this large parcel of land, rather than only having underground deep storm water retention facilities

Mr. DiVesta said that he had not considered using a rain garden. He said that the soils in the area are well drained.

Mrs. Cameron said that if a rain garden fails to properly allow water to percolate into the ground, it is obvious to everyone and corrective actions can be taken. If an underground drainage facility fails, the problem is not always obvious and the corrective measures might be more expensive.

Mr. DiVesta said that rain gardens are frequently used to manage only the first inch of storm water runoff for water quality purposes and are seldom designed for 50 year design storm. He said that he can look into doing a combination design that would include some underground structures and some rain garden area.

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Mrs. Cameron said that it would be appropriate to have the Public Works Engineer comment on this issue and whether it was appropriate to have a rain garden on this large site.

Mr. Olvany expressed his concern about the building height and said that the note on the survey map was not accurate.

Commission members decided to continue the public hearing. No comments from the public were received. The public hearing in this matter will be continued on January 6, 2015 in Room 206 in the Town Hall.

Chairman Cameron read the following agenda item:

Land Filling & Regrading Application #338, ETG Properties, LLC, 5 Top O'Hill Road. Proposing to fill and regrade the south side of the property to create a more level yard area, and to perform related site development activities. The subject property is located on the west side of Top O Hill Road approximately 300 feet north of its intersection with Christie Hill Road, and is shown on Assessor's Map #29 as Lot #84 in the R-1 Zone.

Richard Bennett, Professional Engineer, represented the property owner and applicant and said that this is a fairly straight forward plan to fill and regrade to the south and west of the house which is under construction. The approved grading plan for the house limits the activity to within 25 feet of the proposed structure. That was done because the owner was anxious to get started on the work. Now that they have excavated for the house, they have large stockpiles of excess material that could either be removed from the site or could be used for regrading of the site if Special Permit approval is obtained from the Planning & Zoning Commission.

Mr. Ginsberg asked about the landscaping plan and Mr. Bennett said that it is preliminary and conceptual at this time, but is being worked on. He showed the preliminary landscaping plan and noted that the proposed retaining wall is not taken into account on that preliminary landscaping plan. Mr. Ginsberg said that the landscaping plan being displayed is from a former, more aggressive filling plan that would have extended the flat yard area almost to the property boundaries to the south and west of the structure.

Mr. Olvany expressed his concern about storm water runoff being directed toward the neighbors to the south and west. He noted that many trees had been removed from the site.

Mrs. Cameron said that the Commission needs an accurate planting plan and a very precise drainage plan to protect the neighboring property owners.

Mr. Bennett said that there is already an approved drainage plan for the house construction and it will be implemented whether the regrading gets approved or not. Mr. Voigt referred to the latest plan that has a last revision date of 11/1/14. He said that by creating flatter areas, it might slow down the storm water flow toward the neighbors.

Mr. Bennett said that at the extreme, the proposed regrading would change the ground elevation by about 4 ft. from the original grade to the proposed grade. He said that the boulder retaining wall is called for in the plans. It is not an engineered wall and there would be no concrete used to hold the

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boulders in place. In response to questions, he said that the area below the retaining wall would be topsoil and seeded with either a lawn/grass seed or a meadow mix type of seed.

Mr. Olvany said that much more detailed information about the planting, landscaping and storm drainage is necessary. The Commission felt that a continuation of the hearing would be necessary.

Mr. Bennett agreed to the continuation of the hearing on January 6, 2015.

Kevin Fahey represented the Homestead Road Association. He said that he and the other neighbors have talked to the builder about the current drainage problem which is occurring during the construction process. He said that because the final storm drainage plan has not yet been implemented, water from the construction area flows downhill into the neighbors' properties. He said that, in his case, the sump pump was overwhelmed in a minor rain storm and that such a problem has never occurred in the past. He said that there is a steep grade in the back of the existing house that directs water toward the neighbors. He said that there are photographs of the water going through the silt fence and in an uncontrolled manner. He said that he and the other neighbors are working with the builder, but he wants to make sure that corrective measures will continuously be taken to address the problem.

Mr. Bennett said that the storm drainage system is not in place yet and he confirmed that the builder is working with the neighbors. He said that no interim drainage plan had been specifically designed for the work during the construction process.

The public hearing on this matter will be continued on January 6, 2015 at 8:00 P.M. in Room 206 of the Darien Town Hall.

There being no further business, the following motion was made: that the Commission close the meeting. The motion was made by Mr. Voigt, seconded by Mr. Olvany and unanimously approved. The meeting was adjourned at 10:25 P.M.

Respectfully submitted,

David J. Keating
Planning & Zoning Assistant Director

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