

**PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING
MARCH 20, 2014**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

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

STAFF ATTENDING: Ginsberg, Keating
RECORDER: Syat
Channel 79

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

GENERAL MEETING

Business Site Plan #287, Brook Street Association, 5 Brook Street, CBD Zone.

Proposal to install four air conditioning units.

Reese Hutchison, one of the owners of the property, explained that they are putting in air conditioning units.

Mr. Ginsberg said that there are 8 small condominium office units and the proposal is to install 4 air conditioning units in the location shown in the submitted map. The Commission members reviewed the application materials. The following motion was made: That the Commission approve the proposed installation of 4 air conditioning units as shown on the submitted map. The motion was made by Mr. Olvany, seconded by Mr. Cunningham and unanimously approved.

Chairman Cameron read the following agenda item:

Amendment of Protected Town Landmark #6/Business Site Plan, Jim Lewis, 70 Old King's Highway North. Proposed hanging sign for Protected Town Landmark property.

Mr. Ginsberg explained that this is a Protected Town Landmark project. Now that the renovation of the project is nearly completed, the applicant is proposing to install a sign. The design of the sign has been approved by the Architectural Review Board, but the best location of the sign is too close to the front property line due to the unusually wide right-of-way to the street. An amendment of the Special Permit granted by the Planning & Zoning Commission is necessary to allow the sign to be in the front yard as proposed.

Commission members reviewed the application materials. The following motion was made: That the Commission approved the requested modification of the Special Permit for this Protected Town Landmark project. The motion was made by Mr. Olvany, seconded by Mr. Sini and unanimously approved.

Chairman Cameron read the following agenda item:

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Informal discussion regarding Parklands Office Park, Parklands Drive, DOR-5 Zone.

Robert Gillon, Manager of Parklands Office Park explained that offices located in or very near the Central Business District are doing very well versus suburban office park locations which are struggling to find and keep tenants. He said that in many cases they need to have alternative uses such as residential development, medical offices and practices, or senior housing. He said that only one-third of the typical office tenants in the suburban office parks see their space needs increasing in the foreseeable future. He said that in Darien, the offices in or near the Central Business District have approximately a 5% vacancy rate and charge approximately \$30.00 per square foot. In the suburban office parks, there is a 25% vacancy and they can only charge mid-\$20s per square foot.

Mr. Gillon said that the Parklands Office Park has approximately 8 acres of land adjacent to a 50 acre park. Building No. 1 has approximately 24,660 square feet of rentable space and the tenant that has been in the building will be moving out soon. Building No. 3 has approximately 36,000 sq. ft. and is currently rented. He said one of the possible reuses that Building No. 1 is for luxury market rate housing. The second possible use is a medical office or clinic and a third possible use is senior citizens housing facility. Neither of these uses is allowed by the current zoning regulations.

Mark DePecol of Washington, Connecticut explained that his firm has been a commercial developer for 35 years. He said that as people are living longer, there is a greater demand for special housing for senior citizens. His firm specializes in assisted living facilities (not nursing homes). He said that his company has a specialized group on the development team and they have found that the proposed housing facilities have very low impacts on the community because there are no children, there is a very low traffic and parking generation, the use is quiet and the residential use is a taxable entity as opposed to a non-profit housing facility. He said that the range of living units include independent living, assisted living and memory support facilities. He said that this is not a nursing home and does not provide skilled nursing care. He said that they find that the parking demand is approximately 0.5 parking spaces needed per resident. He said that this includes the parking requirement for workers and visitors. He said that in order to construct these nontraditional residential facilities, they frequently need amendments of the Zoning Regulations.

Mark Lancor of Dymar Engineering said that Parklands is uniquely cited to accommodate the senior living facility. Both the first floor front of the building and the basement level rear of the building each have ground level access, but on two different floors within the structure. He said that the vehicle trip generation will be approximately 0.5 to 0.75 trips per day per resident. He said that the peak traffic demand day would be Mother's Day each year.

Peter Schmidt of EGA Architects explained that he specializes in senior housing. He reviewed preliminary plans of possible expansion of Building No. 1 into the existing parking lot. He said that even with this expansion, there was still plenty of parking for the proposed housing use as well as the existing office building No. 3 which will remain. He said that each of the senior housing units would be approximately 850 sq. ft. and that approximately 20 to 25% of the total building area would be common spaces. He said that each facility offers a variety of dining options for the residents. In this case, they would create a contained courtyard area for the memory care section so that residents could be outside, but could not wander away. The revised building would have a sloped roof and an attractive exterior. Stone pillars could be used to give it a residential feeling and

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a covered portico would be provided for drop-off and pick-up. He said that many times senior housing facilities contain amenities such as a store, a bank, a salon or other services that would be provided to the residents. In this case, they would propose approximately 112 units at approximately 850 square feet per unit.

Mrs. Cameron noted that there is no on-street parking available in this area for overflow, and thus it is critical that they provide more than enough parking for the potential demand.

In the discussion that followed, it was noted that the Regulations would need to be changed to allow for this use within the Design Office and Research Zone and to allow for the intensification of development. Commission members will think about the matter and provide feedback to the Director of Planning who will then communicate with the applicant.

Mr. DePecol said that if the Commission's response is positive, he and his team would then communicate with the neighboring property owners to get their thoughts on how the development could be implemented with the least amount of impact to the single family residential neighbors. He said that the purpose of the discussion with the Commission is only to get feedback as to whether the concept is worth pursuing. If the Commission's response is positive, then he and his team will need to submit formal applications for review and action by the Commission.

No action was taken on this matter.

Chairman Cameron read the following agenda item:

Business Site Plan #205-D/Special Permit, Palmwich, 205 Boston Post Road.

Request to amend plans for ordering stations, and other amendments to plans.

Jamie Galler explained that there are several issues that need to be resolved regarding the implementation of the approved plans. One issue is the relocation of the mountable island that will contain the second patron order board. He said that it needs to be relocated in order to improve the turning radius. They still want to maintain at least 10 cars queuing on site and therefore avoid the back-up of traffic on Richmond Drive. They would still have two ordering lines. The re-orientation also minimizes the order board facing directly toward the residential neighbors. The size and style of the order board was discussed. Commission members noted that it is important that the lighting and audio components be sensitive to the residential neighbors and that the amount of light and volume of sound be adjustable.

Mr. Galler said that they are working on finalizing the order board details. He also described a minor change to the drainage in order to make sure that water does not puddle in the drive-thru lanes or the parking spaces. He said that they are not putting in the emergency generator which was part of the original plan and that they are still working on the details of the landscaping design. He discussed the possibility of creating a garden area in the front yard. Commission members expressed concerns about the visibility of motorists exiting Richmond Drive and the need to avoid any plants or fencing that would obstruct that visibility.

Mr. Galler provided a hand-out illustrating the proposed menu boards and noted that it would have a cedar shaped roof that would relate to the roof on the building. He said that a speaker post would be

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provided and that the output of the audio would be adjustable. He said that the order board could have internal illumination or external illumination or LED internal lights. All of these facilities would be dimmable. He said that he would like to have the option of providing any sort of lights as long as it would not impact the neighbors. He noted that the original approval did mandate that only the menu items that are available at the moment can be displayed on the menu board at that time. Commission members concurred with the proposed order board design.

Mr. Galler requested permission from the Planning & Zoning Commission to have a temporary and conditional Certificate of Occupancy only to have new employees training at the site. No customers would be served until a permanent C of O is obtained. The temporary C of O would be obtained later in March even though the landscaping and drive-up islands and menu boards and outside lighting and signage had not been completed. He said that before a permanent C of O was obtained, and before customers would be served at the site, all of those items would be completed.

Mr. Ginsberg explained that the applicant is seeking an amendment of the site plan and approval of the details of the menu board and the temporary conditional Certificate of Occupancy (prior to all of the site work being completed in April and obtaining a permanent Certificate of Occupancy).

In response to questions, Mr. Galler said that there are three on-site parking spaces for employees, but there is no parking area for customers. Customers will only be given food or beverage on the take-out basis and there is no place on the site where the customers can stop to eat or drink.

The following motion was made: That the Commission approve the request for modifications and details regarding the development of 205 Boston Post Road and allow the Temporary and Conditional Certificate of Occupancy for employee training to begin even before all the work items are completed. The motion was made by Mr. DiDonna and seconded by Mr. Cunningham. All voted in favor except Mr. Olvany. The motion passed by a vote of 4 to 1.

The following motion was made: That the Commission waive the process of reading the draft Resolutions aloud because each member has had an opportunity to read the drafts prior to the meeting. The motion was made by Mr. Sini, seconded by Mr. Cunningham and unanimously approved.

Chairman Cameron read the following agenda item:

Discussion and possible decision on the following:

Subdivision Application #613, Estate of Mary Metzger/Oak Crest Developers LLC, 174 Middlesex Road. Proposing to subdivide the existing property into two lots. *DECISION DEADLINE: 5/1/2014.*

Commission members discussed the driveway locations and the need for detailed drainage plans for each house. They also noted that the Resolution is very clear about the process of completing the free cut or first split before the subdivision map is signed and filed in the Land Records.

The following motion was made: That the Commission adopt the following Resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Sini

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and seconded by Mr. DiDonna. All voted in favor except Mr. Cunningham who voted in opposition. The motion passed by a vote of 4 to 1.

The adopted resolution reads as follows:

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ADOPTED RESOLUTION
March 20, 2014**

Application Number: Subdivision Application #613

Street Address: 174 Middlesex Road
Assessor's Map #22 Lot #81

Name and Address: Oak Crest Developers, LLC
And Applicant: c/o 252 Long Neck Point Road
Darien, CT 06820

Name and Address of Estate of Mary Metzger
Property Owner c/o Lois B. Anderson, Esq.
(at time of application submittal): 970 Summer Street
Stamford, CT 06905

Name and Address of Robert F. Maslan, Jr., Esq.
Applicant's Representative: Maslan Associates PC
30 Old King's Highway South
Darien, CT 06820

Activity Being Applied For: Proposing to subdivide the existing property into two lots.

Subject Property: The subject property is located at the southeast corner formed by the intersection of Middlesex Road and Hollow Tree Ridge Road.

Zone: R-1/2

Date of Public Hearing: January 28, 2014 continued to February 11, 2014 continued to February 25, 2014

Time and Place: 8:00 p.m. (Room 206 Jan 28 & Feb 25 mtgs.) & (Auditorium Feb 11 mtg.) Darien Town Hall

Publication of Hearing Notices

Dates: November 15 & 22, 2013

Newspaper: Darien News

Date of Action: Thursday, March 20, 2014

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
Friday, March 28, 2014

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 the Darien Zoning Regulations and all applicable sections of the Subdivision 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 showing the proposed two lot subdivision, and the testimony 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 applicant proposes to subdivide the existing property into two lots. The subject property is 1.5132+/- acres in an R-1/2 Zone. The property on the eastern end of the existing site is being divided or cut from the main parcel as part of a “first division”, “free cut” or “first split” of the property. The remaining one acre property located closest to the Hollow Tree Ridge Road/Middlesex Road intersection is the subject of the two-lot subdivision application pending before the Planning & Zoning Commission.
2. At the public hearing on this matter, Mr. Ginsberg said that the Tax Assessor records did show this entire property as containing 1.07 acres. That information was reviewed and an old map was found that showed the acreage should have been listed as 1.51 acres. The Assessor has since corrected his records to indicate the entire property is 1.51 acres.
3. There are no inland wetlands on the subject property, and no portion of the property is in the flood zone. The property is now served by Aquarion Water Company.
4. The applicant’s representative, Attorney Robert Maslan, showed a revised map of the proposed free cut lot on the east end of the site at the public hearing. He noted that there is a very restricted buildable area so that no portion of the buildable area of the proposed free cut lot will be behind the neighboring lot fronting on Middlesex Road. He said that the Director of Planning Jeremy Ginsberg has sent a letter indicating that the free cut will be approved after the structures have been removed. It is only then that the map could be filed on the Land Records showing the creation of this free cut lot.
5. At the public hearing, Commission members and the general public noted their concerns about the number of proposed new driveways, and their locations relative to the Hollow Tree Ridge Road/Middlesex Road intersection. Commission members asked at the hearing about the possibility of relocating lot lines so that there would be enough room on the corner lot to have the driveway far enough away from the intersection of Middlesex Road and Hollow Tree Ridge Road.
6. In response to questions, it was noted that the driveway of Lot C (the lot closest to the intersection) would be approximately fifty (50) feet from the stop sign that restricts west bound traffic flow on Middlesex Road. The Department of Public Works has a Residential Driveway Specifications that any new driveway curb cut must be at least twenty-five (25) feet away from any street intersection. The proposed driveway for Lot C is shown as fifty (50) feet from the intersection as shown on the 2/07/2014 Feasibility & Stormwater Management Plan.
7. At that intersection, it is a four-way stop that is controlled by four stop signs. The applicant’s engineer, John Martucci, PE, said that there is adequate sight distance for motorists coming out of the driveway to see any vehicles or pedestrians within the street right of way.

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8. Mr. Martucci said that the proposed sanitary sewer design has been reviewed and approved by the Sewer Commission. The plan includes an easement for the sewer line that will service Lot C (the corner lot) to cross through Lot B (the center lot) and go into the sanitary sewer in Middlesex Road. That proposed easement is shown on the Zoning Location & Topographic Survey last revised January 27, 2014. Said easement shall be filed in the Darien Land Records.
9. Marian Castell, Town Historian, said that she looked at the house, and it did not seem practical to be saved. The Shaw family had owned the site since the 1850s and this old house is on many of the old maps of Darien. She said that the character of the neighborhood is important and the character is a blend of the past and present structures. Preservation on new development must be taken into account with respect to character. She said that the design of the new houses should complement the simple character of this old house and other similar houses in the area.
10. Members of the public said that vehicles travel very quickly through the area and traffic is bumper to bumper at times when school is opening or closing. Neighbors are very concerned about the safety aspects of additional construction traffic because it could impair safety of children in the area. The Commission acknowledges that during parts of the day, it will be difficult for the property owners and visitors to these lots to turn left out of their driveways, due to queuing and the volume of traffic in this area.

SIDEWALKS

11. As part of this application, there arose a question of whether to require a sidewalk extending from Hollow Tree Ridge Road east along the frontage of the existing parcel. It was noted that there is now a sidewalk on the north side of Middlesex Road (the other side of the street) and that a painted cross walk allows pedestrians on the east side of Hollow Tree Ridge Road to get from the south side of Middlesex Road to the north side of Middlesex Road. A February 19, 2014 e-mail from Captain Anderson of the Darien Police Department noted that a new sidewalk on the south side of Middlesex Road extending through the frontage of the proposed development would not be desired, since it would not end at "...a logical and safer terminus...". He explained in that e-mail that "sidewalks to nowhere" are of concern, and mid-block crosswalks are to be avoided.
12. After considering the matter and receiving comments from the Police Department, the Commission has decided that it would **not** be appropriate to establish a new sidewalk along this small portion of the south side of Middlesex Road. A sidewalk now exists on the north side of Middlesex Road, and safety concerns from the Police Department make it clear that a new sidewalk in front of only this property would not be preferred by the Police Department.
13. A related question arose as to the condition of the sidewalk along the western frontage of this property on Hollow Tree Ridge Road. During the public hearing process, it was noted that this sidewalk is in good condition. Thus, the Commission is not requiring new sidewalks, nor the upgrading of existing sidewalks as part of this application.

STORMWATER MANAGEMENT

14. The submitted stormwater management plans prepared by John Martucci, PE, showed proposed infiltrators to account for stormwater runoff. The proposed subdivision does comply with the Regulations and the drawings indicate a conceptual drainage plan that will need to be refined as the specific house designs are proposed for each property.
15. The plans shown to the Commission do not show specific houses to be constructed. Thus, once the applicant prepares final house plans and submits them for a necessary Zoning and Building Permit, an associated stormwater management plan shall be submitted. At that time, the applicant or property owner shall prepare

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a Drainage Maintenance Plan. The Commission notes the need for the applicants to file a Notice of Drainage Maintenance Plan regarding maintenance of the proposed and installed drainage system in the Darien Land Records. This will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential impacts to adjacent properties.

TREE REMOVAL/PRESERVATION

16. During the public hearing process, neighbors noted their concern about a number of issues, including tree preservation. The applicant did agree to preserve some of the larger trees on-site. The Zoning Location & Topographic Survey last revised January 27, 2014 shows the larger trees on-site.

STONE WALLS

17. There was concern from the neighbors about the stone walls which now front the property along Middlesex Road. Their request was that this original stone wall be maintained as part of the new development.

NOW THEREFORE BE IT RESOLVED that Subdivision Application #613 is hereby modified and approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The subdivision and other work shall be in accordance with the following plans submitted to and reviewed by the Commission, as required to be modified herein:
- Compilation Plan Depicting First Division and Two Lot Subdivision of Property prepared for Oak Crest Development LLC 174 Middlesex Road, by William W. Seymour & Associates, scale 1"=20' dated January 2, 2013.
 - Zoning Location & Topographic Survey Depicting Two Lot Subdivision of Property prepared for Oak Crest Development LLC 174 Middlesex Road, by William W. Seymour & Associates, scale 1"=20' dated November 19, 2013 and last revised January 27, 2014.
 - Feasibility & Stormwater Management Plan prepared for Oak Crest Development LLC, #174 Middlesex Road, by LBM Engineering, LLC, last revised 2/7/2014.

The Commission hereby requires that the one and only driveway for Lot C be at least fifty (50) feet from the Hollow Tree Ridge Road intersection, and that the one and only driveway for Lot B be directly across from the driveway shown across the street. The Commission believes that this will result in the safest possible subdivision design. These limitations are to be noted and illustrated on the final subdivision map to be filed in the Darien Land Records.

- B. Prior to the issuance of a Zoning or Building Permit, the applicant shall submit a plan showing the trees to be preserved as part of this subdivision.
- C. All utilities serving these properties shall be underground. These include, but are not limited to, electrical, telephone, cable TV, and all other wiring.
- D. Because of the location of these lots on Middlesex Road, the Commission hereby requires that the lots have a vehicle turnaround area on each lot, which will minimize the likelihood of vehicles backing into Middlesex Road.
- E. Since there is no new road construction and no extension of public utility facilities, the Commission waives the requirement for submission of a Performance Bond.
- F. In accordance with Article IV Section C2 of the Darien Subdivision Regulations, there is no requirement to provide open space as part of this subdivision.

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- G. In preparing the final mylar, lot numbers and street addresses shall be verified with the Assessor. Those should be included on the final mylar for filing.
- H. The Commission hereby requires, to the extent possible, preservation of the existing stone walls along Middlesex Road. The Commission acknowledges that parts of the stone wall will need to be removed to accommodate a new driveway for each lot. Where any new stone wall is installed along the road frontage, the Commission requires that it be dry-laid stone wall, to match the size, style, materials and construction technique of the existing stone wall now present.
- I. Relative to tree protection, the Commission is requiring that prior to the issuance of a Demolition Permit, that a tree protection plan be prepared by the applicant, and submitted to the Planning & Zoning Director for his review and action.
- J. At the public hearing, the applicant's representative said that the property owner would be willing to work with Town Historian Marian Castell on documenting this existing house, including photo documentation of this old house before it is demolished. The Commission hereby requires that this be done prior to the issuance of a Demolition Permit.
- K. The applicant must make sure that at all times during the redevelopment of the site, the storm water runoff is properly managed to avoid impacts to the neighbors and the street. This shall include, but not be limited to, making provisions for the diversion of water around disturbed areas, sedimentation prevention and control, temporary artificial and/or vegetative cover to minimize erosion of exposed soils, and speedy restabilization of all disturbed areas.
- L. Prior to the issuance of a Zoning Permit for the proposed residences, 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, it shall be filed in the Darien Land Records by the applicant or property owner. The maintenance plan shall require the property owner and all subsequent property owners of each lot to maintain the drainage facilities per the maintenance plan.
- M. No specific sediment and erosion control plan was submitted for the record, since at this time, the exact house footprint locations are unknown. As part of any Zoning and Building Permit application, the applicant shall submit a detailed sediment and erosion control plan (which shall include anti-tracking pads and applicable stockpile areas on-site), and shall include tree protection, as required herein.
- N. All sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized. Should dirt from the disturbed site end up in the roads, the developer will be responsible for removal of same within 24 hours to avoid adding sediment to the Town's stormwater system.
- O. The property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site will not have any negative impacts upon the adjacent property(ies) or the adjacent streets. If such problems do become evident in the future, the owner(s) of the property shall be responsible of remedying the situation at their expense and as quickly as possible.

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- P. This approval of this subdivision 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. The Commission notes that approval from the Health Department will be needed to abandon the existing septic system. A Demolition Permit for the existing house will need to be obtained from the Building Department. Sewer Connection Permit and Street Opening Permits will be needed from the Department of Public Works/Sewer Services. All Street Openings (driveway curb cuts) shall comply fully with DPW Residential Driveway Specifications.
- Q. 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 approval 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 documents by the Chairman. All completed requirements [the final revised mylar showing lot number(s) and street address(es)], shall be submitted to the Planning and Zoning Department for review and signature. The applicant must obtain a demolition permit and raze the existing residence and garage (or relocate them) prior to filing the map in the Darien Land Records. Because that will take some period of time, the Commission hereby authorizes the applicant up to six months from the date of this action (until August 4, 2014) to demolish or move those structures, file the free cut and then file the subdivision maps and appropriate deeds in the Darien Land Records or this approval shall become null and void.

A "Notice of Drainage Maintenance Plan" shall be filed in the Darien Land Records within 60 days of this action and prior to the demolition of the existing residence and garage proposed as part of this application, or this approval shall become null and void.

Chairman Cameron read the following agenda item:

Special Permit Application #160-D, AT&T (New Cingular Wireless, PCS, LLC), 24 Chestnut Street. Proposing to install twelve panel antennas behind the existing water tank enclosure, install a replacement generator, and perform related site activities. *DECISION DEADLINE: 5/1/2014.*

Commission members discussed the Draft Resolution and several minor modifications were discussed and agreed upon. The following motion was made: That the Commission adopt the following Resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Olvany, seconded by Mr. Cunningham and unanimously approved.

The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
March 20, 2014**

Application Number: Special Permit Application #160-D
AT&T (New Cingular Wireless, PCS, LLC)

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Assessor's Map #20 Lot #60
Street Address: 24 Chestnut Street

Name and Address of Applicant: New Cingular Wireless PCS, LLC (AT&T)
500 Enterprise Drive, Suite 3A
Rocky Hill, CT 06067

Name and Address of Applicant's Representative: Anthony Gioffre III, Esq.
Lucia Chiocchio, Esq. (present at public hearing)
Cuddy & Feder, LLP
445 Hamilton Avenue—14th floor
White Plains, NY 10601

Name and Address of Property Owner: Aquarion Water Company of CT
835 Main Street
Bridgeport, CT 06604

Activity Being Applied For: Proposing to install twelve panel antennas behind the existing water tank enclosure, install a replacement generator, and perform related site development activities.

Property Location: The subject property is located on the north side of Chestnut Street approximately 250 feet east of its intersection with Noroton Avenue.

Zone: R-1/3

Date of Public Hearing: February 25, 2014

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

Publication of Hearing Notices
Dates: February 14 & 21, 2014 Newspaper: Darien News

Date of Action: Thursday, March 20, 2014 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: Newspaper: Darien News
Friday, March 28, 2014

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, 950 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant 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:

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1. The subject application is to install wireless telecommunications antennas on an existing water tank and to install an equipment room within a rebuilt wooden shed. Proposed are the installation of 12 antenna on the top of the existing water tank at 24 Chestnut Street behind the existing shroud. The antennae will be at 87.8 feet above ground level. The existing water tank is 104 feet tall.
2. AT&T will replace the existing generator with a new generator, which will be used in emergency situations. The building is usually locked. There are no proposed exterior changes to the building. No new communications line will be visible from Noroton Avenue.
3. It was noted at the public hearing that the proposed AT&T antennas would not interfere with the Verizon antennas now on site. AT&T will make an agreement with Verizon on the sharing of the proposed generator. This project should take about a month to implement.
4. Use of the existing tower structure, rather than erecting another tower, is the preference expressed in Section 950 of the Darien Zoning Regulations.
5. According to the submitted report, the Radio Frequency (RF) emissions from the antennas, as proposed, comply fully with all Federal standards. The antennas will comply with all Federal standards.
6. Most of the monitoring of the antennas and related equipment will occur off-site. Therefore, there will be very little activity at this site after construction and installation is complete. Most likely, this will involve a monthly visit by a maintenance technician.
7. The location and size of the use, the nature and intensity 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.
8. The location and nature of the proposed use, are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
9. 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 augment unsafe traffic conditions between adjoining developments and the district as a whole.

NOW THEREFORE BE IT RESOLVED that Special Permit #160-D is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Installation of the antennas and equipment, and construction of a new equipment shed shall be in accordance with the plans entitled:
 - AT&T Mobility 24 Chestnut Street, by Dewberry Engineers, Inc., dated 12/20/13, Sheets T-1, Z-2 through Z-5.
- B. All required landscaping shall be installed prior to the antennas becoming operational.
- C. RF emission testing under full power shall be conducted within 30 days of the antennas becoming operational. Actual instrument measurements of the signal shall be taken at the same locations as the chart presented in the application once the antennas are "on-air". Within fourteen days of the test results, they shall then be filed with the Planning and Zoning Department, along with a statement from an independent qualified inspector that these are the actual emission signal levels measured on a clear day,

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and that they fall within FCC requirements. The RF emissions shall comply at all times with all applicable FCC standards.

- D. AT&T shall comply fully with all provisions in the current lease regarding equipment operations and maintenance.
- E. Because the antennas are on the existing water tower, the Commission hereby waives the requirement for posting of a bond.
- F. An as-built certification shall be submitted upon completion of construction, per Section 953.9 of the Darien Zoning Regulations.
- G. As explained by the applicant, the antennas and their emissions will not cause any electro-magnetic, radio, telephone or TV interference, nor shall it interfere with the structural integrity of the existing tank.
- H. A detailed procedure to deal with complaints about interference with radio, telephone, television and other consumer electronic equipment shall be developed by AT&T and submitted to the Planning and Zoning Office prior to receiving a Zoning Permit or Building Permit. That Complaint Procedure shall also be filed with the Selectmen's Office. The purpose of this procedure is that citizens will have a contact person at AT&T and prompt action will be taken by AT&T to remedy any interference caused by, or reasonably attributed to, the communications system.
- I. A detailed procedure to address issues related to construction activity, property maintenance or the timing or number of employee visits to the site shall be prepared by AT&T and the property owner, Aquarion Water Company. The procedure shall be submitted to the Planning and Zoning Office prior to receiving a Zoning Permit or Building Permit. That Procedure shall also be filed with the Selectmen's Office. The purpose of this procedure is that citizens will have a contact person at Aquarion Water Company and/or AT&T and prompt action will be taken by Aquarion Water Company and/or AT&T to remedy any problems relative to the construction activities, to property maintenance, or to employee visits. As noted within the application materials, the site shall be visited on the average of once a month for periodic maintenance by AT&T employees, and will be continuously monitored from off-site at all times.
- J. This permit will last for the extent of the lease. If, however, during the term of the lease, or any renewal thereof, the operation of the facility creates electro-magnetic, radio, telephone or television interference problems, AT&T shall immediately take all steps necessary to correct and eliminate any interference. If such interference cannot be eliminated within forty-eight (48) hours after receipt of written notice of existence of such interference, AT&T shall discontinue use of the equipment. If repeated interference problems occur which the Commission deems unacceptable, the Commission reserves the right to review, and if appropriate after notice and hearing, terminate this Special Permit.
- K. If the telecommunications facility ceases operations at the water tank or is abandoned by AT&T, AT&T shall immediately notify the Planning and Zoning office.
- L. The Commission acknowledges that this water tank may be considered in the future by other telecommunications carriers. The Commission strongly recommends that future carriers locate their antennas behind the existing RF Transparent screening material, and locate their required equipment within the existing equipment shelter.
- M. 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

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inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.

- N. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.
- O. 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 year of this action (March 20, 2015). 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 and the signing of the final documents by the Chairman. All completed requirements and materials shall be submitted to the Planning and Zoning Commission, and a Special Permit form filed in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

Chairman Cameron read the following agenda item:

Approval of Minutes

March 4, 2014 General Meeting

Several changes were discussed and agreed upon. The following motion was made: That the Commission adopt the revised and corrected Minutes. The motion was made by Mr. DiDonna and seconded by Mr. Sini. All voted in favor except Mr. Cunningham, who abstained because he had not been at the meeting. The revised Minutes were adopted by a vote of 4 to 0 to 1.

Chairman Cameron read the following agenda item:

Discussion regarding Incentive Housing Zones.

The Commission discussed the possibility of implementing an overlay zone as allowed by Section 8-13m through x of the State Statutes. This would create the possibility for affordable housing units to be constructed by administrative permit review only, after the Commission adopts the Regulations and adopts the zone for a particular property.

Mr. Ginsberg said that he will do more research regarding what other communities have done. He also said that there is a proposed amendment of the Statutes which is pending which would give more incentive for the Town to adopt such Regulations. Commission members will do further research and discuss this matter at a future meeting.

Chairman Cameron read the following agenda item:

The Heights at Darien, Noroton Avenue/Allen O'Neill Drive/West Avenue.

Requested modification of previously approved street lights along West Avenue.

Commission members discussed whether the two street lights near West Avenue should be installed at this time, or should be eliminated, or if the lights should be installed in a different location. The Commission did not come to a conclusion regarding this matter and will take a closer look at the site so that it can be discussed at a future meeting.

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There being no further business, the following motion was made: That the Commission adjourn the meeting. The motion was made by Mr. Olvany, seconded by Mr. DiDonna and unanimously approved. The meeting was adjourned at 9:55 P.M.

Respectfully submitted,

David J. Keating
Planning & Zoning Assistant Director

03.20.2014min