

**PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING/PUBLIC HEARING  
JULY 30, 2013**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:  
Spain, Cameron, Cunningham, DiDonna, Olvany, Voigt

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

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Chairman Spain called the meeting to order at 8 P.M. and read the first agenda item:

**GENERAL MEETING**

**Mandatory Referral #3-2013, Board of Selectmen, Purchase of property on Hecker Avenue.**

Request from the Board of Selectmen to purchase 1.245+/- acres of property on Hecker Avenue, which is a portion of Assessor's Map #41, Lot #20, now owned by St. Johns cemetery, bounded by the Town Hall property to the south; Stony Brook to the east; and Hecker Avenue to the north.

Commission members reviewed the July 23, 2013 memorandum from Karl Kilduff, Administrative Officer. The Town proposes to acquire a 1.245+/- acre parcel of land on the south side of Hecker Avenue. Mr. Ginsberg said that he had included with the materials distributed to the Commission members, copies of certain pages from the Town Plan of Conservation and Development and survey maps of the site. The property is currently vacant and owned by St. John's Cemetery. An aerial photograph shows the proximity of the property to the Town Hall, the ball fields and play fields around the Town Hall, the police station and the library. Mr. Ginsberg said that the Town has no specific or formal plans of the possible uses of the site, but it is anticipated that it would provide a walking path to connect the municipal facilities on Hecker Avenue (such as the Police Station and Library) with the municipal facilities at the Town Hall location. The property is within the flood hazard zone.

Mr. Ginsberg said that at 3:19 P.M., he received an e-mail from a Cherry Street neighbor who was not opposed to the project provided several conditions are satisfied. Mr. Ginsberg said that the acquisition of this property is consistent with the Town Plan of Conservation and Development and that it is contiguous to other Town owned properties.

Mr. Olvany said that it is a great idea for the town to acquire this property otherwise it would be private development proposed within the flood hazard zone and very close to Stony Brook. Mr. Ginsberg said that the acquisition requires review and approval by the Board of Finance and the Representative Town Meeting (RTM). There was some discussion about the possible participation by the Darien Land Trust to make it a public/private partnership. Mr. DiDonna said that the acquisition is a good idea subject to the appropriateness of the purchase price. He asked who would be responsible for the maintenance of the property. Mr. Ginsberg said he was not sure whether it would become the responsibility of the Public Works Department or the Parks & Recreation Department and that the Board of Selectman would likely make that decision after the property is acquired, if it is acquired.

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Mr. Spain said that the concept of the acquisition is within the statutory referral reporting purview of the Planning & Zoning Commission. He said the Commission must report whether they believe the acquisition is consistent with the Town Plan. The price of the property is not within the purview of the Commission. All the Commission members agreed that the acquisition is consistent with the Town Plan. Commission members agreed that they did not need to wait to have a formal draft report to review. They asked the Director of Planning to send a favorable report in response to the Mandatory Referral. The following motion was made: That the Planning & Zoning Commission find that the proposed acquisition is consistent with the Town Plan of Conservation and Development and to have staff send a favorable report in response to the Mandatory Referral. The motion was made by Mr. Olvany and seconded by Mr. DiDonna. All voted in favor except Mr. Voigt who abstained. The motion was passed by a vote of 5-0-1.

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

Chairman Spain read the following agenda item:

**Deliberation and possible decisions regarding:**

**Coastal Site Plan Review #285, Land Filling & Regrading Application #302, James & Janeen Eckert, 165 Long Neck Point Road.** Proposing to construct an in-ground pool, retaining walls, and expand on-site drainage, and perform related site development activities within a regulated area. The subject property is located on the east side of Long Neck Point Road, approximately 500 feet south of its southernmost intersection with Pear Tree Point Road, and is shown on Assessor's Map #61 as Lot #3, R-1 Zone. *HEARING CLOSED: 6/11/2013. DECISION DEADLINE: 8/15/2013.*

Commission members reviewed the draft resolution and asked for a clarification of Item #4. Ms. Cameron questioned the amount of the performance bond. Mr. Ginsberg said the question of whether to require a performance bond and if so, the amount of the bond, is left up to the Commission. In the discussion, Commission members noted that having a performance bond does not seem onerous in this particular case, and that having a performance bond for a private development of this sort has been done elsewhere within the community.

Mr. Olvany mentioned the height of the trees to be planted and whether the Commission should require that the trees be maintained relatively low. Mr. DiDonna said that it was a condition or stipulation that was volunteered by the applicant and seems desirable to the neighbor. Ms. Cameron agreed but felt that the Commission should not create such a restriction due to, in part, the location of the trees and the complications involved with enforcement of such a restriction. Commission members decided that they would not impose a restriction on the height of the trees.

The following motion was made: That the Planning & Zoning Commission adopt the revised resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Ms. Cameron, seconded by Mr. Olvany and unanimously approved.

The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
July 30, 2013**

Application Number: Coastal Site Plan Review #285  
Land Filling & Regrading Application #302

Street Address: 165 Long Neck Point Road  
Assessor's Map #61 Lot #3

Name and Address of Property Owner: James & Janeen Eckert  
And Applicant: 165 Long Neck Point Road  
Darien, CT 06820

Name and Address of: Tom Ryder  
Applicant's Representative: Land-Tech Consultants  
31 Franklin Street  
Westport, CT 06880

Activity Being Applied For: Proposing to construct an in-ground pool, retaining walls, and expand on-site drainage, and perform related site development activities within a regulated area.

Property Location: The subject property is located on the east side of Long Neck Point Road, approximately 500 feet south of its southernmost intersection with Pear Tree Point Road.

Zone: R-1

Date of Public Hearing: May 7, 2013 continued to June 4, 2013, June 11, 2013  
and June 18, 2013

Time and Place: 8:00 P.M. Room 206, 119 (June 11) Town Hall

Publication of Hearing Notices  
Dates: April 26 & May 3, 2013 Newspaper: Darien News

Date of Action: July 30, 2013 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: Newspaper: Darien News  
August 9, 2013

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

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

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whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.

- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. The application is to construct an in-ground pool, retaining walls, and expand on-site drainage, and perform related site development activities within a regulated area. The proposed fill is to the south of the pool. Its associated retaining wall ranges to a maximum of four feet high.
2. No work at all is proposed within 100 feet of Mean High Water (elevation 4.3) or within 100 feet of the Coastal Jurisdiction Line (which is elevation 5.5). The proposed pool is shown as being at least 150 feet away from Mean High Water and the Coastal Jurisdiction Line. The associated filling work and retaining wall and stormwater management are also beyond 100 feet from both Mean High Water and the Coastal Jurisdiction Line.
3. On June 4, 2013, revised plans were submitted to the Planning and Zoning Department showing added shrubs and a revised drainage layout, including a detailed contour 23 and spot elevations, notes about the type of fencing, and a cleanout. Those revised plans (with a revision date of 6/3/13) show a row of 8 – 10 foot tall eastern red cedar trees to be planted approximately 7-10 feet from the southern property line. The Reardons, who live to the west of the subject property, have a six foot wide right of way from their property through the Eckert property down to Long Island Sound. The right of way which runs through the Eckert property along its southern property line will be preserved.
4. At the public hearing, the Reardons' representative said that their concerns are not with the proposed pool or the proposed fill, but rather, the row of red cedar trees which are being planted parallel to the Eckert southern property line and the possible restriction of the Reardon right of way to the water. It was noted that the cedar trees to be planted would be placed on top of fill and therefore would be higher than the existing grade. They claimed that the plantings would impact public coastal vistas. However, the Commission believes that this argument by the neighbor regarding that visibility of the coastal resources from Long Neck Point Road is not a valid issue because there are so many other things that block the visibility from the street. Based upon visits to the site and submitted photographs, showing a hedge along the public street, Long Neck Point Road, and also based upon other landscaping on the residential properties, as well as the existing structures, there is no public vista or panoramic public view to the water that is being interfered with. The only view that one may glimpse from the street would be at the shared driveway entrance along the northwestern corner of the Reardon property, which is a sixteen foot wide right-of-way for part of the driveway shared with the Eckerts. Based upon this entrance's being in a location on the northwest corner of the Reardon property; the specific topography in the area; and the horizontal distance from the proposed work; the proposed pool, fill, and planted cedar trees would not be visible from Long Neck Point Road in front of the Eckert/Reardon joint entrance driveway. The submitted Zoning Location Survey (revised to March 25, 2013) shows the location of the asphalt driveway which

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extends from Long Neck Point Road to the northwest corner of the Eckert property, then continues along the western property line of the Eckert property.

5. Commission members noted that the applicant did volunteer to keep the new planted trees trimmed down to a height of ten feet, but they said that those trees would not be visible from the street anyway. Based upon the submitted testimony and photographs, public vistas and views are not affected, and the proposed work is not affecting any public view. The Commission does not have the right to try to establish or protect a private view from the Reardon residence through a property. The raising of the grade level by up to 4 feet in some down-sloping locations does seem reasonable to establish a flat terrace and lawn area.
6. The Zoning Location Survey submitted by the Eckerts shows elevations in the southwest corner of their property (near their driveway) of 39.1 and 39.8. The proposed work is occurring between elevations 17.5 and 22.5, with the top of the proposed retaining wall to be at elevation 23.3 at its highest point. The retaining wall will be a maximum of four feet high.
7. During the public hearing, the Reardons' attorney brought up other issues related to the Eckert property, such as the past establishment of a putting green near the water that did not receive any permits or approvals, and a house addition that did receive administrative approvals a few years ago. The Commission believes that these are collateral issues, not directly related to the pending application. They will not be addressed herein.
8. The State of Connecticut DEEP sent an e-mail dated April 12, 2013, noting that the subject application has no inconsistencies with the Connecticut Coastal Area Management Act.
9. Stormwater management has been proposed by the applicant. The Commission notes the need for the applicant or property owner(s) to file a Notice of Drainage Maintenance Plan 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 downhill impacts.
10. The Commission finds that all of the proposed work is more than 100 feet from Mean High Water, and thus is not within the critical 100 foot area of the Coastal Area Management (CAM) regulations. Even if the proposed activity were not exempt, the Commission finds that there are no coastal impacts.
11. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
12. The proposed activity is consistent with the goals and policies in Section 22a-92 (the Connecticut Coastal Area Management Act) of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would mitigate any adverse impacts by the proposed activity on coastal resources.
13. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.

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14. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
15. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #285 and Land Filling & Regrading Application #302 are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. All work shall be in accordance with the plan entitled:
  - Proposed Pool Site Plan, for James P. Eckert Janeen P. Eckert, 165 Long Neck Point Road, by Land-Tech Consultants, Inc., dated 4/2/13 and last revised 6/3/13, Sheet 1 of 1.
- B. A Performance Bond of \$10,000 is required by the Commission to assure that sediment and erosion controls are properly installed and maintained and to assure that site disturbance beyond the scope being approved does not take place, and to generally protect the environmental features of the site and surroundings. The format and surety of the bond shall be to the satisfaction of the Director of Planning and shall be submitted prior to the issuance of a Zoning Permit and the commencement of site disturbance and shall be returned upon the proper completion of the work, certification pursuant to Conditions E and F of this Resolution, and the stabilization of disturbed soils.
- C. During the regrading and site work, the applicant shall utilize the sediment and erosion control measures shown on the Proposed Pool Site Plan, and other measures as may be necessary due to site conditions, including tree protection. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the filling and regrading 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, and as needed by site conditions. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. By September 30, 2013 (within the next 60 days) 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 Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 165 Long Neck Point Road to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the start of any filling or regrading associated with this project.

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- E. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. Prior to the use of the pool or the request for the Certificate of Zoning Compliance (whichever comes first), the applicant shall submit verification from a professional engineer in writing and/or photographs that all aspects of the site regrading have been completed in compliance with the approved plan referred to in Condition A, above.
- F. Prior to July 30, 2014, as-built maps, surveys and/or other documentation shall be submitted to the Commission to verify that the pool and fill to the south of the pool has been installed and completed in accordance with the approved plans.
- G. During the hearing, the applicant's representative offered that the trees to be planted could be 'topped off' or trimmed or otherwise maintained at a maximum height so that the view from adjacent property(ies) will not be affected as the trees grow. The applicant may perform such maintenance, but the Commission is not making the tree height a stipulation or a condition of this approval.
- H. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- I. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- J. This permit shall be subject to the provisions of Sections 815, 858, and 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (July 30, 2014). This may be extended as per Sections 815, 858, and 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 plans by the Chairman, and the filing of a Special Permit form and Notice of Drainage Maintenance Plan in the Darien Land Records.

Chairman Spain read the following agenda item:

**Coastal Site Plan Review #289, Flood Damage Prevention Application #332, Jacqueline Judge, 97 Nearwater Lane.** Proposing to elevate the existing residence and its associated mechanical units, and construct additions and alterations to the house, and perform related site development activities within regulated areas. *PUBLIC HEARING CLOSED ON 7/23/2013.*

Commission members discussed the draft resolution. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the

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conditions and stipulations as noted. The motion was made by Mr. Voigt, seconded by Mr. Olvany and unanimously approved.

The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
July 30, 2013**

Application Number: Coastal Site Plan Review #289  
Flood Damage Prevention Application #332

Street Address: 97 Nearwater Lane  
Assessor's Map #52 Lot #3

Name and Address of:  
Property Owner: Jacqueline Judge  
97 Nearwater Lane  
Darien, CT 06820

Name and Address of Applicant &  
Applicant's Representative: William Roman  
Roman Remodeling  
474 Pemburn Drive  
Fairfield, CT 06824

Activity Being Applied For: Proposing to elevate the existing residence and its associated mechanical units, and construct additions and alterations to the house, and perform related site development activities within regulated areas.

Property Location: The subject property is located on the west side of Nearwater Lane, approximately 465 feet south of its intersection with Nickerson Lane.

Zone: R-1

Date of Public Hearing: July 23, 2013

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

Publication of Hearing Notices  
Dates: July 12 & 19, 2013 Newspaper: Darien News

Date of Action: July 30, 2013 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: Newspaper: Darien News  
August 9, 2013

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

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- the proposed use and activities must comply with all provisions of Sections 400, 810, and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. The proposal is to elevate the existing residence and its associated mechanical units, and construct additions and alterations to the house, and perform related site development activities within regulated areas. The subject property is 1.0805+/- acres, and is served by public water and an on-site septic system.
2. This project was reviewed and acted upon the Environmental Protection Commission (EPC) on July 10, 2013 as part of EPC #27-2013. The project was also approved by the Darien Zoning Board of Appeals (ZBA) on July 17, 2013 as part of ZBA Calendar #42-2013. One of the ZBA conditions of approval is that the construction plans be modified so that the finished building height will not exceed 36.0 feet. Both of those decisions are incorporated by reference.
3. The existing residence has a first floor elevation of 9.3. The new residence will have a finished first floor of 15.0 or greater. All mechanical units will be placed at or above elevation 14.0, which is the expect flood level. This will comply with the new Flood Insurance Rate Maps which went into effect on July 8, 2013.
4. The proposed activities, to be implemented with the conditions listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties.
5. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
6. The proposed activity is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes.
7. The potential adverse impacts of the proposed activity on coastal resources are acceptable.
8. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

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NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #289 and Flood Damage Prevention Application #332 are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
- Zoning Location Survey 97 Nearwater Lane prepared for Jacqueline V. Judge, by William W. Seymour & Associates, scale 1"=20', dated June 4, 2013.
  - House Lifting & Alterations, Jacqueline Judge Residence by JVL Design LLC, dated 06-10-13 and last revised 7-22-13, Sheet No. A3.(reflecting revised house height to comply with ZBA variance).
  - Judge Residence House Lifting & Alterations 97 Nearwater Lane by JVL Design LLC, dated 06-10-13, Sheet No. A1, A2, A4-A7. (Note: some of these plans will need to be modified the house height in order to comply with the ZBA variance).
- Note that some of the plans will need to be revised in order to comply with the ZBA variance in ZBA Calendar #42-2013.
- B. Because of this property's location adjacent to Holly Pond, the Commission hereby waives the requirement for a drainage report and analysis.
- C. Because of the minor nature of the site work involved in this project, the Commission hereby waives the requirement for a performance bond.
- D. Accompanying the Zoning and Building Permit applications and prior to commencing construction of the addition, more detailed drawings of the flood damage prevention venting design shall be submitted along with certification from a licensed architect and/or engineer that verifies that the final designs of the foundation and sidewalls comply with the applicable requirements. The fuel tanks to be in the crawl space will also require engineered plans and verification that they are properly anchored to avoid flotation and movement due to flooding conditions. Upon completion of the foundation, and then again when the sidewalls are complete, the applicant shall provide written certification from the architect and/or engineer that the construction has been completed in accordance with the approved plans and the flood damage prevention requirements.
- E. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the submitted plans in Condition A, above, and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- F. Once the project is complete, and prior to May 7, 2014, the applicant shall submit a final 'as built' map and written certification from the project engineer that all work has been properly completed in accordance with the approved plans. This shall include the final first floor elevation of the house, and the final elevation of the installed mechanical units.

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- G. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This includes, but is not limited to, review and action by the Darien Health Department regarding a temporary disconnection from the existing on-site septic system.
- H. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- I. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (July 30, 2014). This may be extended as per Sections 815 and 829f.

All provisions and details of the plan, as required to be revised herein by the Zoning Board of Appeals and the Planning and Zoning Commission shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman.

Chairman Spain read the following agenda item:

**Flood Damage Prevention Application #180-B, Peter Sikora & Melanie Branca, 16 Mayflower Road.** Proposing to elevate the existing residence and construct additions and alterations, and to perform related site development activities within a regulated area.

Commission members discussed the draft resolution. Mr. Ginsberg said that the referenced Section 810 should be deleted from the first page. Commission members agreed. The following motion was made: That the Planning & Zoning Commission adopt the following resolution, as corrected, to approve the project subject to the conditions and stipulation as noted. The motion was made by Ms. Cameron, seconded by Mr. Voigt and unanimously approved. The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
July 30, 2013**

Application Number: Flood Damage Prevention Application #180-B

Street Address: 16 Mayflower Road  
Assessor's Map #55 Lot #45

Name and Address of Property Owner: Melanie Branca & Peter Sikora  
16 Mayflower Road

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Darien, CT 06820

Name and Address of Applicant  
And Applicant's Representative: Chad Nehring, AIA  
Nehring + Associates Architecture, LLC  
152 Deer Hill Ave., Suite #304  
Danbury, CT 06810

Activity Being Applied For: Proposing to elevate the existing residence and construct additions and alterations, and to perform related site development activities within a regulated area.

Property Location: The subject property is located on the west side of Mayflower Road, approximately 450 feet south of its intersection with Shipway Road.

Zone: R-NBD

Date of Public Hearing: July 23, 2013

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

Publication of Hearing Notices  
Dates: July 12 & 19, 2013 Newspaper: Darien News

Date of Action: July 30, 2013 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: Newspaper: Darien News  
August 9, 2013

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

- the proposed use and activities must comply with all provisions of Sections 410 and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted redevelopment plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. This application is to elevate the existing residence, construct additions and alterations to the residence; and to perform related site development activities within a regulated area. The residence is now served by public water and public sewer service. On April 9, 2013, the Planning and Zoning Commission approved Flood Damage Prevention Application #180-A,

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which allowed an elevation of the existing residence to have a finished first floor elevation of 15.0. The applicant now wishes to elevate the lowest floor to 17.0.

2. The house now has a finished first floor of elevation 8.9. It will be elevated to have a first floor of elevation 17.0, which is at least one foot greater than the expected flood level of 14 shown on the FEMA Flood Insurance Rate Maps (FIRM) which went into effect on July 8, 2013. All mechanical units will be at or above elevation 16.0, which will also comply with the FIRM that went into effect in July 2013.
3. The Darien Zoning Board of Appeals (ZBA) approved this project as part of ZBA Calendar #37-2013 on June 19, 2013. One of the ZBA conditions of approval is the requirement that a detailed grading and Stormwater Management plan, including soil and erosion controls, shall be prepared by a Professional Engineer and approved by the Town Engineer prior to the issuance of a Zoning Permit for the construction. That ZBA approval is hereby incorporated by reference.
4. A Drainage Plan was prepared by Artel Engineering Group, LLC in response to the ZBA condition of approval, and was submitted for the record in this matter on July 11, 2013. The Assistant Director of Public Works has commented on that Plan and asked for additional modifications and clarifications.
5. The Commission notes that as part of Flood Damage Prevention Application #180-A approved for this property in April 2013, the property owner(s) filed a Notice of Drainage Maintenance Plan in the Darien Land Records. This Notice will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.
6. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
7. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
8. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Flood Damage Prevention Application #180-B is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Subject to the modification noted below, the elevation of the existing residence, associated construction, installation of stormwater management, and other activity shall be in accordance with the plans entitled:
  - Branca Sikora Residence 16 Mayflower Road, by Nehring + Associates, Architecture, LLC, dated 6.13.13, Drawings No. L-1, A-1 through A-8.

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The ground level of the structure shall be garage spaces, unfinished storage and, at elevation 7.5, a small access entry vestibule of approximately 90 square feet leading to the stairs that provide access up to the first floor at elevation 17.

While a Drainage Plan by Artel Engineering Group, LLC dated 6/21/13 was submitted for this record, modifications to that plan will have to be made in order to comply with the ZBA approval.

- B. Accompanying the Zoning and Building Permit applications and prior to commencing construction, a certification shall be submitted from a licensed architect and/or engineer that verifies that the final design of the house additions comply with the applicable flood damage prevention requirements.
- C. By September 30, 2013 (within the next 60 days) and prior to the issuance of Zoning or Building Permits for the house additions, 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. This plan shall include drainage system designed by Artel Engineering in response to the ZBA condition of approval. After approval by the two Directors, it shall be filed in the Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 16 Mayflower Road to maintain the on-site drainage facilities, and will alert future property owners of the on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan does not need to be filed in the Darien Land Records since one was filed just a few months ago.
- D. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls, plus any additional measures as may be needed due to site conditions, 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.
- E. Once the construction work is complete and prior to the issuance of a Certificate of Occupancy, the applicant shall submit verification from the project engineer or architect that all aspects of the site grading, building construction and the storm water management (drainage) system have been completed in compliance with the approved plans and the flood damage prevention regulations. Also prior to a Certificate of Occupancy, a final as-built survey shall be submitted by a licensed Land Surveyor certifying the final construction meets all building setbacks and building coverage maximums, and final work is in compliance with local regulations.
- F. Due to the minor nature of the project, the Planning and Zoning Commission will not require a Performance Bond.

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- G. Great care must be taken to make sure that storm water runoff is directed into the drainage system, not toward the neighbors.
- H. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. Prior to the request for the Certificate of Zoning Compliance, the applicant shall submit an as-built survey for the land filling and regrading aspects of the project, as prepared by a licensed land surveyor, and it shall show the final finished grades with two foot contours, as well as the foundation location of the house.
- I. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- J. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to, the requirement for Zoning and Building Permit applications, and possibly Sewer Disconnection and Connection Permit for the elevated/modified residence.
- K. This permit shall be subject to the provisions of Section 829f of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (July 30, 2014). This may be extended as per Section 829f.

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

Chairman Spain read the following agenda item:

**Coastal Site Plan Review #83-A, Flood Damage Prevention Application #71-A, Job & Sascha Sandberg, 47 Pear Tree Point Road.** Proposing to remove existing pier, ramp and float, and construct a new pier, ramp, and float, and to perform related site development activities within regulated areas. *PUBLIC HEARING CLOSED ON 7/23/2013.*

Commission members discussed the draft resolution and noted that only a very small portion of the project is within the Town's jurisdiction. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Ms. Cameron, seconded by Mr. DiDonna and unanimously approved.

The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
July 30, 2013**

Application Number: Coastal Site Plan Review #83-A  
Flood Damage Prevention Application #71-A

Street Address: 47 Pear Tree Point Road  
Assessor's Map #60 Lot #51

Name and Address of Applicant &:  
Property Owner: Job & Ingeborg Sandberg  
47 Pear Tree Point Road  
Darien, CT 06820

Name and Address of  
Applicant's Representative: John Roberge, PE  
Roberge Associates Coastal Engineers, LLC  
611 Access Road  
Stratford, CT 06615

Activity Being Applied For: Proposing to remove existing pier, ramp and float, and construct a new pier, ramp, and float, and to perform related site development activities within regulated areas.

Property Location: The subject property is located on the west side of Pear Tree Point Road, approximately 1,300 feet south of its intersection with Rings End Road.

Zone: R-1

Date of Public Hearing: July 23, 2013

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

Publication of Hearing Notices  
Dates: July 12 & 19, 2013 Newspaper: Darien News

Date of Action: July 30, 2013 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: Newspaper: Darien News  
August 9, 2013

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

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

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contained in the record of the public hearing, all of which material is incorporated by reference.

- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. The proposal is to remove existing pier, ramp and float, and construct a new pier, ramp, and float, and to perform related site development activities within regulated areas. A portion of this work is in State of Connecticut DEEP jurisdiction, and a very small portion, the short ramp leading from the ground level up to the new pier level, is within the Town of Darien Planning and Zoning Commission jurisdiction.
2. The State of Connecticut DEEP has issued a permit for the proposed work—Permit #201302285-SB on May 21, 2013. The Army Corps of Engineers has also approved the project.
3. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
4. The proposed activities, to be implemented with the conditions listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties.
5. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
6. The proposed activity is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes.
7. The potential adverse impacts of the proposed activity on coastal resources are acceptable.
8. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
9. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #83-A and Flood Damage Prevention Application #71-A are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

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- A. Construction shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
- JHR Job BB & Ingeborg S Sandberg 47 Pear Tree Point Road, by Roberge Associates Coastal Engineers, LLC, dated /3/26/2013, Drawings 5-7.
- B. Because of this property's location adjacent to Long Island Sound, the Commission hereby waives the requirement for a drainage report and analysis.
- C. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans in Condition A, above, and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. Once the project is complete, and prior to July 30, 2014, the applicant shall submit a final 'as built' map and written certification from the project engineer that all work has been properly completed in accordance with the approved plans.
- E. 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.
- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- G. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (July 30, 2014). This may be extended as per Sections 815 and 829f.

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

Chairman Spain read the following agenda item:

**Approval of Minutes**

July 16, 2013 General Meeting/Public Hearing

Several minor clarifications and corrections of typographical errors were discussed and agreed upon. The following motion was made: That the Planning & Zoning Commission adopt the revised minutes. The motion was made by Mr. Cunningham, seconded by Mr. Olvany and unanimously approved.

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Chairman Spain read the following agenda item:

**Discussion of Affordable Housing Trust Fund Ordinance.**

Mr. Spain said that the project on the corner of Boston Post Road and Academy Street could have included an affordable housing unit but the option preferred by the applicant and the Commission was to accept a payment in lieu of creating the actual affordable unit at that site at that time. The check has been submitted by the applicant and is temporarily being held by the Town. The purpose of the proposed ordinance is to establish an Affordable Housing Trust Fund. Mr. Ginsberg said that the draft ordinance will be discussed by the RTM in September. This is an informal, courtesy referral to the Planning & Zoning Commission for comment and input into the drafting of the ordinance. Ms. Cameron said that she is concerned that the money in the trust fund should only be spent to actually create affordable housing units. It should not be used for feasibility studies or similar reports unless that work results in the creation of actual affordable housing units.

Mr. Voigt expressed concern with Provision 55-3b (iii) which provides that the trust fund could be closed out by the Board of Selectmen. He said he understands the need for an escape clause but felt it was too broadly written and needs to be clarified. Mr. Spain said that the establishment of the local housing trust fund needs to be parallel and conforming to the State Statutes for creating such a fund so that the funds will be used for actual affordable housing and comply with those Statutes. Mr. DiDonna said that it appears that this would not be a typical trust, where the trustees own the money in the fund, in this case they would really be the stewards of the fund rather than have ownership. Mr. Ginsberg said that the way the ordinance is drafted the Town Treasurer will manage the money and the trustees will authorize the spending of the money for affordable housing. Commission members shall forward any additional comments to Mr. Ginsberg so that he can forward that information to Town Counsel.

*Since this is a Special Meeting, the Commission cannot consider "Other Business"*

Chairman Spain opened the public hearing portion of the meeting and read the following agenda item:

**PUBLIC HEARING**

**Continuation of Public Hearing regarding Coastal Site Plan Review #287, Flood Damage Prevention Application #328, Land Filling & Regrading Application #306, Stephen Milman, 5 Pratt Island.** Proposal to install a retaining wall with associated fill, and perform related site activities within regulated areas. The subject property is located approximately 600 feet southwest of the intersection of Nearwater Lane and Baywater Drive, and is shown on Assessor's Map #55 as Lot #110 in the R-1 Zone. ***PUBLIC HEARING OPENED ON JUNE 25, 2013. WAS CONTINUED AGAIN AT APPLICANT'S REQUEST TO JULY 30, 2013. TO BE CONTINUED AGAIN TO SEPTEMBER 10, 2013.***

Chairman Spain announced that the public hearing was continued to September 10, 2013 at 8 P.M. in Room 206 of Town Hall. Mr. Ginsberg said that the applicant is continuing to work with CT DEEP in response to that agency's comments.

Chairman Spain read the following agenda item:

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**Continuation of Public Hearing regarding Amendment of Subdivision Application #544-A(7), Jaime & Christina Vicencio, 19 Morley Lane (“North Lot”).** Request to modify previously approved single-family residence to be constructed on the now-vacant lot. The subject property is located on the west side of Morley Lane, approximately 1,000 feet north of its intersection with Redcoat Pass, and is shown on Assessor’s Map #63 as Lot #55A, in the R-1 Zone. ***PUBLIC HEARING OPENED 5/28/2013, continued to 6/11/2013 6/18/2013, 7/23/2013 and 7/30/2013.***

Mr. Ginsberg said that the applicant has withdrawn the pending application because they have revised the plans to conform to the 1997 approval, which had been upheld by the courts. If they wish to make any changes to the plan, they will need to return the Planning & Zoning Commission. He said that it is likely that the applicant will return to the Commission with changes to the actual house but will have the site facilities and dimensions match the 1997 approved plans.

Chairman Spain said that the order of the public hearing items needs to be modified to accommodate the traffic consultant and the public. Chairman Spain read the following agenda item:

**Continuation of Public Hearing regarding:**

By Order dated December 19, 2012 in the matter of Christopher & Margaret Stefanoni, v. The Darien Planning and Zoning Commission – Docket No.: HHB-CV-11-5015368S (the “Appeal”), Judge Henry Cohn remanded the matter back to the Darien Planning & Zoning Commission for limited reconsideration. The legal notice for the original application read as follows:

**Affordable Housing Application Under CGS 8-30g (#1-2010), Site Plan Application #277, Land Filling & Regrading Application #247, Christopher & Margaret Stefanoni, 57 Hoyt Street.** Proposing to construct 16 units of age-restricted housing (30% of which are proposed to be affordable housing under Section 8-30g of the Connecticut General Statutes) in a new building with associated parking and regrading, and to perform related site development activities. The subject property is located on the east side of Hoyt Street approximately 100 feet south of its intersection with Echo Drive, and is shown on Assessor’s Map #27 as Lot #168-1, within the R-1/3 zone.

Mr. Olvany has recused himself from participating in this matter and therefore left the meeting.

Mr. Ginsberg said that the Town’s traffic consultant, Michael Galante, was present tonight but he would have to leave for a different meeting in another community. Mr. Ginsberg also said that the Commission has received letters dated July 30, 2013 from John Carlo and from Adler Consulting and a two-page letter from a neighbor Martha Guttuso. Mr. Ginsberg said that the Town has received a summary of accident reports from the Police Department and he said that he created a map dated July 26, 2013 indicating the location of those accidents. There is also a Map #4575 filed in the Darien Land Records that shows the subject property and the adjacent Open Space. These were made part of the record.

Mike Galante of F. P. Clark Associates explained that the traffic study area regarding this project extends along Hoyt Street from the Echo Drive intersection to just north of Lake Drive. Traffic accident reports from the Police Department have been documented and according to the map there are only 5 accident reports within that study area. There are 5 more accident reports at or south of the Hoyt Street/Lake Drive intersection. He said that based on the volume of traffic that uses Hoyt Street there is not now a significant pattern of accidents that needs to be addressed and he is not overly concerned

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about the existing traffic and safety conditions. He said that he will submit a written copy of his comments tomorrow.

Mr. Galante said that he has reviewed the applicants' revised site plan that shifts the proposed driveway to the south in response to comments about the driveway apron location. He said that he had recommended flipping the driveway to the southernmost point of the site and although the new driveway is better, it is not as far south as he had recommended. He said that as revised, the site plan shows angular parking spaces that will be difficult to drive into as one enters the site from Hoyt Street. He also noted that at least one of the parking spaces might go over the property line or over the drainage ditch as noted by the neighbor to the north. He said that the site plan should re-measure the sight lines using the new State standard of 15 feet back from the edge of the road.

Mr. Galante said that the accident reports received from the Darien Police Department have not been attached to his report because the original reports include specific names of the parties involved. He said that although it is public information, the policy at his firm is not routinely to provide copies of the original/complete police reports. He said that in his report he notes 4 rear end collisions but in a different report there appears to be 5 rear end collisions. Mr. Galante said that he counted one of those accidents as a side swipe. Mr. DiDonna said that there seems to be numerous accidents in a very small area in the past three years and that this does seem to demonstrate a pattern. He said that he does not think that residential areas typically have that amount of accidents in a short time period. Mr. Galante said that although this is a residential area, it is also a state highway but there are approximately 11,000 vehicles per day. The posted speed limit is 25 miles per hour but it is typical of northbound traffic to travel at 38 miles per hour and southbound traffic to travel at 32 miles per hour based on his measurements this spring. He said to mitigate the accidents, driver behavior would need to be modified, and vegetation would need to be trimmed and the painted lines or markings need to be redone. He said that there are also other means that might mitigate the number of accidents that occur along Hoyt Street.

Mr. DiDonna said that there seems to be some difficulty in seeing traffic coming from the north due to the bend in the street. He said that the Adler report indicated the average speed is higher than Mr. Galante quoted and feels that this is a risky area for a residential neighborhood. Mr. Galante said that more enforcement of the speed limits might help and he did concur that drivers need to be extra vigilant in the area due to the conditions.

Mr. Spain referred to the map prepared by the Planning & Zoning office indicating the location of the accidents. Mr. Galante said that the bend in the road along Hoyt Street is just to the north of what is labeled as Lot #45. Mr. Spain said that rear end and side swipe accidents appear to be vehicles traveling in the same direction. Due to the higher speeds, it appears that there is a shorter time to see vehicles that are in the way and therefore, a shorter time to stop, or to take appropriate evasive action. Mr. DiDonna said that several of the accident reports include vehicles stopped on the side of the road, or shoulder of the road, and are not completely in the travel lane. Mr. Galante said that no one should park on Hoyt Street and he acknowledged that to his observation, there are occasional delivery trucks that do park on Hoyt Street as a matter of practice.

In response to questions from Mrs. Stefanoni, Mr. Galante said that the map illustrating the location and type of accidents is not related to the volume of traffic that utilizes the street. Mrs. Stefanoni said that if 12,500 vehicles use the street on a daily basis there would be approximately 13, 700,000 vehicle

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trips on the street in a three year time period and that the number of documented accidents is very low compared to the number of vehicles that use the street. Mr. Galante said that this is not a high accident situation or location. He also noted that motorists need to use caution as they travel through the area because of the site conditions but it is not a particularly risky situation. He repeated that vehicles should not be parked along Hoyt Street. Mr. Galante said that left hand turns into the site would be from traffic that is traveling southbound. The majority of the rear end accidents have occurred in the northbound direction. Mr. DiDonna said that one of the rear end accidents did involve southbound traffic. In response to a question, Mr. Galante said that service vehicles should be parked on the site and not on the street and that, for an apartment building, off street parking should be provided for service and delivery vehicles. Provisions should be made for left hand turns and he acknowledged that queuing will increase as the number of left hand turns increases. Mrs. Stefanoni said that the level of Service A will remain unchanged based on the projected traffic volume of a 16 unit development.

Thomas Birmingham of 63 Hoyt Street said that there are many near accidents that are not captured in the police reports. He said that even when he is traveling to his home and signals well in advance, many cars barely miss him as he slows to turn into his driveway. Mr. Galante confirmed that such near misses are not quantifiable.

Martha Guttuso of 53 Hoyt Street said that even when she turns right into her driveway with the blinker on, there are many near misses that she has experienced. She said that it is sometimes difficult exiting the site to turn left (to go southbound on Hoyt Street) because the queue or back up from the Holmes School traffic extends all the way to her property.

Mr. DiDonna said that the Adler report indicated that a sight line distance of 445 feet is necessary for 40 mile per hour traffic. That report says this recommended or required sight line from the State Highway Manual is not available at the speed that people actually utilize Hoyt Street. Mr. Galante referred to his Table 4 in the May 23, 2013 report, which uses a 38 mile per hour average speed for traffic northbound on Hoyt Street.

Ms. Cameron said that people who live within the proposed development will walk from the site. Mr. Galante said that he has recommended that sidewalks be provided and that a crosswalk be provided at the intersection. He said that a crosswalk should not be provided unless it is at an intersection of streets. A crosswalk should not be in the middle of a block. Ms. Cameron said that a crosswalk does not in and of itself make it safe for pedestrians to cross Hoyt Street.

Gary Bernhardt of 6 Echo Drive said that northbound traffic on Hoyt Street will go around cars that are slowing to turn right into the site. He said that such traffic going around the cars turning right into the site will therefore be in the southbound traffic lane but will not be adequately visible to southbound traffic due to the bend in the road to the north. Mr. Galante said that no traffic analysis or driver should expect a vehicle traveling the wrong way (northbound in the southbound lane). Mr. Spain said that this is a state highway but it is a relatively narrow state highway with only one lane in each direction and no passing lanes. Mr. Galante concurred. There were no further questions for Mr. Galante and he departed from the meeting.

Mr. Spain said that the Adler traffic report had been submitted earlier in the day and asked if the Stefanonis had any comments. Christopher Stefanoni said that he takes his kids to the Hoyt Street site many times and they park at the Holmes School. They walk on the Hoyt Street sidewalk in the

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northerly direction and then cross the street easily. He said that it is not true that you cannot safely cross Hoyt Street. Ms. Cameron said that she has lived on Hoyt Street for 30 years and said that even though there might be a cross walk and a sign, motorists do not always adhere to the safety requirements for the pedestrian in the street. Mr. Stefanoni said that between 8:30 and 9 in the morning on a school day, that portion of Hoyt Street does get crowded as parents are dropping off their children at Holmes School. He said that the applicants are amenable to putting a crosswalk in if it is needed and/or required. He said that when he has visited the site with his children and has crossed the street, it has generally been in the afternoon. He said that the seniors who would be the residents of the proposed development will not frequently go in or out of the site at the busiest times of the day. Mr. Spain said that Mr. Stefanoni's children are more agile than the older residents of the proposed senior housing development (62 years of age and older). Mr. Stefanoni said that it is not unsafe for elderly residents to cross the street and said that this would not be an assisted living facility, but would be for able bodied adults. He said that it is not unsafe to cross Hoyt Street but any pedestrian would need to wait until it is safe to cross the street.

Karen Gregory of 23 Georgian Lane said that she has lived in the area since the 1970's and that her children were not allowed to cross Hoyt Street at this site because of the dangerous conditions. They were only allowed to cross Hoyt Street if they go up north to the bend in the road north of Echo Drive. She said there are times when there are lots of cars and they back up in the street and there are other times when the volume of the cars in the street is low; but the cars go fastest then, and it is therefore dangerous. She said that it is a highly risky and very dangerous portion of Hoyt Street.

Michael O'Rourke of Adler Consultant said that they submitted their July 30, 2013 letter and referred to previously submitted Adler reports from 2010. He said that they found that the northbound traffic tends to move at approximately 40 miles per hour and that the rear end accidents of northbound traffic are probably due to following too closely and excessive speed. He said that even trucks leaving the site and turning right (northbound) will intrude into the southbound travel lane due to those vehicles turning radius and the narrowness of the street. Trucks turning right into the site (traveling northbound on Hoyt Street) will need to cross over into the exit lane portion of the site driveway, where there could be vehicles that are leaving the site. He also noted that any vehicles leaving the site will need to wait in order to turn left.

Mr. DiDonna said that the July 9, 2013 Adler report (5 pages) indicates that existing conditions are undesirable and would be made worse by the proposed development. Mr. O'Rourke agreed and said that there are safety concerns. He said visibility is limited in the area and making turns is difficult due to speed and the traffic volume and the safety problems. He said that they conducted traffic studies for an entire week to determine the volume and speed of traffic on Hoyt Street. In response to a question from Mr. Cunningham, Mr. O'Rourke said that the proposed driveway is at a 90 degree angle to the street and that the applicant's engineer has used standard turning radii for the width of the road and the driveway. This will result in problems of trucks turning into the site and getting out of the site. He also said that even a mail delivery truck will be partially in the travel lane and partially on the shoulder when making deliveries. He said that FedEx and UPS delivery type of trucks would hopefully not exit the site when going northbound because they would briefly go into the southbound traffic lane. He said that increasing the number of trips into and out of the site, particularly with large vehicles, will require a greater degree of vigilance.

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Mr. Spain questioned the speed of vehicles at the busiest times. Typically the speed of vehicles is measured at the 85<sup>th</sup> percentile. Mr. O'Rourke said that when the site and area is more congested, it tends to slow down the traffic flow and therefore the speed of the vehicles during the busiest times is not as great as other times of the day. Mr. Spain said that in the morning there is more southbound traffic as people try to get towards downtown Stamford and there is more congestion as traffic approaches the Holmes School, which is just south of the site. In the afternoon, there is more traffic moving northbound but that traffic can move more quickly because the congestion around Holmes School is south of the site. Mr. Spain said that in the afternoon there is a lot of traffic moving northbound and less traffic moving southbound; therefore, it could be a long time for southbound traffic to turn left into the site. Mr. O'Rourke concurred. Mr. Spain said that when the southbound traffic is lighter during the afternoon, it means that the southbound traffic is moving at a higher speed. Mr. O'Rourke agreed and said that the limited sight distance for motorists traveling southbound means that it will be difficult for them to see a car waiting before being able to turn left into the site. He said that those situations make it more likely that there will be a rear end accident. He said that accidents are random but the more traffic that is waiting to turn left, the more opportunities for someone to get hit simply because there are more people turning left and therefore more chances that there will be an accident. He said that, because of the many variables, the number of accidents is not directly proportional to the number of vehicles making a maneuver.

Mr. DiDonna said that most accident reports indicate that there were dry road conditions. He asked if wet conditions will make accidents more likely. Mr. O'Rourke said that wet roads increase the opportunities for accidents due to the longer stopping distances that are necessary. Mr. Spain said that there appears to be a consistent down slope from the north of Hoyt Street to the south of Hoyt Street. He asked if this will increase the stopping distances for southbound traffic. Mr. O'Rourke said that anything less than a 3% slope is generally considered flat enough that it does not increase speed or require greater stopping distances. He said that the slight incline on this portion of Hoyt Street does not increase stopping distances to a measureable degree.

Mrs. Stefanoni asked if the July 9, 2013 (5 page report) and July 30, 2013 (3 page report) submitted by Adler take into account the fact that the driveway has been shifted to the south compared to the original plan. Mr. O'Rourke said that he has the same concerns expressed by Mr. Galante regarding speed and the distance of the sight lines and the need to see over the neighbor's property which is not guaranteed to remain open. Mrs. Stefanoni said that the July 9, 2013 plan indicates that the sight lines to both the north and the south are over state highway land, not over private property. She said that the old plan was developed using the standard of measuring the sight line from 20 feet from the white line. Now that the new state standard is to measure 15 feet from the edge of road, it will actually improve the sight line distances. She asked if the proposed driveway had a 90 degree angle to the street and using the standard turning radii is typical or standard for a housing driveway. Mr. O'Rourke said that even using the proposed design, it will still result in some cross-over into the southbound lane as northbound trucks on Hoyt Street enter the site by turning right and as trucks leaving the site turn right to go northbound on Hoyt Street.

Mrs. Stefanoni asked what conditions result in drivers slowing down. Mr. O'Rourke said that some drivers do slow down but some do not. He said that the road is dry far more often than it is wet.

Martha Guttuso from Hoyt Street expressed concern about the many trucks and vehicles entering and exiting the site during the construction process. She said the traffic flow, deliveries from large trucks,

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the need for on-site parking for all the workers and many other safety concerns are important to the neighbors. She asked if there is any data that can be provided regarding the safety during the construction process. Mr. O'Rourke said that the construction increases the trips to the site and the many various maneuvers of vehicles getting into and out of the site. The fact that there are more opportunities for accidents increases the likelihood that there will be an accident. He said that no parking should be allowed on Hoyt Street, even on the shoulders including during construction.

Martha Guttuso said that there are 8 school buses on Hoyt Street and the students do not walk across Hoyt Street because the Board of Education policy has been to avoid students having to cross Hoyt Street. Mrs. Stefanoni said that the Board of Education would not allow busses to use Hoyt Street if it was as dangerous as claimed by the neighbors where the bus that is stopped to pick up a student would be hit as students get on or off the bus.

Gary Bernhardt discussed the sight line distances for northbound and southbound traffic. He said that cars traveling northbound and slowing down to turn right into the site will be passed by other vehicles that are traveling northbound. Those passing cars will partially enter the southbound travel lane. Limited sight line of southbound traffic as it comes around the curve will make it more likely for potential accidents to occur due to the development. Mr. O'Rourke said that he concurs with Mr. Galante's concerns and said that motorists do not expect to see a vehicle traveling the wrong direction in their travel lane. He also said that the Board of Education policy regarding children crossing Hoyt Street was not known to him and he is not aware of any location where a school bus would not stop on a particular street. Mrs. Stefanoni said that she had been referring to the selection of a particular location of a stop within a street.

Commission members concurred that due to the late hour, it would be necessary to continue the public hearing. It was agreed that the hearing will be continued on September 10, 2013 at 8 P.M. in Room 206 of Town Hall. Ms. Cameron reminded Mrs. Stefanoni that it would be important to figure out how the Gallivant senior bus will access into the site and turn around and where the mailbox location would be to make sure that it would be safe. Mr. DiDonna reminded Mrs. Stefanoni that she needs to provide a detailed list of the stipulations of the original approval and whether applicants are willing to comply with each of those stipulations.

The public hearing regarding this matter was recessed at 10:45 P.M. so that the Commission could continue with the other public hearing items.

Mr. Olvany returned to the meeting. Chairman Spain read the following agenda item:

**Proposed Amendments to the Zoning Regulations (COZR #3-2013) put forth by the Darien Planning & Zoning Commission** as outlined in a June 17, 2013 memo from Jeremy Ginsberg. These proposed changes include: Amendments related to Personal Service Businesses: Modify Section 210—Definition of Commercial Sales and Service; Add subsections 604d, 614g, 634g, 654f, and 684j., to specifically call out Personal Service Business as a Special Permit use in certain zones.

Other proposed changes are amendments recommended by the Zoning Board of Appeals (ZBA): 1. Modify Section 210 (Definition of Building Coverage) by noting that the first six inches (6") of building eave, and up to twenty (20) square feet for overhangs for stairs, stair

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landings, and stoops do not count toward Building Coverage. Delete subsection 416h. Modify subsection 351 (Porches) to better reflect current policy of acceptable size covered front porches which would be exempt from setbacks or subject to reduced setbacks. Modify subsection 354 (Stairs and Ramps) to better reflect current policy of acceptable size entry stairs which would be exempt from setbacks or subject to reduced setbacks. Modify subsection 1126b (General Rules of the Zoning Board of Appeals) regarding submitted application materials. Modify subsection 1126e (General Rules of the Zoning Board of Appeals) regarding reapplications to the ZBA. Modify subsection 1127 (Notification) to have proof of mailing submitted one week prior to the public hearing.

Other proposed changes are amendments recommended by the Architectural Review Board (ARB): Modify subsections 923.1b, c, and d, regarding wall signs in the CBD, DC, and NB Zones; Modify subsection 923.2b regarding hanging signs in the CBD, DC, and NB Zones; Modify subsection 923.5 Prohibited Signs in the in the CBD, DC, and NB Zones; Modify subsection 925.2b, regarding wall signs in the OB, DOR-1 and DOR-5 Zones; Modify subsection 926.1, regarding wall signs in the SB and SB-E Zones.

Commission members agreed that the public hearing for this matter should be continued on September 17, 2013 at 8 P.M. in Room 119 of Town Hall.

Chairman Spain and Mr. DiDonna recused themselves from the following agenda item and left the meeting. Vice Chairman Cameron read the following agenda item:

**Proposed Amendments to the Zoning Regulations (COZR #4-2013) put forth by the Tokeneke Club, Inc.** Proposal to modify the definition of Building Coverage in Section 210 of the Darien Zoning Regulations. This change would include only the first and largest court of any pervious tennis or recreational court in the calculation of “Building Coverage” for lots in commercial zones or special permit uses on lots in residential zones.

Attorney Wilder Gleason represented the applicants and said that they are proposing to amend the definition within the Zoning Regulations so that there would be as little change as possible. He said that the Tokeneke Beach Club contains approximately 9 tennis courts as well as other facilities on their 5 acre property. The other private clubs in Town have much larger acreages and therefore building coverage is not a concern to the others. He said that in 1985 the Zoning Regulations were modified to include tennis courts in the definition of building coverage. He submitted a copy of the 1937 Zoning Regulations indicating that building area was regulated in the AA Residential Zone and the percentage of building area that could be covered was 20% of the lot area. In the A Zone the allowable building area is 25% of the lot area and in the B Zone the allowable building area was 30% of the lot area. At that time, building area included buildings and their accessories. Then in 1985, many of the Regulations were amended so that many things that were not included in building area were then counted as Building Coverage. The 1985 Regulations does not include all impervious surfaces but does include such things as tennis courts and swimming pools but not driveways or patios. He said that the Tokeneke Beach Club wants to be treated like the other Clubs in Town that have much larger tracts of land, the only exception to that would be the Noroton Yacht Club that has several tennis courts and is similarly situated on a small acreage site. He said that any time the Tokeneke Beach Club proposes modifications to the site or tries to modify the outdated Club House building, they need to go to the Zoning Board of Appeals and end up losing amenities such as the backup practice court because

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utilizing the current “1985” definition of Building Coverage, they are covering approximately 36% or more of their lot area. If the proposed change in the definition is incorporated, the Building Coverage would go down to 17% +/- which is less than the 20% allowed in the residential zones.

Mr. Gleason said that notices were sent to many property owners in the area even though they were not required to do so. Most of those property owners have no problem with the proposed amendment to the Zoning Regulations. He said that he would much prefer to make an application that will be subject to the judgment of the Planning & Zoning Commission, rather than having to apply to the Zoning Board of Appeals, which utilizes the strict interpretation of the statutes that requires a hardship related to the land. He questioned why the definitions were changed in 1985. He submitted a copy of the 1937 Regulations and a handout that summarizes the Regulations within other towns relative to building area or building coverage. He said that the Town Plan recommends that the Planning & Zoning Commission regulate site development of all impervious surfaces, not just building coverage.

Ann Lunn of 9 Contentment Island Road said that she owns property nearby but did not get a notice from the Club. She said that she appreciates the opportunity to speak in opposition to the proposed amendment and said that she did not believe in spot zoning.

Mr. Gleason said that this is not spot zoning, just proposing to change the definition of “Building Coverage” regarding unusual site conditions such as the Tokeneke Beach Club.

The Commission members concluded that it would be necessary to continue the public hearing due to the late hour. Commission agreed to continue the public hearing regarding this matter on September 10, 2013 at 8 P.M. in Room 206 of Town Hall.

Vice Chairman Cameron read the following agenda item:

**Coastal Site Plan Review #290, Flood Damage Prevention Application #333, Land Filling & Regrading Application #310, ASL Partners, LLC, 203 Long Neck Point Road.** Proposal to demolish the existing single-family residence and construct a new single-family residence with pool, and perform related site activities within regulated areas. The subject property is located on the east side of Long Neck Point Road approximately 1,200 feet south of its southernmost intersection with Pear Tree Point Road, and is shown on Assessor’s Map #61 as Lot #9 in the R-1 Zone.

Mr. Spain and Mr. DiDonna returned to the meeting.

Attorney Robert Maslan represented the applicant and explained that this is a 4.8 acre parcel of land and they are proposing to construct one single family house and related amenities. They are trying to work out the issues and concerns with the neighboring property owners. He submitted a signed letter of authorization and photographs and a detailed Coastal Area Management Report and a survey map and a revised landscaping plan and revised Site Plan. He said that the maps and plans have been revised to include the updated, new flood insurance maps even though the application was submitted prior to the effective date of those flood maps.

Attorney Maslan said that there is no public vista or view of the water from Long Neck Point Road. There is some concern to the north and east of the proposed house due to an access easement. He said

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that this will be one large house with a garage wing and a basement level recreation wing. Attorney Maslan said they have resolved Mrs. Daley's concerns about the wall along the side property line. The revised plan will include a 4 foot high wall and a 2 foot high fence on top of the wall. The wall has also been revised to stop 100 feet from mean high water along the northerly property line and then the trees will continue from that point down to the water line. On the south side of the property, the proposed wall will stop at the flood zone line which is more than 100 feet away from mean high water. He said, hopefully these modifications will satisfy the neighbors.

Ms. Cameron suggested that it would be appropriate to use rain gardens rather than underground Cultec ground water recharging units.

Attorney Maslan said that there is a walking easement through the site and it is located on the north side of the property. It is approximately 25 feet wide. They are trying to accommodate Mrs. Daley's request to have a scooter access through an easement rather than using the stairs.

Troy Sober, landscape architect of Gregory Lombardi Design, said that some of the trees that they have selected for use in the area include cherry trees. He said there are certain cherry trees that are resistant to the salt environment. He said that when young trees are planted in an area, they can frequently accommodate to the environmental conditions. He said that they are working with the neighbors to resolve any outstanding questions and issues.

Due to the late hour, the Commission members determined that it would be necessary to continue the public hearing. The hearing regarding this matter will be continued on September 17, 2013 at 8 P.M. in Room 119 of Town Hall.

There being no further business the following motion was made: That the Planning & Zoning Commission adjourn the meeting. The motion was made by Mr. Voigt, seconded by Ms. Cameron and unanimously approved. The meeting was adjourned at 11:23 P.M.

Respectfully submitted,

David J. Keating  
Assistant Planning & Zoning Director