

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
SEPTEMBER 4, 2012**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

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

STAFF ATTENDING: Ginsberg, Keating
RECORDER: Syat
CHANNEL 79

Chairman Conze opened the meeting at 8:00 P.M., and read the first agenda item:

PUBLIC HEARING

Business Site Plan Application #24-S/Special Permit, Flair Fitness, LLC., 25 Old Kings Highway North. Proposing to modify two storefronts to include the establishment of two smaller stores and two indoor recreation studios to accommodate up to 30 and 40 people. The spaces are located within Goodwives Shopping Center, which is located on the south side of Old Kings Highway North, approximately 150 feet southwest of its intersection with Brookside Road and is shown on Assessor's Map #71 as Lot #19, DC Zone. *TO BE OPENED AND IMMEDIATELY CONTINUED TO 9/18/2012.*

Chairman Conze read the following agenda item:

Land Filling & Regrading Application #277, Town of Darien Public Works Dept., 57 Camp Avenue. Proposing to eliminate existing wall, and fill and regrade within the existing Town right-of-way in front of 57 Camp Avenue. The subject property is within the right-of-way in front of 57 Camp Avenue. 57 Camp Avenue is located on the south side of Camp Avenue Road approximately 700 feet east of its intersection with Hoyt Street, shown on Assessor's Map #8 as Lots #108 & 109, R-1/3 Zone.

Darren Oustafine, Assistant Director of Public Works, explained the application. He explained that he is a Licensed Professional Engineer with a concentration in civil engineering. He said that an old stone wall was located within the Town's right-of-way for Camp Avenue and adjacent to 57 Camp Avenue. A car hit the wall and estimates to repair the wall had been received. An alternative plan would be to eliminate the stone retaining wall and regrade within the Town's right-of-way and within the private property in order to eliminate the need for a retaining wall. This would result in compliance with the Town's policy to avoid structures within the right-of-way and to create a flattened grade to encourage the possibility of a sidewalk in that area in the future. Once the regrading work is done, it will require little or no maintenance. Since the regrading would be within 15 ft. of the property line that separates the Town right-of-way from the private property, a Special Permit is needed from the Planning & Zoning Commission.

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In response to questions, Mr. Oustafine said that they don't want to bury roots or cut the roots of existing trees. One of the nearby trees is likely to be in danger of being impacted by the regrading. If it does suffer damage due to this proposed work, or cannot be saved, it will need to be removed.

In response to another question, Mr. Oustafine said that the slight regrading will not increase velocity of storm water flow in the area. All of the runoff currently is directed toward the street and that will continue.

There were no comments from the public regarding the application. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter. The motion was made by Mr. Hutchison, seconded by Mr. Spain and unanimously approved.

Chairman Conze read the following agenda item:

Special Permit Application #60-K, Flood Damage Prevention Application #208-A, Land Filling & Regrading Application #121-A, Country Club of Darien, 300 Mansfield Avenue. Proposing to replace failing existing spillway structure on Goodwives River; replace existing stone wall with realignment/relocation; replace two existing golf cart bridges; pond expansion and wetland plantings; rebuild 12th green; and perform related site development activities within a regulated area. The subject property is located on the east side of Mansfield Avenue, approximately 1,250 feet south of its intersection with Middlesex Road, and is shown on Assessor's Map #5 as Lot #40, R-2 Zone.

Mr. Cunningham left the meeting room and did not participate in the application in order to avoid any perception of a conflict of interest.

Tim O'Neill, Head Grounds Superintendent for the County Club of Darien, explained that they are proposing to do some work on the course that includes 1) Rebuilding a stone wall adjacent to the Goodwives River; 2) Replacing to golf cart crossings of the watercourse; 3) Minor expansion of the pond; 4) Rebuilding the twelfth green; 5) Rebuilding the spillway that is in need of substantial repair and 6) Creation and enhancement of wetlands in the area.

Mr. O'Neill said that there is a detailed Erosion Control Plan that has been prepared and submitted. He said that it is necessary to build a new spillway downstream of the existing spillway while the old spillway is still intact. He said that the stone wall adjacent to the river is approximately 50 years old and needs major repair and/or replacements.

Mr. Ginsberg noted that the Planning & Zoning Commission has received a copy of the Environmental Protection Commission's approval that was granted in August of 2012. He said that the Department of Public Works has reviewed the plan and concluded that there will be no apparent change in the water level.

There were no comments from the public regarding the application. The following motion was made: that the Planning & Zoning Commission close the public hearing regarding this matter. The motion was made by Mr. Hutchison, seconded by Mr. Spain. Voting in favor were Spain, Hutchison, Conze and Cameron. Mr. Cunningham was not in the meeting at this time, and therefore did not vote. The motion passed by a vote of 4 to 0. Mr. Cunningham then returned to the room.

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Chairman Conze read the following agenda item:

Amendment of Special Permit Application #125-D(2)/Site Plan, Darien Junior Football League (DJFL), Holahan Field, 2 Renshaw Road. Proposing to modify the previous approval for three temporary, portable lights to allow for a height of up to 30 feet for the fall 2012 DJFL season. The subject property is located on the northeast corner of the intersection formed by Renshaw Road and Park Place, and Holahan Field is behind Town Hall. The property is shown on Assessor's Map #41 as Lot #85, in the R-1/3 Zone.

Because Mr. Sini, Representative for the Darien Junior Football League was not yet in the meeting, this item was moved until later in the evening.

Chairman Conze read the following agenda item:

Coastal Site Plan Review #269-A, Land Filling & Regrading Application #269-A, Francis & Catherine Gallagher, 32 Pasture Lane. Proposing to construct a 17' x 20' shed on the north side of the property with associated landscaping, to move the pool equipment to the north side of the property; and perform related site development activities within a regulated area. The subject property is on the southeast side of Pasture Lane approximately 2,300 feet east of its intersection with Nearwater Lane, and is shown on Assessor's Map #51 as Lot #57-A, in the R-1 Zone.

Frank Gallagher explained that the current application is to build a new storage building shed to the north of the house that is already under construction. In addition, the swimming pool equipment would be relocated from the south side of the house to the north side of the new storage building. The swimming pool equipment will then be adjacent to the previously approved air conditioning units and generator.

Mr. Gallagher explained that the storage shed is to contain recreational equipment. All the house equipment and pool equipment will be adjacent to the shed. The entire shed and equipment area will then be landscaped and screened. He said that the shed will have a door facing the river and there would be no walkways around the shed. Mr. Gallagher noted that the building coverage is well under 20% of the lot area. He said that he had discussed the application with a number of the neighbors and they were originally concerned about removal of trees (but the shed will not require the removal of any additional trees) and about the landscaping around the shed. He said that a detailed landscape plan has been prepared and reviewed with all of the neighbors. A third concern of the neighbors was that the shed would then fill up the entirety of the water frontage. He said that only 48 to 56% of the water frontage would be occupied by buildings once the shed is constructed. He said this is very comparable to other developed waterfront lots that take advantage of their waterfront status aspect.

Mr. Gallagher said that the other neighbors had submitted notes indicating their support for the revised plan. He said that the shed will not have any impact on the environmental factors or the neighbors and that the shed location fully complies with the zoning setback requirements.

With respect to the swimming pool filter and heater, Mr. Gallagher explained that it was originally to be located on the patio near the pool. That would allow it to be above the expected flood level. When the pool professional designer got involved, the pool size was increased slightly and it was

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recommended that the pool equipment be moved away from the patio. Putting it on the ground would then put the pool equipment in the Flood Hazard Zone which was not allowed by the Regulations so the pool equipment is now proposed to be located on the north side of the storage shed rather than on the south side of the house. He said that the equipment would be located approximately 120 ft. from the closest neighboring house. He also said that the noise generated by the pool equipment would be approximately 20 decibels which is not very loud at all.

Mr. Ginsberg said that the application materials had been referred to the Connecticut DEEP. They responded indicating that they found no inconsistencies with the Connecticut Coastal Area Management policies. Mr. Ginsberg also said that the comments from the neighbors had been received by the office and copies distributed to the Commission members.

In response to questions, Mr. Gallagher said that if all of the equipment (air conditioning units, generator and pool equipment) is operating at the same time, the cumulative noise level would be approximately 79 decibels immediately adjacent to that equipment. The landscaping and the distances to the property lines result in a drastic reduction of the noise that is perceptible at other properties.

In response to questions, Ken DeLeo, Building Contractor, explained that the transformer had to be relocated due to the requirements of the power company. He said that the transformer needs to be located between the house and the street and the driveway is approximately 300 feet long. The transformer has been relocated to be approximately midway between the house and the street and has been placed near the side lot line. The installation of the new transformer avoids new overhead power lines. The transformer has been designed and located so that it can easily be accessible to the adjacent properties. In fact, underground conduits have been installed beneath the driveway to allow the neighbor to the southwest to connect to the new transformer if they choose to.

There were no comments from the public regarding the application. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter. The motion was made by Mr. Spain, seconded by Mrs. Cameron and unanimously approved.

At about 8:35 p.m., Chairman Conze then read the following agenda item:

Amendment of Special Permit Application #125-D(2)/Site Plan, Darien Junior Football League (DJFL), Holahan Field, 2 Renshaw Road. Proposing to modify the previous approval for three temporary, portable lights to allow for a height of up to 30 feet for the fall 2012 DJFL season. The subject property is located on the northeast corner of the intersection formed by Renshaw Road and Park Place, and Holahan Field is behind Town Hall. The property is shown on Assessor's Map #41 as Lot #85, in the R-1/3 Zone.

John Sini of the Darien Junior Football League explained that this is a simple request that is a result of the change of the Zoning Regulations that now allows for the temporary light fixtures to be no more than 30 feet tall (in lieu of the previous limitation of 20 feet). The approval had been granted for Holahan Field temporary lights to be 20 feet tall, but the change in the Regulations and an Amendment of the Special Permit would allow the Darien Junior Football League to install the lights at 30 ft. high and angle them down more directly toward the field. This slight adjustment of the lights may result in less glare or noticeable conditions at the neighboring properties.

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Mr. Sini said that they will continue to work with neighbors to make adjustments as necessary to minimize the intrusion upon the neighbors. At Holohan Field, two of the temporary lights face south and one set of lights faces east. They will still need to be powered by diesel generator. Mr. Sini said that they have not received any complaints last year, even though the neighbors are close to the practice field.

In response to questions, Mr. Sini said that they have considered the possibility of having permanent electrical service out in the field area, but the cost estimates are that it would be \$150,000 to make the permanent electrical connections. This is not feasible for the Darien Junior Football League to undertake, but it might be something that the Town undertakes when the Town Hall/Board of Education facilities are renovated.

There were no comments from the public regarding the application. The following motion was made: that the Planning & Zoning Commission close the public hearing regarding the application. The motion was made by Mr. Hutchison, seconded by Mr. Spain and unanimously approved.

GENERAL MEETING

At about 8:45 p.m., Chairman Conze opened the General Meeting and read the following agenda item:

Amendment of Business Site Plan #275-A/Special Permit, Jim Love, 364 Heights Road (former Phil's Grill), DC Zone. Request to modify previously approved hours of operation.

Jim Love explained that he is the new operator of the restaurant and will be completing the renovation and expansion work in the near future. The name of the restaurant will be changed, and he is now requesting the Planning & Zoning Commission to modify the current restriction that mandates that the restaurant be closed at 9:30 P.M. He said that this inhibits a second seating of patrons, and he proposes that the outside dining area be closed at 10:00 P.M. and that the inside restaurant be closed at midnight. He said that there is no music or amplification of any sort at the outside dining area.

After a brief discussion, the following motion was made: that the Planning & Zoning Commission modify the Special Permit to allow the restaurant to stay open until midnight in the inside facility and until 10:00 P.M. for the outside facilities. The motion was made by Mr. Hutchison, seconded by Mrs. Cameron and unanimously approved.

Chairman Conze then read the following agenda item:

Business Site Plan #282, Alexandra Falconer Austin, 863 Boston Post Road.

Request to remove two underground oil tanks from the rear of the building and install above ground tanks in their place; relocate the two existing AC condensers; modify plantings.

The subject property is shown on Assessor's Map #17, as Lot #6, in the CBD Zone.

Mr. Ginsberg explained that the property owner needs to remove the existing underground oil tank. The two above ground tanks will replace the old underground tank and will have approximately the same capacity. The two above ground tanks will require a small, structural cover to protect it from the

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weather. Apparently, the existing old, old tank has not leaked yet, but it needs to be removed before it develops a problem.

The Commission members reviewed the plan and the following motion was made: That the Commission approve the request to remove the underground oil tank and replace it with two above-ground oil tanks in accordance with the submitted plans. The motion was made by Mr. Hutchison, seconded by Mr. Spain and unanimously approved.

Chairman Conze read the following agenda item:

Amendment of Special Permit #42-H/Site Plan, Parklands Office Park, LLC, 3 Parklands Drive. Three requested amendments to the recent P&Z approval.

- 1) Request to modify/clarify resolution to allow small tables instead of two large tables;
- 2) Request to use the patio for three hours on one day prior to all work being completed; and
- 3) Request for an extension of time to complete relocation of the AC units and submittal of the required as-built survey.

Mr. Hutchison left the meeting because he did not want to participate in any discussion or decision regarding this matter in order to avoid any perception of a conflict of interest.

Attorney Wilder Gleason represented the applicant and submitted photographs of the tables and chairs that would be placed on the outside patio. The approval from the Planning & Zoning Commission for the patio mandates that the patio not be used until all of the soil regrading and landscaping is completed. The applicant is asking for a modification of that limitation to allow the outdoor patio to be used not more than 10 times during the 2012 calendar year, and, in each case, would be used for a maximum of three hours per day. Mr. Gleason said that they already have obtained the permit from the Building Department to do the necessary retaining wall and regrading, but that work has not yet been completed. Mr. Gleason also explained that they are requesting a 30 day extension of time to relocate the air conditioning units. This will allow them to relocate the units by October 5, 2012 and submit the As-Built Survey by November 5, 2012. This request is to accommodate the existing tenants that rely on the existing air conditioning units for their delicate computer equipment.

After a brief discussion, the following motion was made: that the Commission approve the requested modifications of the Special Permit to allow the outdoor patio to be used not more than 10 times during the 2012 calendar year, even though the required site work has not yet been completed and to allow for the extension of time to relocate the air conditioning units and submit the As-Built Survey. The motion was made by Mr. Cunningham, seconded by Mrs. Cameron. All voted in favor except Mr. Hutchison who was not present.

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

Amendment of Coastal Site Plan Review #261-A, Flood Damage Prevention Application #28-B, Land Filling & Regrading Application #2-B, Foster Kaali-Nagy, 144 Five Mile River Road.

Request to modify previously approved and constructed rain garden in the rear yard.

Project Engineer, Rob Frangione, explained that the existing rain garden on the south side of the house is not working because it was built on solid rock. The water does not have an opportunity to drain into

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soil beneath the rain garden. He proposes to modify the design to allow a 4 inch diameter under drain at the bottom of the rain garden and weepholes through the stone wall that separates the rain garden from the tidal wetlands and then to raise the surface level of the rain garden by installing approximately 18 inches of topsoil. This will allow the rain garden to have some storage capacity and the vegetation on the top layer will provide some filtering of the storm water before it is discharged into the nearby tidal wetlands. The surface of the rain garden would be a lawn and it would be depressed 4 inches below the level of the adjacent lawn.

Mr. Kaali-Nagy, property owner, explained that he would have landscaping shrubs and other vegetation on the perimeter of the rain garden. Mrs. Cameron said that she wants the rain garden to be planted, but not with a lawn type material. Mr. Frangione said the grass is environmentally viable as any other types of plants.

Mr. Conze said that it would be important to have the rain garden designated on the Survey Map so that the current and future property owners know that it is a specific drainage area depressed below the rest of the landscaped area and it is not to be filled in or eliminated.

Mr. Hutchison said that there needs to be an as-built map filed on the Land Records indicating the location and details of the rain garden. Assistant Director of Planning, David Keating, said that the rain garden should not be a lawn material so close to the tidal wetlands. It should be salt tolerant plants that are appropriate for rain gardens.

Mr. Frangione said that the pipe at the base of the rain garden would allow water to eventually drain out which would allow the lawn to survive. He said that lawn is a perfectly viable landscape feature to provide water quality improvements.

Mr. Kaali-Nagy noted that it is necessary to keep a lawn type pathway from the east to the west portions of the property in order to provide access for maintenance equipment to the west portion of the property. This lawn pathway is a maximum of 4 feet wide and is necessary to get around to the rain garden.

Mr. Conze said that it would be necessary to have revised and more detailed plans including the use of salt tolerant vegetation (not lawn) in the rain garden and to have maps and notes regarding the permanent maintenance of the rain garden and allowing the access way from the west to the east portions of the site. The following motion was made: that the Planning & Zoning Commission authorize the staff to approve a revised plan that includes salt tolerant vegetation (not lawn) in the rain garden and necessary notes and modifications of the map to document the location and details of the rain garden so that it is permanently maintained and still allowing for the lawn mower access from the east to west portions of the property along the south portion of the house and adjacent to the rain garden. The motion was made by Mrs. Cameron, seconded by Mrs. Spain and unanimously approved.

Chairman Conze then read the following agenda item:

Site Plan Application #269-A/Special Permit Application #265, Land Filling & Regrading Application #225-A, Post Road Eleven, LLC, 1292 Boston Post Road

Request for first floor tenant (Charles Michael Gallery) pursuant to Condition F of the Commission approval.

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The Commission members reviewed the letter and information submitted regarding Charles Michael Gallery which would be a very limited usage of the first floor. The gallery does not create much vehicular traffic and also has a low parking demand and is therefore the type of use that must be in this building because the property has such little parking and is very close to the I-95 entrance. No change was proposed for the low traffic volume retail use on the second floor, which the Commission earlier had approved. The following motion was made: That the Commission approve the first floor use by Charles Michael Gallery in accordance with the submitted information. The motion was made by Mr. Hutchison, seconded by Mrs. Cameron and unanimously approved.

Chairman Conze then read the following agenda item:

Amendment of Subdivision Application #577, 9B Tokeneke Trail (near Cross Road).

Modification of previously approved subdivision, requesting that the Commission allow an additional curb cut off of either Tokeneke Trail or Cross Road for the property at 9B Tokeneke Trail.

Attorney Amy Zabetakis explained that when the subdivision was approved in 1988, three lots were indicated as sharing one common driveway. At that time, it was planned that the properties would be a family owned compound with three separate house lots by three separate family members. At this point, the family needs to sell off at least one or more of the properties and wants the Planning & Zoning Commission to remove the stipulation mandating that the lots share the common driveway. Mrs. Cameron noted that the wetlands in the area need to be properly mapped and other Commission members questioned the appropriateness of modifying a subdivision that had been so carefully reviewed by their predecessors. In this case, there is no detailed map or plan showing where the new driveway or driveways would be located and how they might or might not comply with the Regulations.

Mary Moore said that 9 Tokeneke Trail has wetlands, but that is not the property for sale. She said that the potential buyers want to avoid having three lots on one driveway. Attorney Zabetakis asked the Commission for some flexibility regarding the location of the new driveway.

Commission members agreed that the concept is not necessarily bad, but they would need to have more detailed information about where the new driveway could or would be located before they render a decision to modify the approval. Mr. Spain confirmed that given the lack of a specific alternative location, he is not comfortable releasing the easement at this time. Mr. Conze noted that a preliminary site plan is needed. Mr. Hutchison said that it should show sight lines. Mr. Conze said that if the applicant can design an alternate option and get it approved by the Commission, which complies in all respects, the Commission is willing to review and consider the matter. A motion to that effect was made by Mr. Spain and seconded by Mrs. Cameron. It was approved by a vote of 4-1, with Mr. Hutchison voting against that motion.

At about 9:40 p.m., Chairman Conze then read the following agenda item:

Deliberations and possible decisions on the following closed public hearing items:

Amendment of Subdivision Application #581-A, Land Filling & Regrading Application #276, Stephen & Tracey Culliton, 225 Brookside Road & George & Jill Sullivan, 235 Brookside

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Road. Proposing to modify the existing driveway, install a rain garden, and perform related site development activities, as well as increase the size of the Conservation Easement.

The following motion was made: That the Commission waive the process of reading each of the draft Resolutions aloud because each member has had an opportunity to review the drafts as part of the meeting. The motion was made by Mr. Spain, seconded by Mr. Hutchison and unanimously approved. Commission members discussed the draft Resolution regarding the Sullivan project. The following motion was made: that the Commission adopt the following Resolution to approve the application subject to the conditions and stipulations as noted. The motion was made by Mrs. Cameron, seconded by Mrs. Cunningham and unanimously approved.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
September 4, 2012**

Application Number: Amendment of Subdivision Application #581-A
Land Filling & Regrading Application #276

Name and Address of Property Owners: Stephen & Tracey Culliton, 225 Brookside Road, Darien, CT
George & Jill Sullivan, 235 Brookside Road, Darien, CT

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

Activity Being Applied For: Proposing to modify the existing driveway, install a rain garden, and perform related site development activities, as well as increase the size of the Conservation Easement.

Subject Property: The subject properties are located on the west side of Brookside Road directly across from its intersection with Three Wells Lane, and are shown on Assessor's Map #5 as Lots #17-2 (Culliton) and #17-3 (Sullivan).

Zone: R-2 Zone

Date of Public Hearing: July 17, 2012

Time and Place: 8:00 p.m. Room 206 Darien Town Hall

Publication of Hearing Notices
Dates: July 6 & 13, 2012

Newspaper: Darien News

Date of Action: September 4, 2012

Action: APPROVED WITH CONDITIONS

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Scheduled Date of Publication of Action: Newspaper: Darien News
September 14, 2012

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 and 850 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, 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 modify the existing driveway, install a rain garden, and perform related site development activities, as well as increase the size of the Conservation Easement.
2. Kate Throckmorton of Environmental Land Solutions (ELS) was present to discuss the application at the public hearing on July 17, 2012. Mrs. Throckmorton explained that this application is desired by the 225 Brookside Road property owner to establish guest parking and some privacy. There is now an existing wall in front of their house and a portion of that wall will be moved to the east.
3. The application includes associated drainage improvements. The existing drains will be cut back and a rain garden will be established. The existing lawn will be raised up. A portion of the existing driveway will be pervious pavers. There will be no net increase in the amount of impervious area.
4. At the public hearing, it was noted that ten trees were flagged to be removed on the 225 Brookside Road, including four tupelo trees. Mrs. Throckmorton said that the plan has been slightly revised and only eight trees will be removed, seven of which are within the existing Conservation Easement.
5. There is an existing Conservation Easement, and there will be some infringement into the easement as part of this application. An area of compensatory Conservation Easement will be established as shown on submitted plans. They also plan on re-planting four tupelo trees and a red maple with some associated underbrush. A specific construction sequence is important and has been incorporated into the submitted plan.
6. The Environmental Protection Commission (EPC) closed the Public Hearing on this matter and sent an associated July 12, 2012 memo to the Planning & Zoning Commission. The Darien Environmental Protection Commission (EPC) approved this project as part of EPC #11-2012 on August 1, 2012. That approval is hereby incorporated by reference, including the requirement to create an easement adjacent to the existing Conservation Easement.

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7. The Commission notes with respect to the proposed stormwater management system proposed by the applicant and required by the Commission herein, there is a need for the 225 Brookside Road property owner to file a Notice of Drainage Maintenance Plan outlining the protocol for 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 downhill impacts.
8. As noted at the public hearing, it was acknowledged the reconfigured shared driveway is neither a public nor a private road. It is a shared driveway as originally approved by the Planning and Zoning Commission as part of a prior subdivision. It shall continue to be maintained by the two property owners. There is no change proposed to the shared driveway other than that shown on the submitted plans.

NOW THEREFORE BE IT RESOLVED that Amendment of Subdivision Application #581-A and Land Filling & Regrading Application #276 are hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The modifications to the subdivision application and the proposed land filling and regrading shall be in accordance with the following plans submitted to and reviewed by the Commission:
 - Site Plan Culliton Residence, 225 Brookside Road, by Environmental Land Solutions, scale 1"=20', dated March 21, 2012 and last revised 6-13-2012, Sheet SP.1.
 - Details and Notes, Culliton Residence, 225 Brookside Road, by Environmental Land Solutions, not to scale, dated March 21, 2012 and last revised 6-13-2012, Sheet SP.2.
- B. A mylar showing the modified Conservation Easement shall be prepared and reviewed by the Planning & Zoning Director. Once approved by the Director, it shall be filed in the Darien Land Records along with the associated Conservation Easement document (which shall be reviewed by Town Counsel prior to filing). This shall be completed by September 4, 2013 and prior to the issuance of a Certificate of Zoning Completion for this project.
- C. During the site work, the property owner shall utilize the sediment and erosion controls illustrated on the submitted plan referred to in Condition A above, and any additional measures as may be necessary due to site conditions, including tree protection as may be necessary. 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. 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. The Commission notes that there is now, and will continue to be, a shared driveway to be used and maintained by the two property owners.

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- E. In order to address stormwater management, the applicant has submitted a plan to install a rain garden/retention area on the 235 Brookside Road property. The Commission is requiring the installation and continued maintenance of that system by the owner of that property.
- F. By November 4, 2012 (within the next 60 days) and prior to the start of any filling or regrading work, 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 both the existing and proposed drainage system. 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 225 Boston Post Road to maintain the on-site drainage facilities, and will alert future property owners of the on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this approval.
- G. Prior to the use of the revised driveway and prior to September 4, 2013, a final, written certification is hereby required to be submitted to the Planning & Zoning Department, certifying that the driveway and on-site stormwater management (rain garden as shown on the submitted plans) has been installed in compliance with the approved plans.
- 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. This approval of this subdivision modification/amendment 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 the filing of a Special Permit form in the Darien Land Records prior to November 4, 2012 and prior to the start of work.
- J. This permit shall be subject to the provisions of Sections 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 (September 4, 2013). This may be extended as per Sections 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 documents by the Chairman. A Special Permit form must be filed in the Darien Land Records by November 4, 2012 AND prior to the start of the work, or this approval is null and void.

Chairman Conze read the following agenda item:

Special Permit Application #15-M/Site Plan, Wee Burn Country Club, 410 Hollow Tree Ridge Road. Proposing to demolish and reconstruct the existing warming hut, install a patio area adjacent

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to the hut, demolish one existing paddle tennis court, and install three new additional paddle tennis courts with associated lighting. *HRG. CLOSED: 7/17/2012. DECISION DEADLINE: 9/20/2012.*

After a brief discussion, the following motion was made: that the Planning & Zoning Commission adopt the following Resolution to approve the project in accordance with the conditions and stipulations as noted. The motion was made by Mr. Cunningham, seconded by Mr. Hutchison and unanimously approved.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
September 4, 2012**

Application Number: Special Permit Application #15-M/Site Plan

Assessor's Map #7 Lot #66
Street Address: 410 Hollow Tree Ridge Road

Name and Address of
Property Owner: Wee Burn Country Club Inc.
410 Hollow Tree Ridge Road
Darien, CT 06820

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

Activity Being Applied For: Proposing to demolish and reconstruct the existing warming hut, install a patio area adjacent to the hut, demolish one existing paddle tennis court, and install three new additional paddle tennis courts with associated lighting.

Property Location: The subject property is on the north side of Hollow Tree Ridge Road, approximately across from its intersection with Hanson Road.

Zone: R-2

Date of Public Hearing: July 17, 2012

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

Publication of Hearing Notices
Dates: July 6 & 13, 2012 Newspaper: Darien News

Date of Action: September 4, 2012 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: Newspaper: Darien News
September 14, 2012

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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, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted 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 application is to demolish and reconstruct the existing warming hut, install a patio area adjacent to the hut, demolish one existing paddle tennis court, and install three new additional paddle tennis courts with associated lighting. The paddle courts are near the existing maintenance facility at the Club.
2. The Environmental Protection Commission (EPC) approved the project at its June 6, 2012 meeting (EPC application #21-2012). The Architectural Review Board (ARB) approved the plans for the warming hut as part of ARB #24-2012 at its June 19, 2012 meeting. Those approvals are hereby incorporated by reference.
3. The subject warming hut was constructed in 1969, and is an A-frame structure of about 540+/- square feet. It is heated via wood stove, and there are now no indoor restrooms. The proposed structure will be 800+/- square feet with central heating, and a bathroom connected to public water and sewer. There will be no kitchen facilities in the proposed warming hut. The Club proposes to finish a portion of the basement for use by caddies. The warming hut will have a footprint of about 1,900 +/- square feet. There will be an associated masonry terrace with an outdoor fireplace.
4. As noted by the applicant at the public hearing, no change in membership or general activities at the club is proposed as part of this application. There are also no proposed changes to the existing paddle tennis activities. Any changes to the nature of on-site uses would require an amendment of the existing Special Permit (review and approval by the Planning and Zoning Commission).
5. Professional Engineer Holt McChord explained at the public hearing that they propose to replace one of the courts and relocate it. They are also realigning the existing driveway. Rain water now flows through the surface of each court to the ground below the paddle court and thus that is not considered an impervious surface. They propose a new rain garden, which will be connected to a storm drain.

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6. The Commission notes with respect to the proposed stormwater management system proposed by the applicant and required by the Commission herein, there is a need for the Club to file a Notice of Drainage Maintenance Plan outlining the protocol for 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 downhill impacts.
7. The new paddle tennis courts will have lighting like the existing paddle courts do, which will all be less than 20 feet in height. The lights will have shields on them. It was noted that the paddle tennis courts are at elevation from 172 to 174, and are below the grade compared to the first fairway. Evidence was presented at the public hearing noting that the nearest property is 400+/- feet away from the new paddle courts, and the nearby closest property is higher in elevation than the proposed courts.
8. The Club has added light shields over time and there have been no complaints over the existing paddle court lights. It was acknowledged that there are currently no fixed hours for the paddle tennis lights. Mr. Bruce Ferguson, a member of the Club, testified at the public hearing that night time paddle court play is rare, and usually completed by 10:30 P.M.
9. The nature of the proposed use is such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
10. The location and size of the use conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.

NOW THEREFORE BE IT RESOLVED that Special Permit #15-M/Site Plan is hereby modified and 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:
 - Site Development Plan Paddle Hut & Court Improvements 410 Hollow Tree Ridge Road, by McChord Engineering Associates, Inc., last revised 5-31-12, Drawing No. SE1.
 - Construction Details 410 Hollow Tree Ridge Road, by McChord Engineering Associates, Inc., last revised 5-31-12, Drawing No. DT1.
 - New Paddle Hut for the Wee Burn Country Club, by Daniel Conlon Architects, issue date 6/19/2012, Sheets A1 & A2.
- B. As noted by the applicant, this application proposes no change to the hours, days or times of the paddle tennis court operations. Any other proposals for change would require an amendment of the Club's Special Permit, and action by the Planning and Zoning Commission. Any increase in the number of paddle tennis courts would also require review and action by the Commission.
- C. In order to minimize impacts on neighboring property owners, the Commission hereby requires that the paddle tennis court lights be turned off no later than 10:30 p.m. daily. All lighting of the paddle tennis courts shall comply with Section 405b of the Darien Zoning Regulations.
- 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

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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.

- E. In order to address stormwater management, the applicant has submitted a plan to install a rain garden/retention area on the 410 Hollow Tree Ridge Road property. The Commission is requiring the installation and continued maintenance of that system by the owner of that property.
- F. By November 4, 2012 (within the next 60 days) and prior to the start of any filling or regrading work, 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 both the existing and proposed drainage system. 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 the Club property 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 shall be filed in the Darien Land Records within 60 days of this approval.
- G. Prior to the use of, or request for the Certificate of Occupancy for, the warming hut, and prior to September 4, 2013, a final, written certification is hereby required to be submitted to the Planning & Zoning Department certifying that the new paddle hut and on-site stormwater management (the rain garden as shown on the submitted plans) has been installed in compliance with the approved plans.
- H. The granting of this Permit does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. A Sewer Connection Permit from the Sewer Services Department is required for this project.
- 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. This permit shall be subject to the provisions of Sections 1009 and 1025 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (September 4, 2013). This may be extended as per Sections 1009 and 1025.

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. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records in order to finalize this approval within 60 days of this action AND prior to the issuance of a Zoning or Building Permit or this approval shall become null and void.

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Approval of Minutes

June 5, 2012 General Meeting/Public Hearing

The following motion was made: that the Commission approve the minutes as revised. The motion was made by Mr. Cunningham, seconded by Mr. Hutchison. All voted in favor, except Mr. Spain who abstained because he had not attended the meeting.

June 12, 2012 Public Hearing/General Meeting

Modifications and clarifications were made on the various pages throughout the draft. The following motion was made: That the Commission approve the corrected minutes. The motion was made by Mr. Spain, seconded by Mrs. Cameron and unanimously approved.

July 10, 2012 General Meeting

Modifications and clarifications were discussed and agreed upon. The following motion was made: That the Commission approve the corrected minutes. The motion was made by Mrs. Cameron, seconded by Hutchison and unanimously approved.

July 24, 2012 Public Hearing/General Meeting

Clarifications and modifications were discussed and approved. The following motion was made: That the Commission approve the corrected minutes. The motion was made by Mr. Spain and unanimously approved.

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

The following motion was made: To discuss the conditions at the Whole Foods Market. The motion was made by Mrs. Cameron, seconded by Mr. Hutchison and unanimously approved.

Mr. Ginsberg explained that under certain conditions, there is an odor problem in Middlesex Commons that the neighbors have complained about. The odor problem is not a constant issue, but it is one that comes and goes. Staff has been in contact with the Whole Foods Representatives who are who have taken a number of steps to correct the problem, but those steps have not yet resulted in a satisfactory resolution. Staff continues to work on the matter and will report back to the Commission in the future.

There being no further business, the following motion was made: That the Commission adjourn the meeting. The motion was made by Mrs. Cameron, seconded by Mr. Spain and unanimously approved. The meeting was adjourned at 10:00 P.M.

Respectfully submitted,

David J. Keating
Assistant Planning & Zoning Director