

**PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
SEPTEMBER 27, 2011**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Conze, Spain, Hutchison, Cameron, Riccardo, Voigt

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

Channel 79

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Chairman Conze called the meeting to order at 8:00 P.M. and read the first agenda item:

**PUBLIC HEARING**

**Proposed: Amendments to the Darien Zoning Regulations (COZR #6-2011); Amendment of the Darien Zoning Map (COZM #1-2011); Site Plan Application #280; Special Permit Application #268; Land Filling & Regrading Application #265, Baywater 745 BPR, LLC, 745 Boston Post Road.** Proposing to replace the existing building at 745 Boston Post Road with a new mixed use building and perform related site development activities. Zoning Regulation amendments are proposed to Sections 585, 614, 615 and 616 to permit the development as proposed. Proposed amendment of the Zoning Map would make the entire property in the DB-1 Zone. The full text of the proposed zoning regulation amendments is on file and available in the Town Clerk's office and the Planning and Zoning Office for inspection. The subject property is on the northwest corner formed by the intersection of Academy Street and Boston Post Road, and is shown on Assessor's Map #16 as Lots #15 and #16 and is in the DB-1, and R-1/3 Zones and DBR overlay Zone.

Attorney Robert Maslan represented the applicant and said that notice has been sent to all property owners. He submitted a letter dated September 27, 2011, which is in response to the points in Mr. Ginsberg's memorandum. He said that this application involves proposed amendments to the zoning regulations and proposed amendments to the zoning map and thus he has submitted copies of those proposed amendments to the Town Clerk in accordance with the statutory requirements. He also submitted a written copy of the PowerPoint Presentation to be made and copies of emails from neighboring property owners.

David Genovese, one of the principals of the proposed development explained that the existing structure includes a 7,000 square foot office building on 2 floors and 3 apartments in the back building. He said that the past approval had only allowed 2 apartments but for many years the previous owner has rented it as 3 dwelling units. He said that the location is just to the east of the downtown area and will make a great in-town housing development, where residents will be able to walk to the train station and stores. He envisions economic demand for larger multi-family housing units for empty nesters, who wish to remain in town but want the convenience of living close to the center of the community and they also desire to have parking within a garage structure. He said that there is a Victorian house located at 757 Boston Post Road (next door) and they have used the architectural style of that building in the design of their proposed new building. He said that they have deliberately not imitated the architectural style of the large office building at 777 Boston Post

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Road or the large brick office building at 722 Boston Post Road, which is across the street. He said that this property does include the right to utilize 10 parking spaces at the property of 722 Boston Post Road, because the previous owner had also owned that property. He said that there are cross walks to enable the employees within 745 Boston Post Road to cross Academy Street and then cross the Boston Post Road to safely access the 10 parking spaces that are across the street from this building.

Mr. Genovese showed renderings of the proposed building. From the Boston Post Road, it will appear to be three full stories with the pitched roof above, but from the residential neighbors to the rear of the site, it will only appear as two stories with a pitched roof above. This is because the grade level changes as one travels from the Boston Post Road up Academy Street. The proposed development will include an office space that may be used for one or two tenants on the ground floor from the Boston Post Road. The second and third floors will each contain 4 apartments. The smallest unit will be 1,100 square feet and one bedroom. Four of the units will contain two bedrooms.

Mr. Genovese said that he met with neighboring property owners in both the residential and business districts. The concerns expressed by the neighbors included possible noise from early morning trash pick-up, light spillage, the need for a visual buffer to separate the parking lot from the residential area, traffic on residential streets, design issues, and the fire department horn. Mr. Genovese said that they will use the same trash collector as the nearby residents use so that the trash will be picked up later in the day rather than the very early morning. He said that the light spillage will be controlled by making sure all lights are downward facing and that several of the lights will be on timers so they go off at 10 p.m. He said that they propose a landscape buffer area that includes a tall fence that will be maintained by the owners of the project and have coordinated with the neighbors so that when the landscaping trees are installed they will be positioned to create the maximum buffer available. Mr. Genovese said that they will not be able to limit existing through traffic on the residential streets; but, to discourage traffic leaving this site from going through the residential streets, they will include a Right Turn Only sign for motorists coming out of the parking lot. This will direct occupants and visitors to the Boston Post Road rather than to the residential zone to the north. He said that they will support the residents request to the Selectman and/or to the Traffic Authority to have additional signage or speed bumps installed on Highland Avenue. Mr. Genovese said that the architectural design of the building and garages has been supported by the neighbors but some of the neighbors have actually requested that copula structures be included on the top on the proposed garage buildings. He said that the applicant will include them if required by the Commission or if during construction the neighbors get a chance to see the garage buildings and then still want to have the copulas. He said that one neighbor said that any prospective residents of the project should be advised about the nearby Darien Fire Department horn that sounds whenever there is an emergency.

Mr. Genovese said that the Planning and Zoning Commission adopted affordable housing incentives within the Zoning Regulations in January 2009. This is the first project that will be subject to that portion of the regulations. Since there will be eight proposed dwelling units, 1.09 units within the development would be designated as Affordable Housing or 1.09 units at a different site would need to be created as Affordable Housing or the applicant could make a payment in lieu of providing the actual housing unit. He said that the decision of what to require is up to the Planning and Zoning Commission. He said that one possibility would be that the developer make a payment of approximately \$360,000.00 to the Town, so that money can be used

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as start-up funding for a group that is trying to build affordable housing on Edgerton Street. In that way, instead of creating one affordable housing unit at this site, approximately 20 affordable housing units could be created at a different location. He said that the Commission could require that payment in lieu of actually providing affordable housing could be required prior to issuance of a zoning permit for construction of this site.

Project Architect Seelan Pather said that the building height would be 35 feet as calculated by the zoning regulations, the foot print would be approximately 6,450 square feet and there would be a total of 19,350 square feet of floor area. Each garage structure would contain approximately 1,000 square feet and each would have four (4) parking spaces. There would be 22 parking spaces on the site, 14 on grade and 8 within the garages. Ten additional parking spaces for the employees of the office space would be located across the Boston Post Road at 722 Boston Post Road. Pedestrian entrances to the office portion on the ground floor would be from the Boston Post Road and Academy Street. Access to the apartments on the second and third floor would be from the parking lot on the north side of the building. Emergency egress from the office spaces would be provided on the west side of the building. Mr. Pather said that there would be a flat roof but it would be concealed by sloped roofs on the sides. The flat roof would be an excellent location for the mechanical units. He reviewed drawings of the architecture and noted that it was Colonial style building. In response to questions, he said that there would be no second floor on the garage structures, although that space might be used for storage. There would be no finished space in any portion of the garage. In response to another question, he said that the chimney included in the design is not a functional chimney. If fireplaces are provided they would be gas vented fire places and would not need a full chimney. In response to questions, about the height of the building, he said that they chose to include a full ceiling height in the third floor in order to maintain adequate light and volume of space. If they had created third floor living space only within dormers, their experience has been that the space feels too small and does not get enough light. He said that the basement area will be used only for storage and mechanical purposes.

Ted Milone, Professional Engineer from Redniss & Mead, said that the proposed driveway entrance will be on Academy Street. The first portion of driveway from the street will be paved asphalt and then the main portion of the parking area will be permeable pavers so that water can soak through the parking area rather than becoming runoff. Two catch basins along the entrance of the driveway will collect any storm water runoff that might be generated in the driveway and parking areas; and then that water will be piped to the Town drainage system in Academy Street. He said that storm water runoff from the building will be piped to connect to existing catch basins in the Boston Post Road. The pipe will serve as a detention area and will have only a 6 inch diameter outlet so that the rate of runoff will not be increased. Questions were raised about the possible inclusion of additional storm water infiltrators under the parking lot and/or in the front yard. Mr. Milone said that there is no storm water infiltration at this point and that the proposed design will reduce the rate of runoff and would eliminate the sheet flow that comes down the driveway. He said that he had not yet contacted the Department of Transportation to obtain approval for the storm water connection into the Boston Post Road. He said that adding infiltrators in the front lawn area would be difficult because of the numerous utility connections that pass through that area. He said that there is not much room on the site for the installation of storm water infiltrators. Mr. Spain said that other re-development sites are able to accomplish storm water infiltration to the greatest extent possible and then have only the overflow connecting to the catch basins. He said that the applicant should seriously investigate any such improvements that are feasible in this case.

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Mr. Ginsberg reviewed the Department of Public Works comments which a) included the need for water quality improvements since this is part of the Goodwives River watershed, and b) noted that Department of Public Works permits will be necessary for work on the Academy Street area, and c) observed that Connecticut Department of Transportation permits are necessary for work within the Route 1 (Boston Post Road) right of way. Mr. Milone said that the permeable pavers in the parking lot will be on top of 8 inches of crushed stone, which will create a large permeable area. He also noted that the catch basins in the driveway will include 2 foot deep sumps and bell traps to catch sediment and other debris which regularly can be cleaned out as needed.

Mr. Milone said that one of the Fire Marshal's comments had raised concern about the access of large fire trucks into the site. He said that they have created an overlay that indicates that an SU type vehicle access and egress is possible without touching the curbs. He also noted that the grade of the first 20 feet of the driveway would be approximately 5% and then approximately 7.5% for the rest of the driveway as it approaches the flatter parking area. He said that the plans do include an area for an electrical transformer and a trash enclosure. He said that if a generator is necessary it could be included on the roof structure. In response to questions, he said that snow plowing on the permeable pavers is acceptable and that in some large storm events the snow would need to be removed from the site.

Attorney Maslan said that Mr. Oustafine of the Public Works Department had indicated that there was no on site detention but it has since been pointed out to him that some storm water detention has been provided on that site.

Henry Ditman, from Milone & MacBroom Associates, explained that he is a professional engineer specializing in traffic engineering. He said that the existing office building and apartments on the site currently generate a peak traffic flow of 15 vehicle trips (in and out) during the AM peak hour and 20 vehicle trips (in and out) during the PM peak hour. The proposed office use plus 8 apartments will generate a peak of 19 trips in the peak AM hour and 26 trips in the PM peak hour. He said that this is an increase of 4 vehicle trips in the morning and 6 vehicle trips in the afternoon. He said that the 2008 Traffic Volume counts on the Boston Post Road indicate that it carries approximately 14,600 vehicle trips per day, with the AM peak hour being approximately 1100 trips and the PM peak being 1400 in one hour. He said that the increase of 4 or 6 vehicle trips in the AM or PM peak hours is an insignificant impact on the Boston Post Road traffic. He said that the existing driveway curb cut on the Boston Post Road is being eliminated and that the two existing curb cuts on Academy Street are being consolidated into one. He said that employees of the office space on the ground floor will be restricted to using the parking spaces across the street where there is less in and out traffic. He said that he supports the installation of a No Left Turn at the exit from the driveway so that vehicles leaving the site will be directed to the Boston Post Road rather than the residential streets to the left. He said that it is necessary to trim some of the vegetation on Academy Street and the Boston Post Road to improve sight lines. He said that they have had some discussions with the neighbor to the north in order to trim some of the vegetation on their property to the north so that sight lines can be approved in that location as well. Mr. Ditman said that his traffic analysis has been submitted to the Town's Traffic Consultant, Mike Galante. Mr. Ditman said that Mr. Galante concurred with his findings.

Mr. Voigt expressed concern about the peak parking demand noted in the traffic report as being 32 parking spaces required. Only 22 parking spaces are located on the site. Mr. Ditman said that the other 10 required parking spaces are located at 722 Boston Post Road, which is across the street.

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He also noted that 7 or 8 street parking spaces are available on the east side of Academy Street. Mr. Hutchison raised a concern about the parking demand if a medical office use is located at the site. The parking demand for a medical office is frequently high and the need to drop off patients very close to the entrance door is not unusual. Mr. Ditman said no drop off for the office use is available on the site but it would be anticipated that a driver could drop off a medical client at the Academy Street curb immediately adjacent to the sidewalk. Then the driver would need to find a parking space on the site or on Academy Street. In response to another question, Mr. Ditman said that the lease or sales agreement for the residents could include the provision that they park in the garages and not use the garage space as storage, which would prevent the needed space for parking of their vehicle.

Matt Popp, Landscape Architect, reviewed the landscape plan. Trees would be planted around the parking lot. One additional tree would be on Academy Street and two would be planted adjacent on the Boston Post Road. He said that all of the lights on the site would be pointing down and there would be two pole style lights that would both be on timers. He said that there is sufficient landscape area for the storage of snow that is plowed from the parking area. This storage area is on the south side of the parking lot. In large snow events, they would need to remove snow from the site in order to have all the parking spaces accessible. Mr. Popp said that the front walkway from the building to the Boston Post Road would also be constructed using permeable paving stones.

Mr. Conze raised the issue about maintenance of the whole facility, particularly if the units are sold. He said that it would be awkward to have 8 residential members of the association and one or two office owners. He said that maintenance of this facility will be critical. David Genovese said that if the applicant retains ownership of the complex and the units are rented, then they will properly maintain it. If the units are sold, the owners would then need to hire a professional management team. Mr. Genovese said that they are not sure whether the units will be rented or sold but if he had to make the decision right now, it is most likely that they would be rented.

Attorney Maslan said that this project includes affordable housing and therefore the regulations provide certain incentives. He said one of the issues raised in the comments was the possible extension of the sidewalk through the Academy Street driveway to the north property line. He said that this would not be practical because the sidewalk does not continue on Academy Street. He said that it is logical to have the sidewalk start at the south side of the driveway and go down to the Boston Post Road, just as it does for the housing development across the street.

Mr. Maslan said that the parking requirement noted in the Zoning Table on the site plan is for 38 on site parking spaces. He said the waiver in the zoning regulation allows for reduction of 9 on-site parking spaces, which would require 29 parking spaces. Thirty-two parking spaces are actually provided, 22 on site and 10 across the street. He said that the zoning regulations allow an incentive of having living space on 3 stories but it does not specify the building height. One of the proposed amendments to the zoning regulations would allow the building height to increase from 30 feet to 35 feet. He said that in another amendment that the incentive does allow the Building Coverage to increase but it is not specified. He said that one of the proposed amendments is to specify that the Building Coverage with the incentive could increase up to 37.5% of the lot area. The current proposed development would cover no more than 35% of the lot area. Mr. Maslan also noted that another proposed amendment would add a note to give the Planning and Zoning Commission more discretion about the size, style and use of the project.

Mr. Conze raised concern about a potential parking problem that could be created if a medical office use was established. Mr. Maslan said that the parking regulation for this type of housing is one parking space for every bedroom. Four of the units would contain 2 bedrooms so there would be a need for at least 12 parking spaces dedicated to the residential use.

Chris Lionetti, a resident on Fairview Avenue, said that he and most of his neighbors are generally positive about the application but people on Highland Avenue are concerned about the increase of traffic.

Nicki Gellar said that she has been looking to find an apartment or condominium in town that is located on one floor of living space. She said that this type of housing will be in demand.

There was some discussion about the available dates to continue the public hearing. It was agreed that the public hearing will be continued on Tuesday, October 18 at 8 p.m. It was noted that that applicant will be appearing at the Architectural Review Board that same evening, thus the Commission will continue the public hearing after the applicant has finished with the Architectural Review Board.

At about 9:35 p.m., Chairman Conze read the following agenda item:

**Business Site Plan #182-B/Special Permit, Darien Station Associates, LLC, Lanphier Day Spa, 20 West Avenue.** Proposing renovation and alterations of the existing building and perform related site development activities to establish a day spa/ beauty salon/ retail sales business along with business and professional offices. The subject property is located on the north side of West Avenue approximately 200 feet west of its intersection with Boston Post Road and is shown on Assessor's Map #17 as Lots #115 - 117 and is located in the CBD Zone.

Attorney Amy Zabetakis represented the applicants and introduced the Project Architect, Gabe Stefani, who is also one of the owners of the property. It was noted that the bank use of the majority of the building and office space on the east side of the building had existed for approximately 25 years, but had been vacant for a year or more.

Lanphier Day Spa is currently located within the Goodwives Shopping Center and they are proposing to relocate it to the rear portion of this property at 20 West Avenue. A new office tenant will occupy the right front (West Avenue) side of the building and an additional office tenant will occupy the front, left side of the building. The new office use on the left side of the building is replacing what had been part of the bank, therefore that office use will require Special Permit approval from the Planning & Zoning Commission.

Attorney Zabetakis said that retail sales use in this particular location and with this particular site development is impractical due to being located off of the Boston Post Road and being immediately adjacent to a residentially zoned area.

Gabriel Stefani reviewed photographs of the existing building conditions and explained that they propose to remove the drive-thru bank facility at the rear of the building. The drive-thru aisle will be changed to create 10 additional on-site parking spaces and a one-way traffic lane will be created.

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Other changes to the site include creation of a screened trash dumpster area and a small outside break area for employees on the south side of the building. Approximately 450 square feet of additional, upper level space will be created. This upper level will be located on the ground level of the rear of the building, even though it will be on the second floor compared to the West Avenue side of the building. Mechanical units will be installed on the roof and will be properly screened from view. The upper level addition will be used by Lanphier as a small, retail sales area that will also serve as the entrance to their use which is on the ground floor of the rear/north side of the building.

Mr. Stefani said that the electrical transformers that are now located on poles will need to be relocated and they will be placed on the front, left side of the building and will be properly landscaped so that they will not be as noticeable. He said another small modification to the site would be to add some stairs so that people will be able to safely move from this site down to the municipal parking lot which is at a lower level. Approximately half of the stairs are located on the subject property and the other half will be located on the Town property. He knows he will need to get Town approval to complete the stair installation.

Attorney Amy Zabetakis said that any retail use would be allowed as a matter of right and a proposed new office space on the front, left side of the building does require Special Permit approval from the Town. She said that this property is subject to a joint Parking Agreement with the Town and therefore, the need for providing all of the parking spaces on this site has been waived.

Henry Ditman, P.E., of Milone & MacBroom Associates said that the proposed 7,600 square foot day spa and 10,600 sq. ft. of office space will be serviced by parking areas that have two access driveways from West Avenue and one rear access driveway to the municipal parking lot that eventually allows motorists to travel out to Mansfield Avenue. He said that trimming back existing vegetation is necessary to improve the sight lines and low shrubs will be maintained for aesthetic purposes and so that they do not block visual sight lines of drivers that are exiting the site.

Mr. Ditman said that most of the traffic coming to and from the site will come through the West Avenue driveways and most of that traffic will come from the Boston Post Road. Therefore, they have studied the intersection of West Avenue with the Boston Post Road and also studied the intersections of the Boston Post Road and Tokeneke Road and the Boston Post Road and Center Street since those three intersections are under one set of controls for all three traffic lights. He said that the building is currently vacant and, in his traffic analysis he is treating all of the traffic as if it is new (even though the building was formerly occupied by a bank and office uses).

During the A.M. peak hour, 60 vehicle trips (in and out) would be generated by the proposed uses of the site. During the peak hour in the afternoon, the site would generate 70 vehicle trips (in and out). He said that adding this much traffic to the existing intersections will not change the Level of Service (L.O.S.). He said that generally the three intersections that were studied are at a Level C or B. At their worst, they are currently at a Level of Service D. He reiterated that adding the traffic for the proposed uses will not change the Level of Service. He said that traffic for the spa is spread out throughout the day and is heaviest on the weekends. In response to a question, he said that adding this traffic (assuming there was no prior use of the site at all) would not warrant the installation of a traffic light at the West Avenue intersection of the existing driveway.

Mr. Voigt asked about the handicapped parking spaces that are on site and are being created. He was told that the revised plan includes two more handicapped parking spots on the front, left side of the building. Mr. Ditman replied that these handicapped parking spaces are closest to West Avenue and they could be eliminated as suggested by the Town's Traffic Consultant. However, they will be seldom occupied, and therefore will infrequently create vehicles backing into the access driveway. Eileen Lanphier said that her business is busiest on Friday, Saturday and Sunday. Her planned hours of operation are generally from 8:00 A.M. until 6:00 P.M. with hours of 9:00 A.M. to 4:00 P.M. on Sunday. Most clients come by appointment only.

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

At about 10:05 a.m., Mr. Conze read the following agenda item:

**Land Filling & Regrading Application #263, Lot Line Adjustment/Amendment of Subdivision #370-B, William Storrs Morehouse, 15 Morehouse Drive.** Proposing to fill and regrade in association with a new residence and driveway, install associated stormwater management, adjust a shared lot line with Lot #11 (21 Morehouse Drive) and perform related site development activities. The subject property is on the east side of Morehouse Drive, approximately 450 feet north of its intersection with Prospect Avenue, shown on Assessor's Map #15 as Lot #12 in the R-1/2 Zone.

Ted Milone, Professional Engineer from Redniss & Mead, explained that they propose to develop the existing vacant lot at 15 Morehouse Drive. This lot was created as part of a 1967 subdivision. To facilitate the development, they are proposing some fill within 15 ft. of the property lines and they proposed to adjust the common boundary line between this parcel, Lot #12 on the previously approved and filed subdivision map (which would be house number 15) and Lot #11 (which would be house number 21). Mr. Milone explained that under Section 880 of the Zoning Regulations, they are proposing to manage the storm water runoff from the proposed development activities. Infiltration units will be located in the front yard and a rain garden will be constructed in the rear yard. At present, water from the site that does not soak into the ground, drains into a pipe inlet on an adjacent property to the south, which ultimately feeds into the Goodwives River. That pipe inlet will still serve as the gathering spot for the overflow of any storm water that does not sink into the site. He said that the proposed redevelopment plan for this lot has already been approved by the Environmental Protection Commission on September 21<sup>st</sup>. Mr. Milone explained that the lot line adjustment would give more land from the front of this site to Lot #12 so that that Lot #11 can be more appropriately developed without having to intrude as much into the wetlands. The EPC application for the development of Lot #11 (house number 21) is still pending.

There were no comments from the public regarding the development at 15 Morehouse Drive. The following motion was made: That the Commission close the public hearing regarding this application. The motion was made by Mr. Spain, seconded by Mr. Hutchison and unanimously approved.

Chairman Conze read the following agenda item:

**Land Filling & Regrading Application #264, Lot Line Adjustment/Amendment of Subdivision #370-B, William Storrs Morehouse, 21 Morehouse Drive.** Proposing to fill and regrade in association with a new residence and driveway, install associated stormwater management, adjust a shared lot line with Lot #12 (15 Morehouse Drive) and perform related site development activities. The subject property is on the northeast side of Morehouse Drive, approximately 525 feet north of its intersection with Prospect Avenue, shown on Assessor's Map #15 as Lot #11 in the R-1/2 Zone.

Attorney Amy Zabetakis represented the applicant and said that the application before the Environmental Protection Commission is still pending. She said that this is a valid building lot that was created in the 1960's and she said that she would like to continue the public hearing until a decision has been made by the Environmental Protection Commission. She did ask if the Planning & Zoning Commission had any questions or issues, she would like to know about those so that she can provide the information when the public hearing continues.

One issue that was raised by the Commission was the amount of taxes paid by the property owner for the subject property. It was noted that in some cases that the value of the parcel has been reduced due to the extensive wetland. Attorney Zabetakis should provide information regarding the value and taxes paid for the subject property compared to other properties in the vicinity that do not have as much wetland.

The Commission members agreed that it would be appropriate to continue the public hearing regarding this matter until after the Environmental Protection Commission has rendered a decision. The public hearing on this application will continue on November 1, 2011 at 8:00 P.M. in Room 206 of the Darien Town Hall.

Chairman Conze read the following agenda item:

**Business Site Plan #232-A/Special Permit, Amanda Smith Caterers, LLC, 7 Tokeneke Road.** Proposing to continue the first floor catering business and to serve food and drink for a take-out cafe. The subject property is located on the south side of Tokeneke Road approximately 85 feet east of its intersection with Boston Post Road and is shown on Assessor's Map #72 as Lot #50, and is in the CBD Zone.

Amanda Smith and Madelene d'Etiveaud explained that their existing catering business does not serve any food to customers at the site except for samples. They proposed to serve coffee and other beverages along with breakfast and lunch items. The kitchen will continue to serve as a catering facility as well. They proposed to be open from 7 am until 2 or 3 pm. They have studied traffic and parking in the area and most of the parking spaces are limited to 2 hour spaces and therefore many are available during normal business hours. They would be completely dependent on the on-street parking. There would not be much long term parking needed for the business because most people would get their food and go. They propose inside seating for up to 8 customers at 4 tables. There would be no outside seating involved. They will continue to use the same common trash room which they share with the adjacent businesses. The applicants explained that they have notified their business neighbors and the proposed use has been well received. Most of the adjacent business owners feel that the use would increase foot traffic along the other store fronts and would be good for everyone's business.

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

Chairman Conze read the following agenda item:

**Coastal Site Plan Review #241-A, Flood Damage Prevention Application #270-A, Ian M. Duncan, 87 Nearwater Lane.** Proposing to extend the pier to the High Tide Line and reinstall the steps within regulated areas. The subject property is located on the west side of Nearwater Lane approximately 425 feet south of its intersection with Nickerson Lane, and is shown on Assessor's Map #52 as Lot #4, and is in the R-1 Zone.

John Roberge, Professional Engineer, explained that approximately 4 years ago the Town and Connecticut Department of Environmental Protection (DEP) had approved the installation of a 48 foot long, wooden pier and a 16 foot long gangway to a float in Holly Pond. The original proposal submitted to DEP would have been longer and would have allowed the pier to extend above the mean high tide line and reach higher ground. The DEP required that the pier be shortened. The plans were revised per the DEP's requirements and the dock was installed. The result was that people have been frequently walking in the area between the high tide line and the mean time line and were thus damaging the fragile environment of that area. The applicant has since returned to what is now the Connecticut Department of Energy and Environmental Protection (DEEP) with a proposal to amend the plans to extend the pier and additional 58 feet in length on the landward side so it would start above the high tide line in what is now an established lawn. The DEEP has approved the revised plans.

Mr. Ginsberg read aloud the comments received from the Department of Energy and Environmental Protection on September 8, 2011 confirming that they approved the revised plans to extend the pier. Mr. Roberge explained that they are now seeking approval from the Darien Planning and Zoning Commission to modify the existing structure in accordance with the plans recently approved by the Department of Energy and Environmental Protection.

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

Mr. Conze noted that since all public hearings have been closed or continued he would move into the General Meeting. Chairman Conze read the following item:

### **GENERAL MEETING**

**Site Plan Application #269-A/Special Permit Application #265, Land Filling & Grading Application #225-A, Post Road Eleven, LLC, 1292 Boston Post Road, SB Zone.**

Clarification regarding the use of a portion of the second floor space.

Commission members reviewed the September 22 memorandum from David LaPierre of Robert A Cardello Architects, LLC. The Planning & Zoning Commission had approved a very detailed floor plan for the retail antique dealer the ground floor and the architectural office on the second floor.

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The construction drawings that have been submitted now include a different floor plan on the second floor. The amount of storage space has been greatly reduced and that area would now be used as offices. The memorandum indicates that it would be the same number of people working in the space but they would not need as much storage. Commission members reviewed the requested modification and noted that the overall floor area is not being increased. They continue to be very concerned about the limited on-site parking available for the two uses of the site. The Commission discussed and unanimously approved the modification of the second floor plan in accordance with the recently received drawings.

Chairman Conze read the following agenda item:

*Discussion, deliberation and possible decisions regarding:*

**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.** Proposing to construct a single-family residence, garage, and swimming pool and to perform related site development activities within regulated areas. *PUBLIC HEARING CLOSED ON 9/6/2011. DECISION DEADLINE: 11/10/2011.*

The following motion was made: That the Commission waive the process of reading each draft resolution aloud because each member has had the opportunity to review the drafts prior to the meeting. The motion to waive the reading of the draft resolutions was made by Mr. Hutchinson, seconded by Mr. Spain and unanimously approved.

Commission members reviewed the draft resolution regarding the Kaali-Nagy property. Mrs. Riccardo and Mrs. Cameron had submitted comments that had been incorporated into the revised draft. The applicant is willing to establish a conservation easement to permanently protect the westerly portion of the property from further development activity.

Mr. Voigt noted that he had missed the Public Hearing on July 26 and would not be voting on this matter. Mrs. Riccardo said that she was not at the July 26 Public Hearing but had reviewed the video tape and minutes and did feel comfortable voting on this application. 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 and seconded by Mr. Spain. All voted in favor except Mr. Voigt who abstained. The motion passed by the vote of 5 to 0 to 1. The Adopted Resolution is as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
September 27, 2011**

Application Number: Coastal Site Plan Review #261-A  
Flood Damage Prevention Application #28-B  
Land Filling & Regrading Application #2-B

Street Address: 144 Five Mile River Road  
Assessor's Map #67 Lot #10 & #11

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Name and Address of Applicant: Foster Kaali-Nagy  
144 Five Mile River Road  
Darien, CT 06820

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

Name and Address of Property Owner: Stephen A. Frank  
At time of Application:

Activity Being Applied For: Proposing to construct a single-family residence, garage, and swimming pool and to perform related site development activities within regulated areas.

Property Location: The subject property is on the south side of Five Mile River Road at its terminus.

Zone: R-1/2 Zone

Date of Public Hearing: July 26, 2011 continued to September 6, 2011

Time and Place: 8:00 P.M. Room 206 and Room 119 Town Hall

Publication of Hearing Notices

Dates: July 15 & 22, 2011

Newspaper: Darien News

Date of Action: September 27, 2011

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:

October 7, 2011

Newspaper: Darien News

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, 820, 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 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:

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1. The applicant proposes to construct a single-family residence, garage, and swimming pool and to perform related site development activities within regulated areas. The property is located at the southern end of Five Mile River Road and is just north of Butler's Creek. The subject property is served by public sewer and public water. A single-family residence used to exist on the property, but was razed within the past few years.
2. A prior application for this property had recently come before the Planning and Zoning Commission, but was withdrawn after the public hearing had closed. That application (Coastal Site Plan Review #261) had an extensive public hearing process, with opposition from neighbors. The subject application was submitted within two months after that prior application was withdrawn. The current plan, as revised, is substantially different from the previously submitted proposal, and will have much less impact upon the sensitive environmental features of the site and natural surroundings.
3. At the public hearing on this matter, Tom Ryder, of Land-Tech Consultants, explained that the plans currently before the Planning and Zoning Commission are substantially different from the previously submitted and withdrawn, which had been presented by a different applicant for this same property. He explained the differences between this application and that prior application. The subject application does not include an accessory enclosed structure (as shown in the previous application), the proposed house is smaller, and proposed development activities have been condensed and moved to avoid the tree near the Kane (eastern) property line, and the "saddle" in the middle of the property.
4. During the public hearing process for the instant application, the applicant modified the plans in response to concerns presented by Todd and Martha Robbins and the State of CT DEEP. These revised plans were reviewed with the Commission at the September 6, 2011 public hearing. The revisions included reducing part of the terrace area and eliminating part of the wall proposed to the north of the swimming pool. Specific notes and cross-sections were included to address concerns of the State of CT DEEP. At the September 6, 2011 public hearing, there was no opposition to the plans last revised 9/1/11.
5. A September 6, 2011 e-mail was received as follows from Kristal Kallenberg Dorismond of the State of Connecticut DEEP:  
*September 6, 2011*  
*Thank you for the opportunity to further comment on the above-referenced proposal. In our last letter dated July 26, 2011 we reiterated our concerns with the size and scope of the proposed residential development and the potential for encroachment into OLISP jurisdiction. Since then we have reviewed some proposed modifications to the proposal. After some discussion with the Permitting section we are assured that the jurisdictional concerns stated in our previous letter have been addressed and that the necessary authorizations are feasible.*  
  
*It is important to note the severe (and in many cases unexpected) impacts of Hurricane Irene on coastal communities across Connecticut. Given those realities, the proposal cannot guarantee that, once constructed as designed, risk to life and property will be minimized when a storm of equal or greater intensity hits this area again.*  
  
*We hope our comments have been helpful to the Commission. Please contact me by phone or by email if you have any questions about this or any other coastal concerns.*
6. The current flood designation anticipates that the flood levels will reach eleven (11) feet at the house site. Mr. Ryder said that he understands that FEMA is considering a change to the map

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that would raise the expected flood level to elevation twelve (12). He said that the house has been designed with the lowest floor at elevation 13 to comply with the more stringent change that FEMA might implement.

7. It was acknowledged that some work, such as fixing up the boat house and working on a wall at the water's edge, are not part of the current application submitted to the Town. The applicant noted that this work will require permits from the Connecticut DEEP and then submission of applications to the Planning and Zoning Commission.
8. At the September 6, 2011 public hearing, a Commission member asked if a Conservation Easement could be offered to assist in protecting the western part of the site. The purpose of this conservation easement would be to protect the western portion of the property, which includes eastern prickly pear, a special concern species (as noted within the applicant's submitted Coastal Site Plan application and Resource Evaluation dated June 16, 2011). The applicant and the Director of Planning have discussed the details of the possible conservation area and have reached an agreement regarding an easement that balances the private property rights and the natural environment.
9. The applicant noted that he would like to cut a 12" cedar tree near the southern property line near the level spreader (as shown on the Grading Plan). The Commission has balanced that desire by the applicant with the Conservation Easement to protect the western part of the site. The Commission believes that the cutting of that one cedar tree is balanced and offset by provision of a conservation easement protecting the western part of the site from future development.
10. At the public hearing, Mr. Ginsberg read aloud the comments from the Southwestern Regional Planning Agency (SWRPA), contained within their response of July 12<sup>th</sup>, 2011. They recommend that the Commission verify that the drainage issues have been properly resolved. They found that there are no inter-municipal impacts due to the proposed development.
11. Mr. Ryder reviewed the letter of support from Mr. Kane, the property owner located to the east. He said that Mr. Kane and the applicants have also worked out an agreement regarding a turnaround area to be created for emergency vehicles and this is shown on the proposed plans. He submitted copies of the letters from Mr. Kane, which are part of the record.
12. 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.
13. The proposed activities, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.
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.

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15. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.
16. The proposed activities also include filling and regrading a portion of the existing property and managing storm water runoff so that it does not negatively impact the nearby properties.
17. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
18. 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 #261-A, Flood Damage Prevention Application #28-B and Land Filling & Regrading Application #2-B are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction and other development activity shall be in accordance with the following plans submitted to and reviewed by the Commission:
  - Site Plan prepared for Foster Kaali-Nagy, 144 Five Mile River Road, by Land-Tech Consultants, Inc., dated 6-20-11 and last revised 9/1/11, Sheet 1 of 3.
  - Grading Plan prepared for Foster Kaali-Nagy, 144 Five Mile River Road, by Land-Tech Consultants, Inc., dated 6-20-11 and last revised 9/1/11, Sheet 2 of 3.
  - Details & Notes prepared for Foster Kaali-Nagy, 144 Five Mile River Road, by Land-Tech Consultants, Inc., dated 6-20-11 and last revised 8/29/11, Sheet 3 of 3.
  - New Residence 144 Five mile River Road (Floor Plans, Elevation, and Swimming Pool Plan and Section), by Alex Kaali-Nagy-Architect, LLC, dated 06/17/11, Sheet A-1 through A-2 and Sheet SP.
- B. The Commission hereby approves the aforementioned plans in conjunction with a Conservation Easement to be provided by the applicant. That easement shall be located as noted on the last page of this resolution. A Conservation Easement mylar map, which shows the location of the easement, shall be filed in the Darien Land Records concurrently with the Conservation Easement wording. The map and wording shall be prepared by the applicant, and reviewed by the Planning and Zoning Director and Town Counsel to ensure consistency with the requirements outlined within this Resolution. Details regarding the location of the easement to be provided, as well as uses generally allowed and not allowed, are included in the last page of this Resolution. Prior to the start of any on-site construction, the easement shall be filed in the Darien Land Records. Also prior to the start of any on-site construction (including the start of the house foundation), four monuments shall be placed in the ground to specifically designate the Conservation Easement area.
- C. In conjunction with the Zoning and Building Permit applications, the plans shall be accompanied by a certification from a licensed architect and/or engineer that verifies that the final, detailed design of the house foundation complies with the applicable requirements to minimize flood damage.

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- D. Because of the nature of the land filling and regrading portion of this project, a performance bond for the filling and regrading is hereby waived.
- E. 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 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. During the construction process, an as-built survey shall be submitted when the ground foundation work for the new house has been installed. The survey must verify that the work complies with all aspects of the Zoning Regulations (setbacks from property lines, elevation, etc.) and with all applicable specifics of this approval. Another as built survey will be required when the pool forms have been installed.
- G. A final “as-built” survey is hereby required to certify that the site improvements adjacent to the coastal resources and/or within the flood hazard area are all in compliance with the approved plans. In addition, a Professional Engineer shall certify in writing that the vehicle turn around area, drainage, walls and grading work has been properly completed in accordance with the approved plans.
- H. The applicant/property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site of the regrading will not have any negative impacts upon the adjacent property(ies) and/or natural resources. If such problems do become evident in the future, the owner of the property shall be responsible for remedying the situation at their expense and as quickly as possible.
- 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 agencies. Approval for any desired/required blasting will be needed from the Darien Fire Marshal.
- K. This permit shall be subject to the provisions of Sections 815 and 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 (September 27, 2012). This may be extended as per Sections 815 and 829f.

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records 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.

### **CONSERVATION EASEMENT TO BE PROVIDED**

Location of the easement:

The conservation easement (to be granted to the Environmental Protection Commission) shall be the area west of an imaginary line running from wetland flag 11 to wetland flag 23 as shown on the Site Plan last revised 9/1/11. This includes most, but not all, of the ledge on the western end of the property. These shall be monumented with at least four monuments.

Purpose of the easement:

- Quiet enjoyment of the property by the property owner(s) and their guests
- No public access
- Protection of the existing natural vegetation, most particularly the eastern prickly pear

Prohibited uses:

- Installation of structures
- Tree cutting
- Filling, regrading, alteration of natural topography
- Installation of irrigation systems
- Dock
- Light poles for lighting
- Installation or construction of fences, walls and/or stone walls
- Dumping or filling
- Gazebo or pergola
- Structures

Permitted uses:

- Mowing up to 10 times annually.
- Placement of picnic table, table and/or chairs.
- Wood chip path for walking.
- Planting of grasses, trees and other plantings consistent with the existing natural vegetation and other provisions of the P&Z approval.
- One Swingset of reasonable size, which meets zoning setbacks.
- Quiet enjoyment by property owner(s) and their guests.

Chairman Conze read the following agenda item:

**Special Permit Application #125-D(2)/Site Plan, Darien Junior Football League (DJFL), Holahan Field, 2 Renshaw Road.** Proposing to install three temporary lights at Holahan Field for DJFL team practices on weekdays in the fall 2011 and 2012 seasons. *PUBLIC HEARING CLOSED ON 9/6/2011. DECISION DEADLINE: 11/10/2011.*

Commission members reviewed the draft resolution. There was a discussion about whether a full and detailed report would be required at the end of the 2011 season or if the Commission only wanted an abbreviated report. The Commission agreed that a short report would be sufficient and it did not require repeating the audio testing that had previously been submitted. Mr. Spain said that even though a detailed report would not be required in January 2012 (regarding the light usage in 2011) it would still be incumbent upon the Darien Junior Football League to make any adjustments prior to the use of the lights in 2012. He said that when an application is submitted subsequent to the 2012 season, the eventual use and development at and around the Town Hall should be known at that time. The DJFL plan should incorporate any of the details known at that time. There was also some discussion about the length of practice and it was decided that practice would be allowed to continue until 7:00 pm and the lights would be turned off shortly after that.

The following motion was made: That the Commission adopt the following resolution to approve the application for temporary lights during the 2011 and 2012 practice seasons in accordance with the conditions and stipulations as noted. The motion was made by Mr. Spain, seconded by Mr. Hutchinson and unanimously approved. The adopted resolution is:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
September 27, 2011**

Application Number: Special Permit Application #125-D(2)/Site Plan  
Darien Junior Football League (DJFL), Holahan Field

Street Address: 2 Renshaw Road  
Assessor's Map #41 Lot #85

Name and Address of:  
and Property Owner: Town of Darien  
2 Renshaw Road  
Darien, CT 06820

Name and Address of Applicant &  
Applicant's Representative Darien Junior Football League (DJFL)  
c/o John Sini  
36 Birch Road  
Darien, CT 06820

Activity Being Applied For: Proposing to install three temporary lights at Holahan Field for DJFL team practices on weekdays in the fall 2011 and 2012 seasons.

Property Location: The subject property is located on the northeast corner of the intersection formed by Renshaw Road and Park Place, at Holahan Field which is behind Town Hall.

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Zone: R-1/3

Date of Public Hearing: September 6, 2011

Time and Place: 8:00 P.M. Room 119 Town Hall

Publication of Hearing Notices

Dates: August 26 & September 2, 2011 Newspaper: Darien News

Date of Action: September 27, 2011 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: Newspaper: Darien News  
October 7, 2011

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 sketch, 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 Commission notes that very similar applications were submitted by DJFL in 2009 and 2010, and approved by the Planning and Zoning Commission. Those approvals were for use of temporary lights for a limited time in the fall of 2009 and 2010 seasons at Holahan field.
2. In 2009 and 2010, the DJFL received approval to use temporary lights at Darien High School. This application does not involve lights at the High School, but is acted upon with the recognition that the DJFL will continue to use the lights on one field there during the fall of 2011.
3. At the public hearing, DJFL representatives explained the differences between the subject application and that submitted last year (Special Permit Application #125-D/Site Plan). The main difference is that a two-year approval is being requested within this application, whereas last year's application was for fall 2010.
4. Also at the public hearing, it was explained why the DJFL has decided not to pursue electric hook-ups for lights at Holahan Field for the two seasons covered by this application.

5. The applicant is a youth sports association which conducts football practice and game activities for youngsters in the Town of Darien, starting in the primary grade age levels up into middle school age. It was formed more than twenty years ago with fewer than 100 youngsters playing, and now has more than 500 players on a variety of teams and age levels. Prior to 2008, it functioned successfully over these years using Town fields and facilities under the auspices of the Town Park and Recreation Commission without the installation or use of artificial lights.
6. The application is to install three temporary lights at Holahan Field for DJFL team practices on a maximum of 30 weekdays each season in 2011 and 2012. DJFL received specific authorization from the Darien Parks and Recreation Commission on June 16, 2011 to proceed with this application for this specific field. It also uses other fields owned by the Town, including some located at one or more public schools. The number, height, location and use of the proposed temporary portable lights were described at the public hearing. The purpose of the temporary portable lights is to have football practices on Holahan field later in the day during the shorter daylight weeks. The proposed temporary lights would allow lighted practices after sunset. The applicant is not expanding the football practice schedule in terms of numbers and duration of practice sessions.
7. Section 405b of the Darien Zoning Regulations allows lighting or illumination of recreation facilities as an Accessory Use Requiring a Special Permit. That Section reads as follows:

*Outdoor recreational uses and tennis courts. The lighting or illumination of recreational facilities is permitted provided that such lighting shall create no hazard or nuisance upon adjacent properties with reference to the following standards:*

- 1) *The source of such lights shall be concealed from surrounding residential properties;*
- 2) *All lighting shall be located and be of such design that no illumination shall be directed toward surrounding residential properties;*
- 3) *No lighting facilities shall be mounted at a height greater than 20 feet above grade.*

A Special Permit also must satisfy Section 1005 of the Darien Zoning Regulations. Twenty foot high lights are consistent with local zoning in Section 405b. Any lights that would be higher are not consistent with current zoning.

8. At the public hearing, the representatives from the DJFL noted that the proposal is to install three temporary diesel-powered generator light stands to allow DJFL practices at Holahan field weekdays only from Monday October 10 to either a) the date that the last DJFL team is eliminated from the playoffs or b) Friday November 18, 2011, whichever comes first. It was explained that October 10 to November 18 (16 weekdays in October and 14 weekdays in November) is the maximum usage, and that the actual usage may be less. Similar usage is proposed for fall 2012. It also was noted that DJFL has held practices on Holahan field for many years. The usage at that field will decrease as DJFL teams get eliminated from the playoffs. Practices are not usually held on Mondays, which also decreases the amount of days the lights are likely to be on. The amount of use proposed will likely not be the actual usage. For example, in 2010 the lights were used only 17 nights for a total of about 25 hours. Issues such as rain, sporadic Monday practices, dwindling number of teams during the playoffs, and the use of a lit DHS Stadium Field should limit the usage of the lights at Holahan field.

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9. The applicant requested to have the lights on from 5:30 p.m. to 7:30 p.m., with practice generally ending at or about 7:00 p.m., and giving everyone time to exit the field.
10. The applicant noted, and the Commission agrees, that this is a very limited proposal for a limited duration. The details presented to the Commission were satisfactory for this trial period. The Commission is looking for the DJFL to manage this temporary lights program. Use of this field is authorized by the Parks and Recreation Commission.
11. The subject application is solely for portable, lights to be used on a temporary basis. The usage of the lights was specifically defined and limited by the applicant within the application materials and at the public hearing. Any request for lighting beyond November 19, 2012 requires a subsequent Special Permit application to this Commission. (The submitted application notes that the actual 2012 DJFL schedule has not been finalized, and thus, the actual dates could vary slightly).
12. In a post-season written report to this Commission following last year's temporary use of lights at this location, and during the hearing on the current application, the DJFL reported that they sought to arrange for utility powered temporary lights this year but encountered a number of difficulties. They also presented testimony that sound absorbing and deflecting baffles or shields could be used to reduce the sound impact of generators upon residents of nearby streets.
13. The information gathered during the 2011 and 2012 seasons could be helpful in any future analysis of light proposals for the subject property. The Commission notes that there can be other stipulations required by the Commission to ensure that the lights do not have a detrimental impact on the neighborhood. The Commission notes that some of the expressed concerns were due to the proposed use of diesel generators for the lights. If there is a future request, the Commission could be expected to encourage identifying and, if practicable, implementing ways to power the lights without the use of diesel generators, and powering them via a silent source, such as utility power.
14. It was clear from the applicant's presentation that no different or more intense activity or use is being proposed as part of this application. The existing afternoon and early evening football practices on Holahan field now occur, and will continue to occur. Only football practice sessions for Darien Junior Football League teams are proposed to occur under the subject lights. No other use of the lighted field is being requested.
15. The subject property is in an R-1/3 (residential) zone. This request includes tight control of ambient and direct light to minimize the impact on the neighbors' residential properties.
16. During the public hearing in 2009 on a related temporary lights application at this location, the applicant noted that sometimes, parents of DJFL players will turn on the headlights of their vehicles located in the Town Hall rear parking lot in order to provide light for the players. These lights face neighbors on Cherry Street. The Commission has concern regarding this practice, as these lights could shine into Cherry Street residences directly contrary to the provisions of Section 405b(2) of the Darien Zoning Regulations. The proposed portable lights configuration is facing away from Cherry Street residences. The Commission has received no evidence that this problem occurred since 2009, as DJFL has taken, and continues to take efforts

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to eliminate that practice. The normal youth sports activities which this Commission has approved for this location by the Town and by the Park and Recreation Commission does not allow such nuisance activity vis-à-vis surrounding neighbors' residences.

17. At the public hearing in 2009, neighbors voiced their concerns with the proposal. Their concerns included the lights and noise of later practices, the noise and smell of the generators used to power the lights, as well as traffic on St. John's Place and Cherry Street from drop-off and pickup of DJFL players. One neighbor appeared at the public hearing on this application, voicing his concern about fast traffic along Park Place onto the Town Hall property.
18. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare. An important aspect of this determination is the fact that this will be a trial use for a limited time, such that any impact upon property values and upon normal levels of quiet nighttime residential use will not be unreasonable given such a short time period of operation.
19. 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 residential areas, and the suitability of such actions to the area for which it is proposed.
20. The nature of the proposed lighting is such that this trial project will not unreasonably hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
21. The site plan has been reviewed by the Commission and is in general compliance with the intent, purposes and objectives of Section 1020.
22. The design, location, and specific details of the proposed use will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole. The activity is not expected to add to the traffic volumes in and out of the Town Hall parking areas beyond what DJFL practices currently entail.
23. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations, particularly because it seeks a short term trial period activity.

NOW THEREFORE BE IT RESOLVED that Special Permit Application #125-D(2)/Site Plan are hereby modified and granted subject to the foregoing and following stipulations, conditions, modifications and understandings:

- A. Installation of the portable, temporary 20 foot high lights shall be in **general** accordance with the sketch entitled, "Approximate Location of the Three Lights Towers at Holahan Field-2011-2012". Slight positioning adjustments may be made in the field to minimize impacts, but should be substantially similar to the placements shown on that sketch. In addition to careful positioning of the light stands to eliminate glare on neighbors' residences,

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applicants shall use their best efforts to install sound baffles or shields to absorb, reduce, and deflect the sound of the generators and the diesel engines from neighboring residences, and/or provide direct power to the lights.

- B. The lights (at a maximum of 20 feet high) shall only be turned on for DJFL practices during the time frames specified herein: Monday October 10, 2011 through Friday, November 18, 2011, 5:30 p.m.-7:30 p.m.; AND Monday October 8, 2012 through Friday, November 16, 2012, 5:30 p.m.-7:30 p.m. (although the actual FCFL schedule has not yet been finalized for 2012, so these 2012 dates may change slightly). These are the times proposed by the applicant in page 1 of its submission to the Commission. Only DJFL personnel shall be allowed to turn on the lights and turn them off. They shall be locked when not in operation.
- C. As teams are eliminated from the playoffs, and fewer children are practicing, DJFL is encouraged to continue to move the lights further away from the neighbors, and use fewer lights, as less field space may be needed for practice as the end of the 30-day use period approaches.
- D. Similar to last year, the DJFL shall notify DJFL parents that turning on their vehicle headlights during practice or after practice beyond normal driving needs is not permitted. It is recommended that this notice be done via e-mail and also with a sign at the Holahan Field site.
- E. No players or coaches shall be picked up or dropped off on St. John's Place or on Cherry Street. Drop offs and pick ups shall take place in the Town Hall parking lot. It is recommended that DJFL notify parents of this via e-mail and with a sign at the Holahan field.
- F. On Mondays through Thursdays, the 20 foot high portable lights may stay on the field at their normal operating locations. On Friday nights, or on Saturday mornings, and if required by the Park and Recreation Director, the lights shall be rolled back by the cemetery (near the 8-man sled) so that the fields may be used by other teams over the weekend.
- G. A contact phone number for DJFL shall be submitted to the Planning and Zoning Office before October 11, 2011 and prior to the installation of the portable lights. This should be a phone number for someone who can be contacted while the lights are in use and immediately thereafter. This will allow the neighbors to contact someone directly if they believe that any of the conditions herein are not being complied with, or if the lights are not turned off at the correct time. Any phone calls regarding the lights during the trial period shall be logged, and included in the subsequent "post-operation" report required by the Commission herein.
- H. Within 60 days after the final light use allowed under this decision (such final use date expected to be on or before November 19, 2012), DJFL shall prepare a written report outlining the following: when the lights were used; any complaints regarding the noise, light, or other potential impacts to the neighbors; and what improvements could be made to minimize potential impacts (if any) if similar temporary lights are used in the future. In order for the Planning & Zoning Commission to get a better understanding of how this trial period has worked, a copy of said report shall be submitted to the Planning & Zoning Office

before January 31, 2012, so that the Commission can discuss said report at a meeting in late January or February 2012. Because this is a two-year approval, the Commission is requiring that “basic” reports be submitted both after the first and the second year (in January 2012 and in January 2013). These basic reports shall include the dates and hours the lights were used, as well as any complaints or comments received. A lights expert does not need to be hired to report. These reports will also allow the DJFL to consider what they would do or could do differently, and to better understand what impacts the lights may have had. If the “shuffle”/Mather Community Center construction is occurring in June 2012, then a very brief report shall be issued with any expected condition changes due to the ongoing construction at 2 Renshaw Road.

- I. The granting of this Special 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. **The Commission hereby confirms that any future application for lights, whether temporary or permanent, shall require subsequent review and action by the Planning and Zoning Commission.**
- J. 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 these permits as it deems appropriate.

All provisions and details of this decision shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final plan by the Chairman. A Special Permit form shall be filed in the Darien Land Records prior to the temporary installation of the lights.

Chairman Conze read the following agenda item:

**Coastal Site Plan Review #214-A, Flood Damage Prevention Application #230-A, Melanie Branca, 8 Waverly Road.**

Request for a one year extension of time for the previously granted approvals.

Commission members reviewed the September 9, 2011 letter from Chad Nehring requesting an extension of the approval. The extension will continue until September 28, 2012. The motion to approve the requested extension until September 28, 2012 was made by Mr. Hutchinson, seconded by Mrs. Cameron and unanimously approved.

Chairman Conze read the following agenda item:

**Coastal Site Plan Review #265/Flood Damage Prevention Application #301, 4 Shipway Road.**

Request for an extension of time until May 1, 2012 to obtain permits and commence construction.

Commission members reviewed the September 20, 2011 letter from Jessica & Andrew Black requesting an extension until May 1, 2012. The following motion was made: That the Commission authorize the extension of the Coastal Site Plan Review and Flood Damage Prevention approvals

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for 4 Shipway Road to be extended to May 1, 2012. The motion was made by Mrs. Cameron, seconded by Mr. Hutchinson and unanimously approved.

Chairman Conze read the following agenda item:

**Approval of Minutes**

*September 6, 2011 Public Hearing/General Meeting*

Commission members reviewed the draft minutes that had been revised in accordance with comments from Mr. Spain. The following motion was made: That the Commission approve the minutes as revised. The motion was made by Mr. Spain, seconded by Mr. Hutchinson and unanimously approved.

There being no other 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 10:40 pm.

Respectfully submitted,

David J. Keating  
Assistant Planning and Zoning Director

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