

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
January 12, 2010**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Conze, Spain, Hutchison, Riccardo, Voigt

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

FILMED: Channel 79

PUBLIC HEARING

Chairman Conze read the first agenda item:

Coastal Site Plan Review #246, Flood Damage Prevention Application #91-A, Andrew & Katrina Firlik, 124 Pear Tree Point Road. Proposing to relocate the existing driveway to the south and add a second curb cut with a parking court in front of the house and perform related site development activities within regulated areas. The subject property is located on the east side of Pear Tree Point Road approximately 250 feet south of its intersection with Crane Road and is shown on Assessor's Map #60 as Lot #35 & #36, in the R-1 Zone.

Doug DiVesta, P.E., represented the Firliks and explained that contour elevation 12 runs through the site and therefore a portion of the property is within the 100 Year flood plain. A portion of the property is also within 100 horizontal feet of Mean High Water and is therefore subject to review and action under the Coastal Site Plan Review program. Mr. DiVesta said that the house is served by existing public sanitary sewer and water systems. The plan is to revise the existing driveway because it is sometimes difficult to get into and out of the site during the busy summer season due to the high volume of traffic using Pear Tree Point Road and visiting Pear Tree Point Beach across the street. The total area of impervious surface will be increased by approximately 2600 square feet. Mr. DiVesta explained that the Zoning Regulations do not require that the storm water be detained for flood control purposes, but they must address water quality issues. They are doing this by providing some stormwater detention to attenuate the peak flow. They will accomplish this by installing a series of Cultech 100 Chambers to handle more than the first inch of stormwater runoff for the new impervious surfaces, plus part of the front roof area that flows toward the new driveway. The maintenance for the new Cultech system will involve cleaning the sumps twice a year and inspecting other portions of the drainage system on an annual basis to remove any sand and debris that may accumulate.

Mr. DiVesta explained that the total regrading of the site will only encompass 10 cubic yards of material to be removed and five cubic yards to be brought into the site. He expects that the work will take place in three weeks or less. He said that a second curb cut is proposed, and the application to install that is pending with the Department of Public Works.

In response to questions, Mr. DiVesta said that another reason for installing the driveway as proposed is to provide additional on-site parking for guests and to avoid backing into the street. Ms.

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Riccardo asked if the applicant had considered using something other than a solid asphalt material. Mr. DiVesta said that he would discuss this with his client. He said that the soil conditions will accept water from the proposed impervious surfaces.

Mr. Voigt asked about the one large and one medium-sized tree to be removed, and if there were any plans to replant new trees. Mr. DiVesta replied that his clients would be glad to add new trees to the site to replace those that are being removed.

Mr. Spain asked whether the Commission should continue the Public Hearing in order to get an answer about whether the Public Works Department will act on the curb cut application, and to get a more detailed plan about possible tree installation. Commission members did not seem to think it necessary to continue the hearing until a later date.

Mr. Ginsberg read aloud the 1-8-2010 comments from the Connecticut Department of Environmental Protection (DEP) indicating that they have no issues with the proposed work. Mr. Hutchison noted that the application is really most concerned with the impacts to coastal resources, and there did not seem to be any notable coastal impacts.

There were no comments from the public regarding this matter. 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

At about 8:15 P.M., Mr. Conze read the following agenda item:

Continuation of Public Hearing regarding Business Site Plan #205-D/Special Permit, 205 Post Road Development Partners, LLC, 205 Boston Post Road. Proposing to modify the existing building and parking area and to establish a new drive-through only restaurant and perform related site development activities. The subject property is located on the north side of Boston Post Road at its northwest intersection with Richmond Drive and is shown on Assessor's Map #13 as Lot #6, in the SB-E Zone. *PUBLIC HEARING OPENED ON NOVEMBER 24, 2009. DEADLINE TO CLOSE PUBLIC HEARING IS JANUARY 12, UNLESS EXTENSION IS GRANTED BY APPLICANT.*

Attorney Wilder Gleason represented the applicants and explained that several things had happened since the Planning and Zoning Commission opened the Public Hearing on November 24, 2009. He said that the Zoning Board of Appeals (ZBA) has granted the variance requests for parking, the pole sign, the equipment location, and the restaurant-type use without having the required amount of indoor customer seating space. He said that these items were granted in accordance with Zoning Board of Appeals (ZBA) variance Calendar #47-2009. As a result of the conditions of that Zoning Board of Appeals action, they have reconfigured the parking area and access spaces. There will still be five parking spaces on the site. The queuing area from Richmond Drive into the ordering space and food pick-up area have been modified because this was of great concern to the neighbors, the Commission and the police. Mr. Gleason said that they had met with the neighbors to discuss the original application and the requested modifications. He said that they cannot eliminate the Richmond Drive access driveway because only having a Boston Post Road entrance and exit is not feasible due to traffic volume and Connecticut DOT limitations.

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Bernard Adler, P.E., explained that he is a traffic engineer. He has reviewed the plans on behalf of the applicant and has been involved in the revisions of the driveway from Richmond Drive so that it will now become two lanes into the site. The northern, right side, lane into the site will be for people who do not need to submit an order because they have already submitted an order by fax or email or other prearrangement. The south, left side lane of the entrance driveway will be for people who want to drive up to the order board and submit the order at that time. He said that they have also moved the menu and order board space farther from Richmond Drive to allow at least three cars to be in the queue before the order board without there being a backup of vehicles into Richmond Drive. Mr. Adler said that they have also modified the plans to widen the turning radius within the site so that delivery trucks and trash pick-up trucks will have an easier time maneuvering on the site. These revisions also result in a bypass lane so that if a potential customer is unable to wait, or for other reasons wants to leave the site, they can bypass other vehicles waiting in the queue. Mr. Adler said that a total of 11 customer vehicles can be queued on the site within the existing driveway and access lane areas.

Mr. Adler said that a study was done of a nearby fast food facility in Norwalk that had five times the area of this building. At that location, the average time between entering the site and placing the order was 77 seconds. The average time from completion of the order to picking up the order was 79 seconds. Using those times within this site, the new design will not result in any back-up of vehicles having to wait on Richmond Drive. Mr. Adler said that one of the concerns of the neighbors was to prohibit right turns from the southbound lane of traffic coming from the residential (northerly portion) of Richmond Drive into the site. He said that signage to that effect could be installed if the Commission requires it, but he did not think that it was necessary or worthwhile.

Mr. Hutchison asked what would be the variable in this case that is not typical of other fast food establishments. He said that whatever is designed needs to work rather than just complying with some regulation or arbitrary standard. Mr. Adler said that the arrival times of customers is the key to making sure that the site will not result in any back-up of vehicles onto the nearby street. He said that this healthy food drive-up is a first of its kind. The trip generation factor has been estimated to be very high in order to account for a busiest possible scenario. He said that the actual traffic experienced on the site would probably not be as high as what has been estimated. He said the traffic leaving the site must turn right as it proceeds into the Boston Post Road. He said that a left turn at that location is not possible because of the traffic divider in the highway at that location. Mr. Adler said that from his experience, the traffic movement within the site will manage itself as long as things are properly labeled and marked. He said there is a natural filtering process whereby customers who perceive that they would have to wait too long would leave the site, and as customers need to merge from one lane to another, they will generally allow an alternating merge. Attorney Gleason said that there will be an alternating merge sign at the point where the two queuing lanes are narrowed down to one pick-up lane.

Mr. Conze then asked about the menu board and ordering facility. He was concerned that the menu board would be too complicated for patrons. Gertrude Allen replied that one of their features will be that the order board will show only the items that are available at that time. In the morning, the order board will only have breakfast items. After the late morning, the menu will be converted to only lunch items. She said that the variety of breakfast items would be equivalent to or less than you would find at a typical fast food establishment. Ms. Allen said that the menu will naturally be limited due to the small size of the facility, and the menu will only display what is available at that

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time. She also noted that customers do not typically arrive at the same time. There is a little time space between when customers arrive. Ms. Allen also mentioned that very little food would be prepared on the site. Mostly, it would be prepared elsewhere and then brought to this site where it would be put together in accordance with the customers' requests.

Mr. Conze expressed concern about the fact that drivers turning into Richmond Drive from the Boston Post Road would only then discover that the queuing line is backed up. At that point, they would either have to stop in Richmond Drive or proceed into a residential portion of Richmond Drive because there is no other egress area or turn around area. Mr. Gleason said that a fourth driver (finding three people already waiting in the queuing line) would be able to go into the other line within the site rather than having to drive into the residential neighborhood.

Attorney Gleason explained that people will not frequently go into the neighborhood site to have to turn around somewhere in there. Mr. Adler said that they are predicting an average of one car in the order lane and a maximum of two people waiting behind them in the order lane. In response to a question about the possibility of flipping the order lane with the lane to be used by people who had pre-ordered, he said it would be best not to flip the location of these lanes. He said that experienced repeat users of the site should be kept on the outermost lane. He said newer customers generally prefer to be on the lane closest to the pick-up window, as proposed in the site plan.

In response to concerns raised about traffic on Richmond Drive, Attorney Gleason said that the applicant would be willing to install a speed bump in Richmond Drive just to the north of the driveway. He said that the installation of such a speed bump would be subject to the review and approval from the Darien Police Department. Mr. Gleason reiterated that typically they would experience only 77 seconds from the time a customer enters the site to the completion of the order in process. There would then be an average of 79 seconds from the completion of the order process to when the customer picks up the food and leaves the site. Mr. Hutchison believed that when there is more than one customer's order being submitted, the wait time will become doubled for the food preparation and pick up. Mr. Adler noted that the traffic assumptions at the peak time are that there would be 38 cars coming to the site per hour. He said that this was substantially less than one car each minute.

Attorney Gleason summarized by saying that the changes they have incorporated include creating the double entry lanes; moving the order box farther from the street; improving the access for delivery vehicles and trash trucks; creating snow shelves so that there is someplace for the snow to be plowed; and having a bypass lane within the site.

Doug DiVesta, P.E., explained the drainage of the site. He said that under Section 880 of the Darien Zoning Regulations, they are requesting a waiver of the full drainage study because of the limited size of the site (it is 0.25 acres), and the fact that they have two front landscaped areas that limit development, and they are increasing the impervious by only 487 square feet net. (There are 821 square feet of new impervious surface minus some of the existing impervious surface to be removed.) Mr. DiVesta added that in 2006, there was an approval for this site that collected the stormwater runoff from the parking area and part of the building, and that the Commission should allow the continuation of the sheet flow and storage area in the front yard along Richmond Drive.

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Mr. Gleason reviewed the further comments from Lieutenant Anderson of the Darien Police Department who indicated that the revised site plan addresses the concerns that he had previously raised. Mr. Adler noted that there would be 11 queuing spaces for vehicles on the site at any given time. He has a 95% confidence level that there would never be any back up on the street because there would be a maximum of five cars waiting to pick up food and a maximum of three cars in each of the two queuing lanes waiting to order or to announce their arrival to pick up a pre-order.

Attorney Gleason confirmed that this is a Special Permit use, and therefore requires action under Section 1000 of the Darien Zoning Regulations. He also noted that it is an amendment to the Business Site Plan. He said that his client is prepared to accept conditions and stipulations comparable to those set out in the Commission's approvals of other food service establishments, including Starbucks, Whole Foods and Planet Pizza. These conditions would address such things as any traffic back up having to be remedied, no queuing of vehicles on Richmond Drive, no on-street parking, the hours of operation, hours of deliveries and trash pick-up being controlled, and the trash dumpster enclosures being the roll-out style dumpsters to have minimal impact on the neighborhood. One of the applicants said that he has spoken with trash haulers and any conditions of approval with respect to pick up of the trash during daytime hours, after the breakfast rush and before the lunch rush, can easily be accommodated.

Mike Galante of Frederick P. Clark Associates explained that he is a traffic consultant hired on behalf of the Planning and Zoning Commission. He reviewed his letter of December 29, 2009 that expressed several concerns regarding the project. He said that the estimate of approximately 40 vehicle trips during the peak hour is reasonable due to the limited size of the building. He said that the revised site plan addresses many of his concerns. He said that if a striped speed bump is proposed on Richmond Drive it would need to be to the north of the access driveway to the site. It also would need to obtain approval from the Police Department before it could be installed.

Mr. Price of Maywood Road said that he opposes the application because this portion of Richmond Drive is the entrance of a residential area, and it is one of the access routes to a much larger neighborhood. He said that the median within the Boston Post Road does not line up with Richmond Drive, and the left turn lanes from the eastbound Boston Post Road into Richmond Drive and from Richmond Drive out into the Boston Post Road are reversed. He said that the stop sign at the median was removed several months ago and has not been replaced. He said he believed that adding 40 vehicles per hour would make this median area traffic pattern even worse. He said that assuming that 50% of these vehicles came from the Darien side (i.e. from the west along the Boston Post Road), they would need to turn left from the Boston Post Road into Richmond Drive. He said that the assumption of the remaining 20 cars coming from the Norwalk direction would also mean that those 20 cars have to turn right into Richmond Drive, then any traffic leaving the site would need to turn right onto the Boston Posts Road and approximately half of those clients he believed would need to make a U turn on the Boston Post Road. He said that the applicants have indicated that if there is a traffic problem, they will modify the business operation to address such a problem. He asked what things could be changed within the business in order to address the increase in traffic. He said that the applicants' indication that they would limit orders only to being submitted by fax, email or phone cannot be reasonably implemented.

Mike Koenitzer of 7 Richmond Drive said that the left turn from the Boston Post Road into Richmond Drive is already dangerous. He believes only one car fits within the turning lane, and a

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second car in that area would need to obstruct the fast travel lane of the Boston Post Road. He said that adding any more vehicles to that existing traffic pattern would be dangerous in his view. He said that the left turning area frequently is not plowed until long after a winter storm has concluded. Mr. Koenitzer said that he fears that many potential customers will not be able to enter the site as easily or as quickly as they want to and will need to turn around in driveways in the residential neighborhood, or will need to do the entire Richmond Drive loop in order to gain access to the site. He said that drivers frequently do not obey traffic signs about no left turns or other directions.

Lois Schneider of 31 Maywood Road said that she has lived 25 years at that address and noted that a dry cleaner that was approved by the Planning and Zoning Commission at this site several years ago did not generate the amount of traffic that is currently being proposed. She said that the traffic on the Boston Post Road and on Richmond Drive is busier and worse than in past years due to the transfer of the Darien Diner to a new operator. She noted another new business at this site is problematic because it will generate more traffic based on the estimates from the engineers. She noted that the peak flow of the traffic at the proposed food service will coincide with the busiest times of the Darien Diner and access to and from the neighborhood. She said that turning left from the Boston Post Road into Richmond Drive is already dangerous and would be made much worse by additional traffic trying to make that maneuver. She explained there is a blind spot for vehicles that are exiting the Darien Diner into Richmond Drive. She said all the residents of Richmond Drive now know that they must go very slowly through that busy area. She stated that the application should be denied because it is not in keeping with the Regulations.

Mrs. Barthold of 34 Richmond Drive said that she had submitted photographs of cars stacked in the site. She said there are 42 children ages 15 and under on Richmond Drive. She said that a sign telling people not to enter the Richmond Drive neighborhood will not help because it will be disregarded. She also said that having a speed bump in the street might not work due to the stop sign location. She explained that the police have their criteria regarding the proper placement of speed bumps. She confirmed that the Darien Diner is now causing more traffic than in years past. There is a need for additional plantings and landscaping to provide greater separation between business use and the residential neighborhood. She said that the application should be denied.

Paul Barringer of 115 Maywood Road said that turning left into Richmond Drive from Boston Post Road is already a safety problem and should not be allowed to be made any worse by the proposed Special Permit use.

Kimberly Ohoppe of 21 Richmond Drive said that as few as six large SUV type vehicles will overcrowd this site. She said that it is already dangerous to walk in this location, and adding more traffic would make it worse. She did not think that the use should be approved, but if it is, some speed gate or wooden sign should be installed to indicate the start of the residential neighborhood.

Tom Sniffen of 5 Richmond Drive said that turning right from the proposed site onto the Boston Post Road is difficult because there are few gaps in the traffic. He operates the Mobil Gas Station located immediately to the southwest of the subject property. He said that he has had as many as five cars stacked up on his gas station property as people waited for a break in the Boston Post Road in order to enter the flow of traffic. He noted that his site is much larger than the site of the proposed take out food establishment, and therefore his site can accommodate five cars waiting to turn right. The proposed food establishment site is not nearly large enough to accommodate five

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vehicles of customers who have already picked up their food and are waiting to leave the site. Mr. Sniffen said that many people turn around in his residential driveway at 5 Richmond Drive (to the north of the subject property). He noted that the left turns into Richmond Drive are already dangerous and adding more traffic will make the situation more unsafe. He confirmed that he is totally opposed to the applicant's proposed Special Permit use.

Joe Pizzarelli of 13 Richmond Drive said that the uses of this site are constantly changing. He remembers when the Planning and Zoning Commission had not permitted a driveway from Richmond Drive into the site. Eventually, that driveway was allowed as part of the dry cleaner use. He said that trucks for deliveries of supplies or trucks for the pickup of trash will interfere with the internal flow of vehicles on the site.

Mr. Hutchison noted that either the business will fail because there is not enough traffic and a new use will need to be proposed, or it will be successful and cause some of the problems that the residents are fearful of. Mr. Spain said it is not the burden of the neighbors to sacrifice more to accept more traffic than this small site can accommodate.

At 9:50 p.m., the Planning and Zoning Commission decided to take a five minute recess, prior to the applicants' response to the comments from the public. The meeting was resumed at 9:55 p.m.

Gertrude Allen said that as the applicant, they are not here to make any problems worse. They are here to help solve the problems like obesity and heart problems.

Mr. Adler said that with respect to traffic safety, this project is on the Boston Post Road that carries 20,000 cars per day on average. Generating 40 cars during the peak hour is miniscule compared to the volume of traffic that already uses that street.

Mr. Gleason said that the neighbors are concerned with any change. In this case, the applicants are creating something good for the Town, and it will not adversely impact the neighborhood.

There being no further comments, the following motion was made: That the Commission close the Public Hearing regarding this matter. The motion was made by Mr. Spain, seconded by Ms. Riccardo and unanimously approved.

GENERAL MEETING

At 10:05 P.M., Chairman Conze opened the General Meeting portion of the meeting. He read the first general meeting agenda item:

Amendment of Special Permit Application #132-C, Middlesex Commons, 45-47 Hale Lane.
Request to combine two condominium units into one.

Mr. Ginsberg explained that the property owner wishes to combine two units and make one unit that will have two bedrooms. It is a modification of the Special Permit that had previously been issued by the Commission.

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The following motion was made: That the Commission modify the Special Permit for Middlesex Commons to allow 45 and 47 Hale Lane to be combined into a single unit containing two bedrooms. No increase in building size or volume or floor area is involved. The motion was made by Mr. Hutchison, seconded by Mr. Spain and unanimously approved.

Approval of Minutes

January 5, 2010 *General Meeting*

The Commission members reviewed the draft minutes. The following motion was made: That the Commission adopt the minutes as submitted. The motion was made by Ms. Riccardo, seconded by Mr. Spain and unanimously approved.

There being no further business, the meeting was adjourned at 10:10 p.m. The motion to adjourn was made by Mr. Hutchison, seconded by Mr. Spain and unanimously approved.

Respectfully submitted,

David J. Keating
Assistant Director of Planning

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