

**PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING
April 6, 2010**

Place: Room 119, Town Hall

TIME: 8:00 P.M.

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

STAFF ATTENDING: Ginsberg, Keating
RECORDER: Syat

GENERAL MEETING

Chairman Conze read the following agenda item:

Business Site Plan #249-A/Special Permit, Land Filling & Regrading Application #173-A, Whole Foods Market, Ledge Road, SB Zone.

Request to modify Conditions of Adopted Resolution regarding off-site improvements and issues related to Temporary Certificate of Occupancy; update on status of project; and potential Commission letter of support for alternate signage plan for the Exit 11 off-ramp.

Attorney Wilder Gleason represented Whole Foods Market and referred to Stipulation #7 of the approval, which requires that off-site improvements to the adjacent roadways and off-ramps from I-95 be completed prior to occupancy or use of the building. He said that the stipulation requires a written verification from the State to verify that the improvements on the State's land have been completed. He said that State officials will not write such a letter, but they will allow the new off-ramp to be utilized once it is completed. Mr. Gleason said that the site preparation work is anticipated to be completed by April 16th, and it is scheduled to be paved shortly after that date. He said that the plan is to have store employees start to work at the site during the week of April 19th.

Mr. Spain noted that it would not be unusual for the State to let the off-ramp be used even before all remaining site work is completed. He stressed that all the work must be completed before the store is open for business. As soon as the store is open for business, there will be an increase of traffic as customers come to the store. He said that it would have been best if the new traffic facilities had been completed before the store was ready to be occupied so that people would become acclimated to the new traffic configuration. He said that he understands that the State is holding a performance bond and that the release of the performance bond will be the signal from the State that all the work has been completed in an acceptable manner.

Mr. Hutchison asked how much of the site work would be completed when the new off-ramp from I-95 becomes usable. Mr. Everett Adams, Construction Supervisor, said that when the new ramp is used, approximately 99% of the work will be completed within the State's right-of-way. He said that the State Traffic Commission will check with the local police and other Town officials before they are willing to allow the ramp to be used.

Mr. Ginsberg said that he understands that Whole Foods Market will be looking for a Temporary Certificate of Occupancy in April so that they can start to stock food within the store and to train

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their employees. It will then be three or four weeks before they would be open for the public. It is not anticipated that the customers would come to the site until mid-May.

Mr. Spain said that the traffic improvements must be completed and any necessary corrections made before the store is open to the public. This means that between April 19th and May 19th all the necessary adjustments must be made to the turning lanes and traffic lights and other things. He explained that he had no problem with the Temporary Certificate Occupancy for workers to occupy the building on April 19th, but he feels strongly that the Certificate of Occupancy for public use should not occur until all of the traffic improvements are completed and operational and that the completion date for that should be well before May 19th. He said that it is imperative that the Commission and the traffic reviewers get to see how the traffic improvements are working before the customer traffic is allowed to occur.

Several Commission members noted that even after the store is opened, it might be necessary to make further adjustments with respect to traffic signalization and timing. Mr. Conze noted that Whole Foods Market will do what needs to be done in order to have the traffic function safely and efficiently.

The following motion was made: That the Commission authorize the staff to issue a Temporary Certificate of Occupancy so that employees can start to work within the building as soon as the basic traffic improvements have been completed, and to not issue a Certificate of Occupancy that would allow patrons to use the facility until all the traffic improvements are completely finished. The motion was made by Mr. Hutchison, seconded by Ms. Riccardo. Voting in favor of the motion were Conze, Hutchison, Riccardo, Voigt and Cameron. Opposed was Mr. Spain. The motion passed by a vote of 5-1.

Mr. Gleason said that in the future, he would be coming back to the Planning and Zoning Commission to discuss the Exit 11 off-ramp signage. He said that the huge overhead mast sign previously approved by the Department of Transportation will not be ready when the new off-ramp is ready, and thus they will be installing a series of smaller, temporary signs. Once everyone sees these temporary signs they will likely realize that they are adequate, and the applicant will be returning to the State Department of Transportation to request that the temporary signs become permanent and that the overhead mast sign be waived. He said that once the temporary signs are in place, he will return to the Commission for their comments.

At about 8:25 p.m., Chairman Conze read the following agenda item:

Review and Brief Discussion of DJFL Lights Reports on DHS Stadium Field and Holahan Field.

Guy Wisinski represented the Darien Junior Football League and thanked the Commission for permission to use the temporary lights during the latter portion of the 2009 football season.

Commission members had previously reviewed the reports that had been compiled regarding the temporary lights regarding the High School field and at the field behind the Town Hall. Mr. Hutchison noted that one of the comments was to make sure that the lights were better shielded and better focuses on the play area, and therefore the lights would not have as much glare effect on

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neighbors. Mr. Wisinski said that when the lights were low (20 feet was the maximum allowed), they need to be directed horizontally. If the lights were allowed to be on higher poles, then it would be easier to have the lights face down and therefore minimize the potential glare problems.

John Sini, also appearing on behalf of the DJFL, said that they tried to adjust the location of the light stands, at the request of one of the neighbors, in order to minimize the light pointed in that neighbor's direction. Mr. Wisinski said that the generators did make some noise, but did not create complaints from other than one neighbor. He said that they continue to look into the possibility of connecting to the direct power source rather than needing to have each light fixture have a generator. Mr. Wisinski said that they hope to try to test higher lights that shine down, but will need the Commission to do so.

Mr. Conze said that they should prepare the application in the summer so that the matter can be discussed during a Public Hearing in or prior to September of 2010. Mr. Spain said that some people might not have complained about the noise of the generators because they expected that the generators would only be in use for one year. He also noted that it might be necessary to lower the lights as soon as they are turned off if taller lights are to be tested.

In response to questions, Mr. Wisinski said that the High School football practice often ended at 5:30 p.m. or so, and the Darien Junior Football League was only allowed to use the field between 6:00 p.m. and 7:00 p.m. He said that they would like to get permission from the Commission to adjust their hours so that they would start the Junior Football League practice earlier if the High School practice(s) were concluded earlier.

At about 8:40 p.m., Chairman Conze read the following agenda item:

Business Site Plan #205/Special Permit, 205 Boston Post Road, SB-E Zone.

Discussion and possible action on March 23, 2010 letter from applicants.

Commission members reviewed the letter of 3/23/2010 requesting clarification or adjustment if needed. Mr. Spain noted that he is concerned about the amount of cooking that takes place at the facility because cooking the food will take additional time and the potential back-up of traffic waiting for food to be cooked is one of the concerns that have been raised. Another concern with cooking is the possible odors and how they might affect the neighbors. He said that the output of odors is key, because the Commission will not allow the odors to have an impact on the neighbors. Mr. Conze said that it is important for the applicant to decide upon the menu before the Commission decides whether they will waive the requirement for an odor filtering exhausts system.

Thomas Toepke asked the Commission for clarification about the menu board only showing what is available at the time that the patron enters the site. He also noted that they are reconsidering their menu items in order to avoid the installation of a costly odor scrubber, which is expected to cost approximately \$30,000.

Commission members discussed the request for an extension. The following motion was made: That the Commission grant an extension of 90 days in order to comply with the stipulations to finalize the approval. The motion was made by Mr. Hutchison, seconded by Mr. Spain and unanimously approved.

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Chairman Conze read the following agenda item:

Site Plan Application #251-A, Special Permit Application #246-A, Land Filling & Regrading Application #184-A, Lot Line Adjustment #609-A, Hoyt Street Partners/Procaccini, Hoyt Street and Wakemore Street.

Request for extension of time.

Robert Maquat, Vice President of Peoples United Bank, explained that he is the administrator of the Estate of Caroline Procaccini. Developers for the site had obtained Planning and Zoning Commission approval, but that developer was not able to finalize the transaction to actually acquire the property. He said that the estate is now seeking potential buyers for the approved project. He said that the original developer is still in consideration as the eventual purchaser, but it is clear that anyone who purchases the site for development in accordance with the Commission's approval will need an extension of time to make sure that the approval is still valid. He requested a twelve month extension of the time period to commence construction. The original approval went from October 2007 to July of 2009. In 2009 it was extended until July of 2011 to complete all the original improvements. They are now requesting that the developer would have until July of 2011 to finalize the approval and to start the construction of the project. A detailed construction schedule would need to be developed by the eventual buyer of the property.

The following motion was made: That the Commission modify the approval so that the existing permit shall remain valid until July 6, 2011, and that by that date, a developer must commence the installation of the improvements to facilitate the project. The motion was made by Mr. Hutchison, seconded by Ms. Cameron and unanimously approved. It was noted that the original approval from the Environmental Protection Commission (the wetland permit) remains valid for five years from the original date that it was granted.

Chairman Conze read the following agenda item:

Amendment of Special Permit #236/Site Plan, Melting Pot, 14 Grove Street, CBD Zone.

Request for outdoor dining within an existing public plaza.

Mr. Ginsberg explained that the original site plan approval for construction of the building called for the public plaza area between the buildings. A Special Permit was then issued for the use of one of those buildings by the Melting Pot Restaurant. The Melting Pot now wants to install tables and chairs that would extend into the public plaza area. He noted that Espresso Neat easily obtained permission from the Commission to have tables and chairs in the paved area adjacent to the public plaza, but the Commission specified that the tables and chairs cannot be extended into the public plaza. Commission members noted that if there are to be tables at the Melting Pot, they need to be placed in a similar manner, and be logically arranged and attractive. Some members believed that there should not be any tables within the public plaza, because it would need special approval from the Commission that could set a precedent and would need approval from the Board of Selectmen as well. It was noted, however, that the way that the plaza was set up, the plaza itself is not conducive to become the walkway area. The walkway area that is adjacent to the building (where it is now suggested that the tables be located) is actually the best place and most direct route for pedestrians to take. There was also some question about whether a fence or barrier will be required

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by the State Liquor Control Commission since alcoholic beverages would be served from the restaurant to the patrons using the outside seating.

Mr. Ginsberg will work with the applicant who is to provide additional information for the Commission to consider at a future meeting.

Mr. Conze then read the following agenda item:

Amendment of Special Permit Application #50-L/Site Plan, Middlesex Club, 20 Echo Drive, R-1/3 Zone.

Request to relocate existing basketball hoop.

Mr. Ginsberg explained that the Middlesex Club is repaving the parking lot and installing conduit underneath part of the new pavement so that in the future, electrical lines can easily be pulled and new overhead lights can be installed. Commission members had no problem with installing the conduit with the understanding that the new lights would require an amendment of the site plan. The other change that they propose at this time would be to relocate the existing basketball hoop. Mr. Ginsberg said that he reviewed this with staff to the Environmental Protection Commission, and it has been determined that no approval from the Environmental Protection Commission is necessary.

Commission members discussed the situation. The following motion was made: That the Commission authorize the relocation of the basketball hoop as a minor amendment of the Special Permit. The motion was made by Mr. Hutchison, seconded by Mr. Voigt and unanimously approved.

Chairman Conze read the following agenda item:

Coastal Site Plan Review #246, Flood Damage Prevention Application #91-A, Firlik, 124 Pear Tree Point Road. Request for extension of time to commence and complete the project.

The applicant has requested an extension of time to implement the project. The Commission members reviewed the request. The following motion was made: that the Commission grant a one year extension of time to implement the approval. The motion was made by Mr. Hutchison, seconded by Ms. Cameron. All voted in favor except Mr. Voigt who said that he had voted against the original proposal and would abstain on the requested extension.

Chairman Conze read the following agenda item:

Update on downtown retail and office conditions--informal discussion with David Genovese of Baywater Properties.

Mr. Conze explained that he was not feeling well and that he would leave the meeting early. He asked Mr. Spain to take over the running of the meeting. Mr. Conze then departed at 9:50 p.m.

David Genovese distributed a handout and reviewed the existing economic conditions with respect to downtown properties. He explained some of the recent changes downtown, and issues with retail

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development. Commission members asked related questions, and said that they appreciated his insightful presentation.

At about 10:20 p.m., Mr. Spain then read the following agenda item:

Discussion, deliberation and possible decisions regarding:

Proposed Amendments to the Darien Zoning Regulations put forth by the Darien Planning & Zoning Commission. Proposing to modify the existing zoning regulations relative to the Town's Flood Damage Prevention regulations, specifically with changes proposed to Section 210 (Definitions), including the insertion of new definitions and the amendment of some existing definitions; and changes to Section 820 (Flood Damage Prevention), including changes to Sections 822, 825, 826 and 828. This includes a proposal to delete the existing subsection 825g(4) and replace it with a new subsection 825g(4). *PUBLIC HEARING CLOSED: 3/23/2010.*

The following motion was made: that the Commission waive the process of reading the draft Resolutions aloud because each member has had an opportunity to review each draft prior to the meeting. The motion was made by Mr. Hutchison, seconded by Mr. Voigt and unanimously approved.

The Commission discussed the Proposed Amendments to the Regulations. Much of the discussion was centered around the time period in which the cumulative cost of the improvements will be counted for properties that are in the Flood Hazard Zone. At present, there is no time limitation imposed by the regulations. The draft amendment would be for a ten-year period coinciding with the beginning and end of each calendar decade. Mr. Hutchison believed that having such a cumulative limit on the definition of a "substantial improvement" (being 50% of the value of the structure) would actually discourage routine maintenance. He believed that there should be no such cumulative total. Ms. Cameron felt that a two-year limitation would be good. Other Commission members believed that a five-year time period would be better. Eventually, it was discussed and agreed that a three-year time period be incorporated into the Regulations, and that the three-year time period would be for the previous three years for each property.

Another issue discussed was the proposed amendments with respect to requiring that there be absolutely no increase in calculated flood levels. Commission members felt this was too stringent, and that requiring on-site compensatory storage was not practical or appropriate in many situations. Those provisions of the Regulations were not adopted. The following motion was made: That the Commission adopt the proposed amendments to the current Regulations with respect to Flood Damage Prevention Regulations except that the definition of "substantial improvement" should be modified for the previous three years (not a ten-year calendar decade as had been proposed), and that the proposed provisions of Section 825. i. and j. regarding equal conveyance and compensatory storage not be adopted. All subsequent subsections should be accordingly re-lettered. The Amendments to the Regulations shall become effective on Sunday, May 30, 2010. The motion was made by Mr. Hutchison, seconded by Ms. Riccardo. All voted in favor except for Ms. Cameron who had not participated in the Public Hearing regarding this matter. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
April 6, 2010**

Application: Proposed Amendments to the Darien Zoning Regulations
Put Forth by the Darien Planning and Zoning Commission

Proposing to modify the existing zoning regulations relative to the Town's Flood Damage Prevention regulations, specifically with changes proposed to Section 210 (Definitions), including the insertion of new definitions and the amendment of some existing definitions; and changes to Section 820 (Flood Damage Prevention), including changes to Sections 822, 825, 826 and 828. This includes a proposal to delete the existing subsection 825g(4) and replace it with a new subsection 825g(4).

Date of Public Hearing: March 23, 2010

Time and Place: 8:00 P.M. Auditorium Town Hall

Publication of Hearing Notices

Dates: March 11& 18, 2010

Newspaper: Darien News-Review

Date of Action: April 6, 2010

Action: AMENDMENTS TO THE DARIEN ZONING REGULATIONS ADOPTED, WITH AN EFFECTIVE DATE OF SUNDAY, MAY 30, 2010 AT TWELVE NOON.

Scheduled Date of Publication of Action:

April 15, 2010

Newspaper: Darien News-Review

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

1. The Commission proposes to modify the existing zoning regulations relative to the Town's Flood Damage Prevention regulations, with changes proposed to Section 210 (Definitions), including the insertion of new definitions and the amendment of some existing definitions; and changes to Section 820 (Flood Damage Prevention), including changes to Sections 822, 825, 826 and 828. This includes a proposal to delete the existing subsection 825g(4) and replace it with a new subsection 825g(4). The proposals are specifically detailed in an eight-page memorandum from Jeremy Ginsberg to the Planning & Zoning Commission dated January 15, 2010. One additional change put forth was in a one-page memorandum from Jeremy Ginsberg to the Planning & Zoning Commission dated February 16, 2010. A public hearing on the proposed amendments was held on March 23, 2010.
2. These Amendments to the Regulations are proposed in response to a December 14, 2009 letter from Diane Ifkovic, State NFIP (National Flood Insurance Program) Coordinator. This letter outlines both the required and optional changes. That letter notes that certain changes are required to be implemented by June 18, 2010—the date that the new Flood Insurance Rate Maps

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produced by the Federal Emergency Management Agency (FEMA) will become effective. In that letter, it is noted that "...revisions to the community's existing floodplain regulations are needed in order to maintain minimum compliance with the NFIP minimum standards and recently enacted state flood plain management requirements..."

3. Per State Statutes, the draft amendments were submitted to the Connecticut Department of Environmental Protection for review and comment. The State of Connecticut DEP sent an e-mail dated March 10, 2010, noting that they "...find no inconsistencies in the proposal..." Those comments were read aloud at the public hearing. The Darien Environmental Protection Commission (EPC) sent comments on the application in a memo dated February 22, 2010. In the EPC memo, they note that some changes to the regulations are required, while others are recommended or suggested. They believed that two sections of recommended language which they feel are onerous on potential property owners which will not necessarily result in increased protections are the new proposed Section 825i Equal Conveyance and the new proposed Section 825j Compensatory Storage.
4. As noted in the December 14, 2009 letter from Diane Ifkovic, there are certain amendments to the Flood Damage Prevention Regulations that must be incorporated in order to continue to comply with the FEMA guidelines and requirements. There are other proposed amendments that are optional for Darien to adopt. Staff reviewed that letter, and put together the memoranda dated January 15, 2010 and February 16, 2010. Those memoranda put forth the subject proposal as modified to fit Darien's specific needs. For example, the State of Connecticut DEP believed that existing subsection 825g(4) was unclear relative to the need for additional permits. Thus, this proposal was put forth to replace existing with new language.
5. At the March 23 public hearing, there were concerns regarding the proposed modifications to the existing definition of "Substantial Improvement" in Section 210, and the possible inclusion of a new Section 825i regarding equal conveyance and a new Section 825j regarding Compensatory Storage.
6. Relative to the proposed modification to the definition of "Substantial Improvement", there was discussion at the public hearing regarding the appropriate time frame standard to include. The Regulations do allow for repair and maintenance and improvement of structures that are in the flood zone. At present, the Zoning Regulations do not define whether the 50% improvements will be cumulative and thus the policy of the Commission has been that each improvement project allows 50% of the value to be spent. Each project must be completed before an additional project can be undertaken. This has happened on several occasions where one renovation project of less than 50% of the value of the structure has been allowed and, as soon as the owner has completed that project and received their Certificate of Occupancy, they can undertake a second project to modify the structure even more. The current Regulations do not add the value of the renovation work together. The proposal put forth was to add the values for work undertaken within each calendar decade. As put forth, within a calendar decade the total value of the renovations could not exceed 50% of the value of the structure unless the structure is brought into compliance with all flood damage prevention criteria. At the end of the decade, the owner would be allowed to make more renovations and modifications up to 50% of the new value of the structure. At the public hearing, discussion ensued as to the appropriate time frame.

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7. At the public hearing on this matter, Craig Flaherty, a professional engineer, noted his concern with the possible inclusion of a new Section 825i regarding equal conveyance and a new Section 825j regarding Compensatory Storage.
8. The applicable recommendations in the 2006 Town Plan of Conservation & Development, as previously amended, are as follows: Recommendation on Page 3-4: "*Amending the Zoning Regulations to strengthen floodplain regulations by limiting the number of improvements occurring below the 'substantial improvement' threshold by placing a time frame on individual improvements.*"
9. The Commission hereby finds that the proposed Amendments of the Darien Zoning Regulations are fully consistent with the 2006 Town Plan of Conservation & Development, as amended.
10. The Commission has scheduled these amendments to take effect on May 30, 2010. Because the new flood maps take effect on June 18, 2010, this May 30 effective date still allows time for applicants to submit applications under the old (existing) regulations and becomes implemented prior to when the new maps take effect.
11. Section 8-2h of the Connecticut General Statutes addresses the issue of zoning applications filed prior to a change in the Zoning Regulations, and notes that a complete application filed with the Planning and Zoning Commission shall not be required to comply with any change in the zoning regulations taking effect after the filing of such application.

NOW THEREFORE BE IT RESOLVED that the ***Proposed Amendment to the Darien Zoning Regulations*** are hereby ADOPTED WITH AN EFFECTIVE DATE OF SUNDAY, MAY 30, 2010 AT TWELVE NOON, as approved herein (with some modifications from the proposal as put forth):

The following are amendments to the Zoning Regulations put forth and adopted by the Darien Planning & Zoning Commission:

- I. New definitions to be added to Section 210 (Definitions)
- II. Amendment of existing definitions in Section 210 (Definitions)
- III. Replacement of existing subsection 822a.
- IV. Modify subsections 825d, and 825d(1), 825d(2), 825d(10) and 825d(12)
- V. Add new subsections 825d (13), 825d(14) and 825d(15)
- VI. Modify subsections 825e, 825f, 825f(6), and add a new subsection 825f(7)
- VII. Add new subsections 825i, 825j, 825k and 825l
- VIII. Add a new subsection 826d(9)
- IX. Modify Section 828c (Application Review)
- X. Modifications to the Table of Contents and Appendix C to reflect any adopted amendments.
- XI. Delete existing Section 825g(4) and replace it with a new subsection 825g(4).

Additions are in bold and deletions are in strikethrough.

- I. *New definitions to be added to Section 210 (Definitions)*
All definitions to be placed in alphabetical order within that Section.

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Base Flood Elevation (BFE): The elevation of the crest of the base flood or 100-year flood. The height in relation to mean sea level expected to be reached by the waters of the base flood at pertinent points in the floodplains of coastal and riverine areas.

Existing Manufactured Home Park or Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured home are to be affixed (including, as a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date, December 28, 1980, of the floodplain management ordinance adopted by the community.

Expansion to an Existing Manufactured Home Park or Subdivision: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufacturing homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

Federal Emergency Management Agency (FEMA): The federal agency that administers the National Flood Insurance Program (NFIP).

Flood Insurance Study (FIS): The official report of a community in which the Federal Emergency Management Agency has conducted an examination, evaluation and determination of flood hazards and has provided flood profiles and water surface elevation of the base flood.

Functionally Dependent Use or Facility: A use or facility that cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities. The term does not include seafood processing facilities, long-term storage, manufacturing, sales or service facilities.

Historic Structure: Any structure that is: (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historic significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (1) By an approved state program as determined by the Secretary of the Interior or (2) Directly by the Secretary of the Interior in states without approved programs.

Lowest Floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor.

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Manufactured Home: A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term “manufactured home” also includes park trailers, travel trailers, recreational vehicles and other similar vehicles placed on a site for greater than 180 consecutive days.

Manufactured Home Park or Subdivision: A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Market Value: The market value of the structure shall be determined by the property’s most recent tax assessment, minus land value prior to the start of the initial repair or improvement, or in the case of damage, the value of the structure prior to the damage occurring.

New Manufactured Home Park or Subdivision: A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date, December 28, 1980, of the floodplain management regulation adopted by the community.

Recreational Vehicle: For purposes of the Flood Damage Prevention Regulations, a vehicle which is: (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) designed to be self-propelled or permanently towable by a light duty truck; and (d) designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, camping, travel, or seasonal use.

Sand Dunes: Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Start of Construction: The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, substantial improvement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Variance: A grant of relief by the Town of Darien Zoning Board of Appeals from the terms of the floodplain management regulation that allows construction in a manner otherwise prohibited and where specific enforcement would result in unnecessary hardship.

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Violation: For purposes of Section 820, the failure of a structure or other development to be fully compliant with the Darien's floodplain management regulations.

Water Surface Elevation: The height, in relation to the North American Vertical Datum (NAVD) of 1988, (or other datum, where specified) of floods of various magnitudes and frequencies in the floodplains of coastal or riverine areas. As of January 2010, the Flood Insurance Rate Maps in use in Darien relate expected flood levels to NGVD '29 as sea level.

II. *Amendment of existing definitions in Section 210 (Definitions)*
Revise the following existing definitions in Section 210. All definitions to remain in alphabetical order.

Area of Special Flood Hazard: The land in the floodplain within Darien subject to a one percent or greater chance of flooding in any given year. The area may be designated as a Zone A, ~~A1-A30~~, AE, ~~AH, AO, A99, V, V1-30~~, and/or VE, on the Flood Insurance Rate Map (FIRM). These areas are also referred to as flood zones or flood areas.

Basement: A cellar or floor area of a building which is located partly or wholly below the average level of the finished grade at the exterior walls of the building. To determine if a basement is a story, see the definition of story. **For floodplain management purposes, a basement is any area of the building having its floor subgrade below ground level on all sides.**

Coastal High Hazard Area: An area of special flood hazard extending from off-shore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources, including but not limited to hurricane wave wash or tidal wave. These areas are designated on the Flood Insurance Rate Map (FIRM) as Zones ~~V1-30, V~~ or VE.

Development: For the purpose of these Regulations and with respect to the movement of earth materials, development shall mean any man-made change to improved or unimproved real estate, including but not limited to, **the construction of buildings or structures; the construction of additions, alterations or substantial improvements to buildings or structures; the placement of buildings or structures; mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment; the storage, deposition, or extraction of materials; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.**

Flood Insurance Rate Map (FIRM): An official map of a community on which the ~~Flood Insurance Administrator~~ **Federal Emergency Management Agency** has delineated both the special flood hazard areas and the risk premium zones ~~covered by the Federal Flood Insurance Program~~ **applicable to the community.**

Mean Sea Level: The average height of the sea for all stages of the tide. National Geodetic Vertical Data 1929 (NGVD '29), 19-year averages for Darien ending 1929 shall be the datum designated as zero in determining elevations. **For purposes of the National Flood Insurance**

Program, the North American Vertical Datum (NAVD) of 1988 or other datum to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

Substantial Improvement: For the purposes of Section 820, any repair, reconstruction or improvement of a structure, **taking place over the previous three year period (as calculated from the issuance of the Certificate of Occupancy)**, the **cumulative** cost of which equals or exceeds 50 percent of the market value of the structure itself, exclusive of land value either...

III. *Delete subsection 822a, and replace with the following:*

Section 822 Inventory of Regulated Areas.

a. **Regulated areas are identified as special flood hazard areas by the Federal Emergency Management Agency (FEMA) in its Flood Insurance Study (FIS) for Fairfield County, Connecticut, dated June 18, 2010, and accompanying Flood Insurance Rate Maps (FIRM), dated June 18, 2010, and other supporting data applicable to the Town of Darien, and any subsequent revisions thereto, are adopted by reference and declared to be a part of this regulation. Since mapping is legally adopted by reference into this regulation it must take precedence when more restrictive until such time as a map amendment or map revision is obtained from FEMA. The area of special flood hazard includes any area shown on the FIRM as Zones A, AE, and VE, including areas designated as a floodway on a FIRM. Zone VE is also identified as a Coastal High Hazard Area. The determination of flood hazard areas shall be based on the flood elevations shown on the FIRM maps in conjunction with an up-to-date and accurate topographical survey of the property. Areas of special flood hazard are determined utilizing the base flood elevations (BFE) provided on the flood profiles in the Flood Insurance Study (FIS) for a community. BFEs provided on a Flood Insurance Rate Map (FIRM) are only approximate (rounded up or down) and should be verified with the BFEs published in the FIS for a specific location.**

IV. *Modify subsections 825d, and 825d(1), 825d(2), 825d(10) and 825d(12)*

Section 825 Permitting of Regulated Areas

Delete text to section 825 d. Add text to (1), (2), and (10). Add new sections 825 d. (13), (14) and (15). Add bold text to section 825 e. Add text to section 825 f. (6) and new section (7).

d. In all areas of special flood hazard and Coastal High Hazard areas (for all unnumbered and numbered A and V zones and A, AE, ~~AH~~, ~~A99~~, ~~V~~ and/or VE zones), the following provisions shall apply:

(1) Permits shall be required for all new construction, substantial improvements (including placement of prefabricated buildings **and manufactured homes**) and other development . . .

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(2) Subdivision proposals shall be . . . flood hazards. Flood elevation data shall be included **with all subdivision proposals. Where flood elevation data is not available, the applicant shall provide a hydrologic and hydraulic engineering analysis performed by a licensed professional engineer that generates base flood elevations for all subdivision proposals and other proposed development, including manufactured home parks and subdivisions;**

(10) Designs for meeting ~~this~~ **the requirement in (9) above** must either be certified by a . . .

(12) Recreational vehicles . . . , or meet all the general standards of 825 (d) **and the elevation and anchoring requirements of 825 d. (13), (14) and (15).** . . .

V. *Add a new subsection 825d (13), 825d(14) and 825d(15)*

- (13) In areas of special flood hazard (A and AE Zones), any manufactured home to be newly placed, undergoing a substantial improvement or repaired as a result of substantial damage, shall be elevated so that the bottom of the lowest floor is at least one foot above the base flood elevation (BFE). The manufactured home must also meet all the construction standards for Zones A and AE as per Section 825. This includes manufactured homes located outside a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an existing manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or on a site in an existing manufactured home park in which a manufactured home has incurred substantial damage as a result of a flood.**
- (14) In all coastal high hazard areas (VE Zone), any manufactured home to be newly placed, undergoing a substantial improvement or repaired as a result of sustained substantial damage, shall be elevated so that the bottom of the lowest horizontal structural member is at least one foot above the base flood elevation. The manufactured home must also meet all the construction standards for the VE Zone as per Section 825. This includes manufactured homes located outside a manufactured home park or subdivision, in a new manufactured home park or subdivision, in an existing manufactured home park or subdivision, in an expansion to an existing manufactured home park or subdivision, or on a site in an existing manufactured home park in which a manufactured home has incurred substantial damage as a result of a flood.**
- (15) All manufactured homes within areas of special flood hazard and coastal high hazard areas shall be placed on a permanent foundation which itself is securely anchored and to which the structure is securely anchored so that it will resist flotation, lateral movement and hydrostatic pressures. Anchoring may include, but not be limited to, the use of over-the-top or frame ties to ground anchors. All manufactured homes shall be installed using methods and practices that minimize flood damage. Adequate access and drainage should be provided. Elevation**

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construction standards include piling foundations placed no more than ten (10) feet apart, and reinforcement is provided for piers more than six (6) feet above ground level.

VI. *Modify subsection 825e, 825f, 825f(6), and add a new subsection 825f(7)*

e. Within the regulatory floodway, delineated by the ~~MAP~~ **on the Flood Insurance Rate Map, all development, including but not limited to fill, new construction and substantial improvements, encroachments, including fill, new construction, substantial improvements, repairs to substantially damaged structures and other developments** that would result in any **(0.00 feet)** increase in flood levels during the occurrence of the base flood discharge, shall be prohibited. The provision of proof that there shall be no **(0.00 feet)** increase in flood levels **during occurrence of the base flood discharge** due to the proposed construction **or encroachment** shall be the responsibility of the applicant and shall be based on **hydrologic and hydraulic studies, performed in accordance with standard engineering practice, and certification, with supporting technical data,** by a Connecticut Registered Professional Engineer.

f. In the coastal high hazard zones, **VE zone**, the following provisions shall additionally apply:

(6) Non-supporting breakaway walls, lattice work or mesh screening shall be allowed below the base flood elevation provided it is not part of the structural support of the structure and is designed so as to break away under abnormally high tides or wave action, without damage to the structural integrity of the structure on which it is to be used **and provided the following design specifications are met: (1) Design safe loading resistance of each wall shall not be less than ten (10) pounds per square foot or more than twenty (20) pounds per square foot; or (2) If more than twenty (20) pounds per square foot, a licensed professional engineer or architect shall certify that the design wall collapse would result from a water load less than that which would occur during the base flood event, and the elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement, or other structural damage due to the effects of wind and water loads acting simultaneously on all building components prior to or during the collapse of such wall.** Such enclosed space shall be used solely for building access, parking of vehicles, and/or storage.

(7) **There shall be no alteration of sand dunes that would increase potential flood damage.**

VII. *Add new subsections 825i, 825j, 825k, and 825l*

- i. Aboveground Storage Tanks - Above-ground storage tanks (oil, propane, etc.) which are located outside or inside of the structure must either be elevated above the base flood elevation (BFE) on a concrete pad, or be securely anchored with tie-down straps to prevent flotation or lateral movement, have the top of the fill pipe extended above the BFE, and have a screw fill cap that does not allow for the infiltration of flood water.**

- j. Portion of Structure in Flood Zone - If any portion of a structure lies within the Special Flood Hazard Area (SFHA), the entire structure is considered to be in the SFHA. The entire structure must meet the construction requirements of the flood zone. The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. Decks or porches that extend into a more restrictive flood zone will require the entire structure to meet the standards of the more restrictive zone.**

- k. Structures in Two Flood Zones - If a structure lies within two or more flood zones, the construction standards of the most restrictive zone apply to the entire structure (i.e., V zone is more restrictive than A zone; structure must be built to the highest BFE). The structure includes any attached additions, garages, decks, sunrooms, or any other structure attached to the main structure. (Decks or porches that extend into a more restrictive zone will require the entire structure to meet the requirements of the more restrictive zone.)**

- l. No Structures Entirely or Partially Over Water - New construction, substantial improvements and repair to structures that have sustained substantial damage cannot be constructed or located entirely or partially over water unless it is a functionally dependent use or facility.**

VIII. Add a new subsection 826d(9)

Section 826

d. (9) In all areas of special flood hazard (A and AE Zones), the Commission will obtain, record and maintain the elevation (in relation to mean sea level) of the lowest floor (including basement) of all new construction, substantial improvement or repair to a structure that has sustained substantial damage and the elevation (in relation to mean sea level) to which all new construction, substantial improvement or repair to a structure that has sustained substantial damage has been flood-proofed. In all coastal high hazard areas (VE zones), the Commission will obtain, record and maintain the elevation of the bottom of the lowest horizontal structural member for all new construction, substantial improvement or repair to a structure that has sustained substantial damage.

IX. Modify subsection 828 c. as follows:

Section 828 Application Review

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- c. Where a regulated activity shall be proposed, which the applicant can reasonably demonstrate shall be likely to have no adverse effect on levels of flooding or erosion, the applicant may submit a preliminary plan for review by the Commission. **The Commission will review all proposed regulated activity to determine whether the proposed development and building sites will be reasonably safe from flooding.** The preliminary plan shall be accurately drawn to scale from a certified survey of the property and . . .

X. *Modifications to the Table of Contents and Appendix C to reflect any adopted amendments.*

Appendix C and the Table of Contents within the Darien Zoning Regulations shall be modified accordingly to reflect the changes adopted herein.

XI. *Replace subsection 825g(4)*

Delete the existing subsection 825g(4) and replace it with a new subsection 825g(4). *Existing Wording (to be deleted):*

- ~~(4) — Additional Federal or State permits may be required and if said permit requirements are known, copies of such permits must be provided and maintained on file with the development permit.~~

Proposed Wording (to be added):

- (4) **The applicant shall either obtain a written report indicating recommendations, preliminary approvals, final approvals or disapprovals from any State or Federal Department or Agency such as Connecticut Department of Environmental Protection, U.S. Army Corps of Engineers, Connecticut Department of Transportation, etc., having jurisdiction over the application or any aspect thereof; or otherwise provide sufficient written evidence that such State or Federal agency approval appears to have a reasonable probability of success. In the event that any State or Federal agency has a policy that precludes the provision of such decision until after the Planning & Zoning Commission has rendered its decision, the Planning & Zoning Commission may waive this requirement. If the Commission determines that a State or Federal agency's approval has a material impact on the approved application, further review by the Commission may be required. Copies of any permits or approvals must be provided and maintained on file with the development permit.**

Mr. Spain read the following agenda item:

Coastal Site Plan Review #250, Flood Damage Prevention Application #280, John & Allegra Erickson, 17 Plymouth Road. Proposing to lift the existing residence and construct additions and alterations to the existing residence and perform related site development activities within regulated areas. *PUBLIC HEARING CLOSED: 3/23/2010. DECISION DEADLINE: 5/27/2010.*

The draft resolution was discussed. The following motion was made: That the Commission adopt the following resolution to approve the following resolution to approve the project with conditions

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and stipulations. The motion was made by Mr. Voigt, seconded by Mr. Hutchison. All voted in favor except Ms. Cameron who abstained because she had not participated in the Public Hearing regarding this matter. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
April 6, 2010**

Application Number: Coastal Site Plan Review #250
Flood Damage Prevention Application #280

Street Address: 17 Plymouth Road
Assessor's Map #55 Lot #73

Name and Address of
Property Owner: John & Allegra Erickson
17 Plymouth Road
Darien, CT 06820

Name and Address of Applicant &
Applicant's Representative Chad Nehring, AIA
152 Deer Hill Ave, St. 304
Danbury, CT 06810

Activity Being Applied For: Proposing to lift the existing residence and construct additions and alterations to the existing residence and perform related site development activities within regulated areas.

Property Location: The subject property is on the southeast corner formed by the intersection of Baywater Drive and Plymouth Road.

Zone: R-NBD

Date of Public Hearing: March 23, 2010

Time and Place of Public Hearing: 8:00 P.M. Auditorium Town Hall

Publication of Hearing Notices
Dates: March 11 & 18, 2010 Newspaper: Darien News-Review

Date of Action: April 6, 2010 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
April 15, 2010 Newspaper: Darien News-Review

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

- the proposed use and activities must comply with all provisions of Sections 410, 810 and 820 of the Darien Zoning Regulations for the Commission to approve this project.

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- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.

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

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

1. The proposal is to lift the existing residence and construct additions and alterations to the existing residence and perform related site development activities within regulated areas. As part of this application, an existing shed and existing wood deck will be removed. A new at-grade patio will be constructed behind the house. The expected flood level is 12 feet above sea level (NGVD 1929). All new living space will be at least one foot above the base flood elevation, and all mechanicals will be elevated to be at or above the base flood elevation. The oil tank will be strapped down.
2. The Darien Zoning Board of Appeals (ZBA) granted this application with stipulations on March 11, 2010 as part of Calendar #7-2010. That approval is hereby incorporated by reference.
3. The Commission takes note of the fact that through this project, the building coverage on the subject property will be decreasing. The existing building coverage is more than 28% of the lot area. The renovation program will result in no more than 23.5% of the lot area being covered with structures. An on-grade patio will be constructed as part of this project.
4. At the public hearing, it was noted that no drainage analysis and/or plan had been submitted. As required by Section 417c of the Darien Zoning Regulations, the applicant is responsible for incorporating "...drainage controls that eliminate the drainage impacts of the proposed development to adjacent properties and to the streets. These drainage controls shall be designed to accommodate the 2, 5, 10, 25 and 50 year storms." These drainage controls will need to be designed and installed with little or no filling of the land or regrading of the site, otherwise the adjacent properties might be impacted.
5. The Commission notes the need for the applicant to file a Notice of Drainage Maintenance Plan regarding maintenance of the proposed and installed drainage system in the Darien Land Records. This will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential impacts to adjacent properties.
6. The applicant proposed having worker parking on-site.
7. The potential adverse impacts of the proposed activity upon coastal resources, as designed are minimal and are therefore acceptable.

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8. 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.
9. 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.
10. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 (the Connecticut Coastal Area Management Act) of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would minimize any adverse impacts by the proposed activity on coastal resources.
11. 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.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #250 and Flood Damage Prevention Application #280 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Additions and alterations to the residence, and related site development activity shall be in accordance with the following plans:
 - Zoning Location & Topographic Survey 17 Plymouth Road prepared for John R. Erickson Allegra Erickson, by William W. Seymour & Associates, last revised January 25, 2010.
 - Proposed Alterations Prepared for the: Erickson Residence 17 Plymouth Road, by Nehring + Associates Architecture, LLC, dated 2/10/10, Sheets L1, SK1-SK8.

The Commission hereby requires the submittal of a Drainage Plan which complies with Section 417c of the Darien Zoning Regulations. These drainage controls will need to be designed and installed with little or no filling of the land or regrading of the site, otherwise the adjacent properties might be impacted. Filling or regrading would also require additional permits. That Plan shall be submitted to the Planning and Zoning Director by June 6, 2010 for his review and action. If the Director finds that the Plan does not comply with that Section of the Zoning Regulations, he may require the applicant to return to the Commission for further review and action. No Zoning or Building Permit may be issued, and no work on the project may commence until said Drainage Plan has been reviewed and approved.

- B. Before the any work commences, a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. The actual plan shall be filed in the Planning & Zoning Department and/or in the Land Records. The drainage maintenance plan shall require the property owner and all subsequent property owners of 17 Plymouth Road to maintain the on-site drainage facilities, and will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records by the owner as well.

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- C. During construction, the applicant shall utilize sediment and erosion controls as shown on the submitted plans and as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. A final “as-built” survey is hereby required to certify that the site improvements adjacent to the coastal recourses 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 drainage work has been properly completed in accordance with the approved plans, and that the house complies with the Flood Damage Prevention Regulations.
- E. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant and applicant’s representative. 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.
- F. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- G. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (April 5, 2011). This may be extended as per Sections 815 and 829f.

All provisions and details of the application, as required to be revised herein to include a drainage plan and associated drainage facilities, shall be binding conditions of this action and such approval shall become final upon the signing of the approved plan by the Chairman. A drainage plan with associated Drainage Maintenance Plan shall be submitted to the Planning & Zoning Director for his review and action by June 6, 2010. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this action and prior to the start of work, or this approval shall become null and void.

Mr. Spain read the following agenda item:

Land Filling & Regrading Application #237, Karl & Elisabeth Puehringer, 51 Phillips Lane. Proposing to fill and regrade, construct an associated retaining wall, and perform related site activities. and is in the R-1/3 Zone. *PUBLIC HEARING CLOSED: 3/23/2010. DECISION DEADLINE: 5/27/2010.*

Commission members discussed the draft resolution and the difficulties in implementing this large retaining wall. Ms. Cameron noted that this was a subdivision that had gone before the

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Environmental Protection Commission and three lots were squeezed into a space that would have better accommodated two house lots.

The following motion was made: That the Commission adopt the following resolution to approve the project with conditions and stipulations, as noted. The motion was made by Mr. Hutchison, seconded by Mr. Voigt. All voted in favor except Ms. Cameron who abstained because she had not participated in the Public Hearing regarding this matter. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
April 6, 2010**

Application Number: Land Filling & Regrading Application #237

Street Address: 51 Phillips Lane
Assessor's Map #25 Lot #113-3

Name and Address of Applicant & Property Owner: Karl & Elisabeth Puehringer
51 Phillips Lane
Darien, CT 06820

Name and Address of Applicant's Representative: Peter Ratkiewich, PE
Bridgewater Engineering, LLC
281 Housatonic Drive
Milford, CT 06880

Activity Being Applied For: Proposing to fill and regrade, construct an associated retaining wall, and perform related site activities.

Property Location: The subject property is located on the south side of Phillips Lane approximately 1050 feet west of its intersection with Hoyt Street.

Zone: R-1/3

Date of Public Hearing: March 23, 2010

Time and Place: 8:00 P.M. Auditorium Town Hall

Publication of Hearing Notices
Dates: March 11 & 18, 2010 Newspaper: Darien News-Review

Date of Action: April 6, 2010 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action: April 15, 2010 Newspaper: Darien News-Review

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

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- the proposed activities must comply with all provisions of Sections 400, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.

- the size, nature, and intensity of the proposed activities are described in detail in the application, the submitted plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.

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

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

1. The subject application is to fill and regrade, construct an associated retaining wall, and perform related site activities. The overall purpose is to expand the usable area of the back yard.
2. At the public hearing, the applicant's representative explained that the proposed retaining wall would be ten feet high at its maximum, with a four foot high fence atop of it for safety purposes. To minimize the visual impact of the proposed wall, the applicant has proposed a specific planting plan, as noted in Condition A, below.
3. It was noted that the neighbors were notified of this application, and none were present at the public hearing to ask questions or provide comments. Many neighbors provided written "sign-offs" of the project.
4. The EPC approved this application as part of EPC #1-2010 on March 3, 2010. That decision is hereby incorporated by reference.
5. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
6. 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 Land Filling and Regrading Application #237 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Land filling, regrading work, and construction of the associated retaining wall shall be in accordance with the following plans submitted to and reviewed by the Commission:
 - "Site Plan, Notes and Specifications Proposed Retaining Wall", prepared by Bridgewater Engineering, LLC, dated 1/10/09, Sheet 1 of 3.
 - "Elevations and Sections Proposed Retaining Wall", prepared by Bridgewater Engineering, LLC, dated 1/10/09, Sheet 2 of 3.

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- “Planting Plan, Details and Notes Proposed Retaining Wall” prepared by Bridgewater Engineering, LLC, dated 1/10/09, Sheet 3 of 3.
- B. The Commission hereby waives the requirement for a Performance Bond.
- C. During the completion of the planting, filling, and site work, the property owner shall utilize the sediment and erosion controls illustrated on the submitted plans referred to in Condition A above, and any additional measures as may be necessary due to site conditions, including tree protection as may be necessary. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the filling and regrading and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans, and as needed by site conditions. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. It is incumbent upon the property owner to maintain the plantings (including the boston ivy) as shown on the approved plans. If any plants die, the property owner shall replace them.
- E. The applicant must make sure that at all times during the redevelopment of the site, the storm water runoff is properly managed to avoid impacts to the neighbors and the street. This shall include, but not be limited to, sedimentation prevention and control, temporary artificial and/or vegetative cover to minimize erosion of exposed soils, and speedy restabilization of all disturbed areas.
- F. Upon completion of the work, the applicant shall provide written verification and photographs documenting the completion of the project and compliance with the approved plans. This shall include written certification for the project’s professional engineer that the approved grading and the drainage facilities have been installed according to the approved plans and that the wall is structurally stabilized in accordance with sound engineering practice and as designed. The applicant shall provide as-built map(s) and drawings to illustrate the final finished grade, the trees and landscaping that have been planted, and that the soil has been properly stabilized.
- G. 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.
- H. The granting of this approval does not relieve the developer/builder of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. All work on Town property (the installation of an anti-tracking pad) will require a Street Opening Permit from the Darien Public Works Department.
- I. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (April 5, 2011). This may be extended as per Sections 858 and 1009.

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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 resumption of any filling or regrading work, or this approval shall become null and void.

Mr. Spain read the following agenda item:

Approval of Minutes

March 23, 2010 Special Meeting/Public Hearing/General Meeting

The following motion was made: That the Commission approve the minutes subject to correction of minor typographical mistakes. The motion was made by Mr. Voigt, seconded by Mr. Hutchison and approved by a vote of 4-0-1, with Ms. Cameron abstaining, since she was not at the meeting.

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

Assistant Director David Keating asked that the Commission discuss St. Luke's Church under "Other Business". The following motion was made: That the Commission discuss St. Luke's Church under the category of "Other Business". The motion was made by Mr. Voigt, seconded by Ms. Riccardo and unanimously approved.

Mr. Keating said that several years ago, St. Luke's Church had received a Permit to renovate the Franklin House to accommodate the operations of Person to Person. Since that time, Person to Person has decided to locate their food distribution facilities into a separate, detached building. That approval has been obtained and implemented. Now, as they renovate the Franklin House, the internal plans will be slightly different because they no longer need to accommodate the food storage and distribution. The external elevator that was originally approved will now be incorporated into the main part of the building, and thus the outside appearance of the building will be less different than originally proposed. Mr. Keating asked that the Commission authorize staff to approve these minor modifications. Commission members agreed that there was no need to amend the Special Permit.

There being no further business, the meeting was adjourned at 10:55 p.m.

Respectfully submitted,

David J. Keating
Assistant Director of Planning