

**PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
October 5, 2010**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

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

STAFF ATTENDING: Ginsberg, Keating

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**GENERAL MEETING**

Chairman Conze read the following agenda item:

**Mandatory Referral #2-2010. Board of Selectmen, 2 Renshaw Road.**

Proposal to convert the Board of Education office and storage space to a Senior/Community Center.

Director of Planning, Jeremy Ginsberg, indicated that the Planning & Zoning Commission has included on Page A7-9 of the Town Plan the possible reuse of the former Darien Library facility at 35 Leroy Avenue for other municipal uses. This matter, generally referred to as the “shuffle plan”, has been written about in the newspapers and discussed on television. Mr. Conze said that the Commission is not making a final decision regarding any of these matters. They are just determining now whether the concepts would comply with the 2006 Town Plan of Conservation & Development. Mr. Ginsberg indicated that the existing Senior Center on Edgerton Street is in bad physical condition and it needs to be substantially renovated and repaired at great cost, or abandoned and a new home established for the Senior Center.

Mr. Spain said that the conceptual use of the facilities at 2 Renshaw Road for a Senior Center is the current issue. There is no specific or detailed Special Permit application that has been prepared or submitted yet. He said that the issue is whether the concept is consistent with the Town Plan. The Commission asked the Director of Planning to draft a report for consideration at a future meeting, possibly a special meeting to be conducted on October 20<sup>th</sup>.

Chairman Conze then read the following agenda item:

**Mandatory Referral #3-2010. Board of Selectmen, 35 Leroy Avenue.**

Proposal to convert the former Darien Library building at 35 Leroy Avenue to the Board of Education offices and other possible uses including office space for municipal functions and/or program space for the Darien Arts Center.

Commission members discussed the concept of the Board of Education relocating from 2 Renshaw Road to the existing building at 35 Leroy Avenue that had formerly been used by the Darien Library. Commission members reviewed the provisions in Page A7-9 of the Town Plan of Conservation & Development regarding municipal uses. The Commission asked the Director of Planning to draft a report for consideration at a future meeting, possibly a Special Meeting in later October.

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**PUBLIC HEARING**

At about 8:06 p.m., Chairman Conze opened the public hearing and read the following agenda item:

**Continuation of Public Hearing regarding Business Site Plan #276/Special Permit, Callari Auto Group d/b/a Mini of Fairfield County, 154 Boston Post Road.** Proposing to raze the existing building formerly occupied by the Cookhouse and construct a new building for automobile dealership with associated service bays and to perform related site development activities. The subject property is located on the southeast side of Boston Post Road across the street and approximately 400 feet east of its intersection with Richmond Drive, and is shown on Assessor's Map #32 as Lot #8, and is in the SB-E (commercial) Zone.

The Commission had previously discussed the application and was waiting for an opportunity to discuss the traffic and vehicle circulation aspects with the Town's Traffic Consultant, Michael Galante of Frederick P. Clark Associates. Mr. Galante had submitted an initial report and a subsequent memorandum based on the revisions made by the applicant.

Mr. Voigt said that while he was in the area recently, he saw what appeared to be an employee of the Darien Diner on the north side of the Boston Post Road cross the street and get into a vehicle that was parked at the Mini of Fairfield site on the south side of the Post Road. He noted approximately three vehicles parked in the same vicinity on the Mini of Fairfield site and was concerned that there might be some parking agreement or easement that permits parking that would result in people frequently crossing the busy and dangerous portion of the Boston Post Road and utilizing parking space on the Mini of Fairfield site. Attorney Gleason, representing Mini of Fairfield, said there has been no permission given to allow employees of any other businesses to park on the Mini of Fairfield site. He said that he understood that the diner might have an arrangement to have some of their employees park at the HSBC Bank when the diner is busy, but this would not result in anyone having to cross the Boston Post Road.

Mike Galante of Frederick P. Clark Associates submitted his resume indicating considerable experience dealing with traffic and safety issues. His letter/report dated 10/5/2010 was distributed and reviewed. This letter/report is a follow-up on his previous comments that have been submitted to the applicant. He said that everything he has requested has been provided and the plan seems to be satisfactory with respect to traffic and circulation issues. Mr. Hutchison said that he believed that the applicant's report and Mr. Galante's analysis and review of the application seem to be very thorough and clear.

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

At about 8:15 p.m., Chairman Conze read the following agenda item:

**Continuation of Public Hearing regarding Coastal Site Plan Review #257, Flood Damage Prevention Application #289, Land Filling & Regrading Application #245, Dale & Hillary Miller, 5 Tokeneke Beach Drive.** Proposing to raze the existing residence and demolish the existing pool, and to construct a new single-family residence and pool and to perform related site

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development activities within regulated areas. The subject property is located on the east side of Tokeneke Beach Drive approximately 500 feet south of its intersection with Contentment Island Road, and is shown on Assessor's Map #67 as Lot #67, and is in the R-1 Zone. *HEARING OPENED ON JULY 27, 2010, AND WAS IMMEDIATELY CONTINUED TO SEPTEMBER 7, 2010. APPLICANT GRANTED AN EXTENSION OF TIME UNTIL OCTOBER 5, 2010 TO CONTINUE THE PUBLIC HEARING. PUBLIC HEARING MUST CLOSE ON OCTOBER 5, 2010, UNLESS A FURTHER EXTENSION IS GRANTED BY THE APPLICANT.*

Mr. Ginsberg indicated that the matter is not yet ready for public hearing and should be continued on October 26, 2010 if the applicant is able to resolve all of the outstanding issues.

### **GENERAL MEETING**

Chairman Conze opened the General Meeting. He read the first general meeting agenda item:

**Amendment of Business Site Plan #90-K, Jos A. Bank, 1077 Boston Post Road, CBD Zone.**

Request to construct vestibule/entryway addition to the front of the building, underneath the existing marquee.

The applicant proposes to construct a vestibule addition underneath the existing marquee. This matter had been discussed at the meeting in September and the Commission indicated that they needed more details. A letter and more specific drawings and diagrams and Photoshop versions of the proposed addition had been submitted for the Commission's consideration.

Dwight Collins, a partner in Pear Partners, which owns the property, explained that the existing retail space occupied by Joseph A. Bank does not function properly due to a lack of visibility and proper window display area. He said that the entrance doors to the retail store look like it is still an entrance to the movie theater. The proposed solution is to create a glass vestibule that would project 7 feet out under the existing marquee. Entrance doors would be located on the side of the vestibule and the front portion of the addition would be display area for clothing. He said that if the Planning & Zoning Commission is comfortable with the idea and approves the concept, he would return to the Architectural Review Board with details to finalize the approval. Mr. Collins said that all of the other tenants are comfortable with the proposed vestibule expansion and will not be requesting similar treatment. This is due in large part to the fact that this is the only store that has an entrance underneath the existing marquee.

Mr. Collins noted that the existing entrance wall is approximately 20 feet from the road edge and they are only projecting about 7 feet from that existing wall. Other tenants within the site do not want or need similar treatment and this seems to be the minimum area needed to create an appropriate display window. Mr. Collins said that when Ann Taylor Loft occupied the space that is now the restaurant on the corner and the Joseph A. Bank store, their entrance door was not underneath the marquee. They had more visibility. Photo Shop versions of the project were displayed.

Patrick Benker, Project Architect, said that although the entrance vestibule will project out 7 ft. from the existing front wall of the building, it is still 5 ft. from the front property line. He noted that front entry vestibule is aligned with the outside edge of the low brick wall on the far right side

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of the building and that the brick wall protects pedestrians from a drop in the grade. The proposed display area under the marquee will also roughly align with the outside customer seating area for Scena, the new restaurant located in the left portion of the building. Mr. Benker said that the new entrance doors will be from the side of the new vestibule and this will allow the entire front portion of the vestibule area to be a nice display area. He also submitted a drawing that indicates that an alternative was possible to keep one door in the front center of the vestibule addition and allow the sides of the vestibule addition to become display area.

Mr. Voigt said that the problem seems to be the four narrow doors within a 12 ft. wide space under the marquee. He suggested that something more akin to a bay window be projected out under the marquee from the existing wall rather than having a new vestibule. Mr. Collins said that if the projection does not come out a meaningful distance, then it would actually look worse. They need a minimum 3 foot wide space for the entrance doors on the side and a 3½ foot deep display window. He said the purpose is to make this look like a retail store rather than an entrance to a movie theater. Mr. Conze suggested angling the corners of the vestibule so that it would soften the view and give visibility to both the front and sides of the proposed enclosure. Mr. Hutchison said that parking is difficult at this site in part because the previous access driveways have been converted into pedestrian walkways. Even if people see the entrance to the store as they travel by in the street, they will not know where to find parking. He said that the existing front entry within the store is not a welcoming type of area.

Mr. Collins said that everyone realizes that something is wrong with this retail facility and the identification of the store seems to be the problem. He said that the proposed vestibule addition is not trying to sell a suit of clothing to motorists, but is trying to create a more pedestrian friendly entrance. In discussions, it was noted that the sign on the awning over the existing windows must be removed in order to install a new sign underneath the marquee because only one front wall sign is permitted.

Mrs. Riccardo suggested it might be more appropriate to keep the flat wall and to modify the entrance doorways to have just one main entrance and have the other doorways become display windows. Mrs. Cameron asked about the existing vestibule (between the two sets of doors) and whether that would now become display area or sales floor. Mr. Spain noted that if the marquee was not in place, then the flat wall would be conducive as a display area, but we do have a marquee and, right now, it is difficult for people to know what is underneath the marquee. It appears to be the entrance to the movie theatre. He said that the protrusion would offset the implication that the theater entrance is beneath the marquee. The proposed new vestibule would help to create a retail store appearance that is appropriate. He said that the small addition would not adversely impact the Joint Parking Agreement or the practical aspects of the parking that is located to the rear of this building. Mr. Conze said that this is not an unusual problem when trying to retrofit an older building and change the use. He noted that if the retail store cannot be successful, then they will leave and no one else would want to rent the retail space. If a retail store does not have exposure, you cannot run a successful business. Mrs. Cameron noted that they do have display windows and they have an awning to provide shade for the display windows.

Mr. Collins said that people walk in to the Joseph A. Bank store and ask if it is the entrance to the theater. Mr. Conze said that it seems to be a big problem for Joseph A. Bank and for the building

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because the Town wants to keep the marquee as a notable portion of the long standing playhouse building.

Thomas Golden, one of the partners in Pear Partners, said that they are trying to protect and preserve the movie theater and if the retail stores are not viable, then the theater might not be there much longer.

Mr. Conze said that it seems that the Commission is supportive of the concept, but that it would be up to the Architectural Review Board to make decisions about the specific details. Mr. Spain agreed that it would be appropriate to have the ARB work on the details. Mr. Hutchison said that this was only one part of the solution. Parking access is too confusing and needs to be addressed.

The following motion was made: That the Commission authorize the vestibule addition subject to the Architectural Review Board review of details. The motion was made by Mr. Spain. No one seconded the motion and thus, no action was taken.

Chairman Conze read the following agenda item:

*Deliberations and possible decisions regarding the following:*

**Land Filling & Regrading Application #248, Michael Kadish, 4 Robinson Street.** Proposing to fill and regrade in the back yard with associated stormwater management system in the side yard and perform related site activities. *HEARING CLOSED: 9/28/2010. DECISION DEADLINE: 12/2/2010.*

The following motion was made: That the Commission waive the process of reading each draft Resolution aloud for this application and the other matters on the agenda. The motion was made by Mr. Spain, seconded by Mr. Hutchison and unanimously approved.

Commission members discussed the draft Resolution regarding Kadish and noted the concerns of the neighbor regarding drainage that might flow in their direction. Commission members asked that the Resolution be clarified to note that the existing Kadish residence is lower than the backyard. The following motion was then made: That the Commission adopt the following revised Resolution to approve the application subject to the conditions and stipulations as noted. The motion was made by Mr. Hutchison, seconded by Mr. Voigt and unanimously approved. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
October 5, 2010**

Application Number: Land Filling & Regrading Application #248

Street Address: 4 Robinson Street  
Assessor's Map #24 Lot #33-34

Name and Address of Applicant & Michael Kadish

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Property Owner: 4 Robinson Street  
Darien, CT 06820

Activity Being Applied For: Proposing to fill and regrade in the back yard with associated stormwater management system in the side yard and perform related site activities.

Property Location: The subject property is located on the east side of Robinson Street, approximately 165 feet north of its intersection with West Avenue.

Zone: R-1/3

Date of Public Hearing: September 28, 2010

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

Publication of Hearing Notices  
Dates: September 17 & 23, 2010

Newspaper: Darien News

Date of Action: October 5, 2010

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:  
October 15, 2010

Newspaper: Darien News

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

- 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 plan, 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 subject application is to fill and regrade in the back yard with associated stormwater management system in the side yard and perform related site activities. The overall purpose of the application is to smooth out the back yard. No change of topography is proposed for in front of the existing residence. The existing catch basin in the back yard will remain the low point.
2. At the public hearing, the applicant's engineer, Samuel S. Northrup, PE, explained the proposed stormwater management. He noted that the final grades will be pitched so that no water will be directed towards neighbors' properties. The existing flagstone patio will be expanded and will

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be pitched towards the cultec units on the north side of the house. The expanded patio will be at least eight feet from the side property line. The ground elevation of the existing residence is now lower than most of the back yard.

3. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
4. 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 #248 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Land filling and regrading work shall be in accordance with the following plan submitted to and reviewed by the Commission:
  - Kadish Residence 4 Robinson Street, scale 1"=10', last revised 9/13/2010.
- B. Because of the scope, nature and amount of work proposed within the application, the Commission hereby waives the requirement for a more detailed stormwater management per Section 888a(3) of the Darien Zoning Regulations.
- C. A final, written certification is hereby required to be submitted by July 20, 2011, certifying that all of the regrading, on site stormwater infiltrators and other site improvements have been installed in compliance with the approved plans. In addition, a Professional Engineer shall certify in writing that the proposed grading has been properly completed.
- D. During the site work, the property owner shall utilize the sediment and erosion controls illustrated on the submitted plan referred to in Condition A above, and any additional measures as may be necessary due to site conditions, including tree protection as may be necessary. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the filling and regrading and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans, and as needed by site conditions. All erosion control measures must be maintained until the disturbed areas are stabilized.
- E. 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.
- F. The granting of this approval does not relieve the property owner of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.

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- G. 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 (September 27, 2011). This may be extended as per Sections 858 and 1009.

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

Chairman Conze then read the following agenda item:

**Proposed Amendment to Zoning Map (COZM #1-2010) and Proposed Amendment to Zoning Regulations (COZR #2-2010), Thomas E. Golden Realty, Co., 169 Noroton Avenue LLC, & Noroton Heights Shopping Center Inc., 22 through 346 Heights Road; 72 Edgerton Street, and Edgerton Street (Map #75 Lot #30); and 273 West Avenue.** Proposing to amend the Zoning Regulations to establish a new overlay zone—the Noroton Heights Mixed Use (NHMU) Zone and to amend the Zoning Map by “landing” that Overlay zone on the subject properties; and to create a new Section of the Zoning Regulations entitled, “Noroton Heights Mixed Use Zone (NHMU)” and to modify existing Sections 311 (Zone Classifications), 905 (Joint Parking) and 907 (Parking Structures) of the Zoning Regulations. The subject properties are located on the north side of Heights Road, consisting of approximately 18 acres, and are shown on Assessor’s Map #74 as Lots #8 through #20; and Assessor’s Map #75 as Lots #1-#4 and #22-30, all now within the DC (commercial) Zone. *PUBLIC HEARING CLOSED ON 7/27/2010. DECISION DEADLINE: 10/5/2010, UNLESS EXTENSION OF TIME IS GRANTED BY APPLICANT.*

Mr. Ginsberg noted that he had previously distributed a draft Resolution and several members of the Commission had comments that had been incorporated. He distributed a revised draft Resolution. He said that the draft Resolution would be to adopt the Regulations in pretty much the same form that had been requested, but with some modifications and clarifications. Mr. Conze said that the overlay district would allow the existing DC Zone to stay in place and uses and activities allowed in the overlay districts would only be permitted by Special Permit, thus giving the Planning & Zoning Commission tremendous discretion and latitude. He said one of the issues that is stressed in the new Regulations is the proper management of storm water to avoid making the problems any worse and to correct the existing problems. Commission members believed that Section 681 and 682 needed to be clarified to make sure that all uses and activities within the new overlay zone are by Special Permit only. Parking structures would only be permitted by Special Permit and would be subject to specific findings. Parking structures could be at or below ground level, but no more than one floor at ground level.

Mrs. Riccardo said that she is struggling with the proposed application because of the existing problems in the area including flooding and traffic. This is only the first step in the process of redevelopment of the properties and that the proper management of the flood waters from the 120 acre Stony Brook watershed needs to be addressed by the Town and property owners. The community cannot rely only on the applicants to solve the existing drainage problems, which has

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been how this project is perceived. The Commission agreed that flooding remains a Town-wide issue that must be addressed by government entities together.

Mr. Spain said that it would be helpful to have the developer identify, quantify and deal with sub-surface flows of water that were mentioned by the neighbors. He said that the drainage impact statement should require that ground water be assessed and taken into account.

Mrs. Cameron said that she would not be voting for the proposed change of zone Regulations because she feels that it would result in redevelopment that is too great of an increase and it will only make traffic and other problems worse rather than solving them. She felt the neighbors did a good job of articulating their concerns and she shared them. She also felt that the changes to Section 907 Parking Structures, which would affect all of Darien, not just the Noroton Heights Redevelopment Zone, were not consistent with the Town Plan of Conservation and Development. She did not believe that the sentence from page A9-9 quoted in paragraph 19 of the resolution, "*The general goal is for safe pedestrian access throughout the area, and a circulation system which encourages shopping in variety of stores.*" translated to parking one story above the finished elevation of surface parking, particularly when looked at in its original context with the Concept Plans for Noroton Heights. After further discussion, the following motion was made: That the Commission adopt the following Resolution to adopt the revised versions of the proposed amendments to the Zoning Map and the Zoning Regulations. The motion was made by Mr. Hutchison, seconded by Mr. Spain. All voted in favor except Mrs. Cameron. The motion passed by a vote of 5 to 1. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
October 5, 2010**

Application Number: Proposed Amendment to Zoning Map (COZM #1-2010) and Proposed Amendment to Zoning Regulations (COZR #2-2010)

Application Put Forth by: Thomas E. Golden Realty, Co., 169 Noroton Avenue LLC, & Noroton Heights Shopping Center Inc., representing properties 22 through 346 Heights Road; 72 Edgerton Street, and Edgerton Street (Map #75 Lot #30); and 273 West Avenue.

Activity Being Applied For: Proposing to amend the Zoning Regulations to establish a new overlay zone—and to amend the Zoning Map by “landing” that Overlay zone on the subject properties; and to create a new Section of the Zoning Regulations and to modify existing Sections 311 (Zone Classifications), 905 (Joint Parking) and 907 (Parking Structures) of the Zoning Regulations.

Property is located at: The subject properties are located on the north side of Heights Road, consisting of approximately 18 acres, and are shown on Assessor’s Map #74 as Lots #8 through #20; and Assessor’s Map #75 as Lots #1-#4 and #22-30, all now within the DC (commercial) Zone.

Date of Public Hearing: June 15, 2010 continued to July 27, 2010  
Deliberations held on September 7, 2010 in room 119

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

Publication of Hearing Notices

Dates: June 3 & 10, 2010

July 16 & 23, 2010

Newspaper: Darien News

Date of Action: October 5, 2010

Action:

**AMENDMENTS TO THE ZONING REGULATIONS ARE GRANTED IN PART WITH MODIFICATIONS AND DENIED IN PART. THE NEW “NOROTON HEIGHTS REDEVELOPMENT ZONE” IS HEREBY ADOPTED, WITH AN EFFECTIVE DATE OF SUNDAY, OCTOBER 24, 2010 AT TWELVE NOON.**

**ADOPTED--AMENDMENTS TO THE ZONING MAP, WITH AN EFFECTIVE DATE OF SUNDAY, OCTOBER 24, 2010 AT TWELVE NOON.**

Scheduled Date of Publication of Action:

October 15, 2010

Newspaper: Darien News

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

***Proposed Amendments to the Zoning Regulations***

1. The Commission notes that a similar prior application submitted by Mr. Golden’s company was withdrawn in August 2009. This new application has been submitted by a number of property owners within the Noroton Heights commercial area.
2. The Commission understands that the subject application is designed to encourage redevelopment of Noroton Heights. It is noted that while the submitted application included sketch plans, no formal application is being made for redevelopment at this time. A subsequent application(s) would need to be made for any redevelopment in the Noroton Heights commercial area
3. It was noted at the public hearing that the Noroton Heights commercial area is distinct. The “eastern portion” extends from Edgerton Street eastward to Noroton Avenue (excluding some properties which front on Noroton Avenue and are in the Service Business Zone), and its northern frontage is on West Avenue. The “western portion” consists of various properties extending westward from Edgerton Street to Hollow Tree Ridge Road, and some of those properties also have their northern frontage on West Avenue. There are also residential properties fronting on West Avenue and Hollow Tree Ridge Road that are adjacent to the western portion of the commercial area. These residential properties are not part of the existing or proposed commercial area.
4. The applicant notes that this proposal to create an overlay zone will not eliminate the existing underlying DC zone and thus will not affect existing properties within the Designed Commercial (DC) zone in Noroton Heights or any other properties within other DC zones in

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Darien. This overlay zone provides an alternate means to develop or redevelop properties within the Noroton Heights commercial area, if a property owner decides to do so.

5. At the public hearing, the Commission noted existing and potential issues with traffic, drainage and stormwater in the vicinity. They also heard from neighbors, who mentioned potential impacts of future development.
6. The Noroton Heights DC zone is the secondary commercial retail area within Darien. The Commission believes that, in general, it should not equal or exceed the density or bulk of the CBD Zone. This can be assured through the limits on building coverage, building height, and developed site area that are already set forth in the Noroton Heights DC zone regulations and as proposed for the overlay zone. There are also physical differences between the CBD zone and the DC zone. The CBD zone is relatively flat; the Noroton Heights DC zone slopes downward from its northern edge on West Avenue to its center. The CBD zone allows for on-street parking, and contains municipal parking lots as well as railroad parking lots adjacent and near to its centrally located railroad station. The Noroton Heights DC zone does not include municipal parking lots, and the proposed overlay zone does not provide for on-street parking. The train station parking lot in Noroton Heights is not conducive to evening or weekend use by patrons of Noroton Heights businesses because it is across the street and to the south of the Noroton Heights commercial area on Heights Road. The topographic and parking differences between the CBD zone and the Noroton Heights DC zone are important factors to be considered in connection with establishing a new overlay zone.
7. The application consists of three separate but related regulation amendments: 1) creation of a new Section of the Darien Zoning Regulations establishing a new overlay zone for the Noroton Heights commercial area; 2) amendments of Section 905 "Joint Parking"; and 3) amendments of Section 907 "Parking Structures".
8. The applicant specifically designed the overlay zone so that future development proposals using that overlay zone will require a Special Permit from the Planning & Zoning Commission. This gives the Planning and Zoning Commission more discretion when reviewing and acting upon a future application than when its role is solely one of site plan review. At the second public hearing, the applicants' representative submitted a revised proposal, giving the Commission an alternative on some of the proposed area and bulk requirements.
9. Other information considered in this application includes various letters from the general public; a July 27, 2010 memo from Jeremy Ginsberg outlining the differences between the existing DC zoning and the proposed regulations; a memo from the Architectural Review Board (ARB) dated July 21, 2010; a June 8, 2010 e-mail outlining the comments from the Southwestern Regional Planning Agency (SWRPA) referrals committee; a June 30, 2010 memo from the Darien Public Works Department; and a June 11, 2010 e-mail from State of CT Department of Environmental Protection (DEP). The DEP e-mail noted that they have reviewed the proposal and found no inconsistencies with the Connecticut Coastal Management Act.
10. The Commission fully agrees with the ARB's July 21, 2010 memo. In that memo, the ARB notes that "...Offering a re-development plan of mixed uses would certainly create a lively addition to Noroton Height[s]. The effect of any new development on those currently living on

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West Avenue must be deemed of highest importance. The architectural design must be thoughtful and sensitive to the residential character of West Avenue...” The Commission agrees with ARB that any Commercial Design Guidelines which are in place shall be used by applicants when considering development proposals in the Noroton Heights commercial area, and strongly encourages the early involvement of ARB in connection with any development or re-development project there.

11. The June 30, 2010 memo from DPW notes that the subject area is served by public sewer. It also notes that future redevelopment would have to comply with the Planning and Zoning Commission’s recently adopted zoning regulations regarding stormwater management. Because of the importance of stormwater management, the Commission has specifically included wording within the Background and Purposes section to mention that issue. All future redevelopment within this proposed zone or within the existing DC zone, will have to comply with the recently adopted Section 880 of the Zoning Regulations, entitled, Stormwater Management. This would include, but not be limited to, the preparation of a stormwater management plan and report along with hydrologic evaluation and the required certification and maintenance agreements.
12. The Commission believes that the Noroton Heights commercial area is appropriate for redevelopment and that any project proposed for the area must address traffic and drainage and pedestrian safety issues that are now notable in the area. The Commission believes that redevelopment is best reviewed comprehensively, rather than on a parcel-by-parcel basis. When formal redevelopment applications are submitted by property owners, the Commission will be concerned about the particular development and how it fits within the area. Similarly, any proposals will have to address stormwater management, since the Commission is likely to scrutinize that aspect closely.
13. At the public hearings, the Commission noted their sensitivity to all future redevelopment fitting in architecturally. Piecemeal redevelopment would not be as desirable as large, comprehensive redevelopment, which could then be coordinated from not only an architectural standpoint, but also relative to traffic, parking, infrastructure, and stormwater management.
14. Relative to the proposed area and bulk requirements, the Commission agrees that a zero side yard setback is appropriate, allowing for buildings to be closer relative to each other, likely resulting in a more pedestrian-friendly zone. Front yard setbacks will need to vary, depending on whether the property is adjacent to Heights Road or Edgerton Street (which are more commercial in nature), or West Avenue or Hollow Tree Ridge Road (which are adjacent to and/or across the street from residential properties). The area and bulk requirements will need to address these important differences. The Commission has herein reduced the minimum lot size to ½ acre, giving additional flexibility to smaller lots. The front landscape depth required will be six feet. The Commission believes that no building should be closer than six feet to the front property line in this zone, and that each building shall have at least a six foot front landscaped depth in front of it. “Model block”-style sidewalks shall be constructed along the road frontage for each development.
15. The proposed change in maximum building coverage would allow the existing 20% allowed per Section 636 in the DC Zone to be increased to up to 35% in the proposed overlay zone. The

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Commission finds this acceptable, and would allow more commercial development, while still having the maximum coverage be less than that allowed within the CBD Zone.

16. The Commission believes that the provision now in subsection 656e of the Zoning Regulations (within the CBD zone regulations) would be appropriate for this new overlay zone. This subsection allows building heights to be increased if additional open space is provided. Currently, there are no open space plazas within the Noroton Heights commercial area, while there are at least three in the CBD zone. New open space plazas would be necessary features for buildings exceeding two stories or 30 feet.
17. As noted above, the development sketches submitted with this application were hypothetical concept sketches only. No site plan or development is approved at this time. This resolution only addresses regulation and map changes which could lead to further development. The Commission notes that an applicant may request additional regulation changes in connection with a future development proposal to accommodate that development.
18. The proposed amendments to Section 905, Joint Parking, as proposed by the applicant, would limit the amount of parking that could be “shared” or “waived”. The Commission believes that this Section should continue to be administered on a case-by-case basis, giving the Commission full discretion over the tenants and how the parking is shared. So far, this provision has been successfully used in the CBD Zone--downtown Darien--where multiple tenants on adjacent parcels are able to share a joint parking lot. The Commission believes that it would be appropriate to modify Section 905 to reflect the fact that there is no on-street parking within the overlay district, and there are no municipal parking lots within the Noroton Heights commercial area. Thus, there is no capacity for “overflow” if the developed site does not provide sufficient parking. Therefore, a maximum waiver provision which would apply to this new zoning district would be appropriate under these circumstances. If circumstances change in the future, amendments to this section could be appropriate.
19. Section 907 is entitled, “Parking Structures”. There have been no projects approved by the Commission under this section since 1995. The Commission believes that modifications to this Section of the Regulations are consistent with the Town Plan of Conservation & Development. On Plan page A9-9, *“The general goal is for safe pedestrian access throughout the area, and a circulation system which encourages shopping in a variety of stores.”*
20. The Commission believes that a new overlay zone for the Noroton Heights commercial area is appropriate, and consistent with the Town Plan of Conservation & Development. Portions of the Town Plan of Conservation & Development which would apply were included in the applicant’s May 2010 Application Narrative and include the following:
  - The policy on page 9-2 which reads as follows:

*Continue the commitment to upgrading all of the commercial districts within Town, including, but not limited to, Noroton Heights and downtown Darien to better serve the needs of the Town.*
  - The recommendations on pages 9-4 and 9-5 which read as follows:
    - *9. Encourage coordination between property owners/developers to minimize curb cuts, and encourage cohesive development in all commercial zones. Parcel assemblage is beneficial in downtown (the CBD Zone) and in Noroton Heights (the DC Zone) to meet these desires.*

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- *10. In large commercial districts, such as Noroton Heights and Downtown, one-stop shopping should be strongly encouraged. Shoppers should be encouraged to park once, and visit numerous businesses in the area.*
- *15. In the Noroton Heights and downtown commercial areas (the DC and CBD Zones), the Planning & Zoning Commission should consider revising the Zoning Regulations to allow a full third floor especially if it would provide some form of housing, with the exception that such a third floor be set back off the road.*

21. This approval names the applicant's proposed new overlay zone the "Noroton Heights Redevelopment Zone". This will avoid any confusion with the MU Zone (municipal use zone) adopted by the Commission a few years ago. Also, by removing the term "mixed use", it would no longer imply that any redevelopment must include mixed use, albeit such redevelopment can be expected to be viewed as a favored approach.

=====

NOW THEREFORE BE IT RESOLVED that ***Proposed Amendments of the Darien Zoning Regulations*** regarding a new item within subsection 311; a new Section 680 *et. seq.*; and amendments of Sections 905 of the Darien Zoning Regulations are hereby MODIFIED AND ADOPTED WITH AN EFFECTIVE DATE OF SUNDAY, OCTOBER 24, 2010 AT TWELVE NOON.

(The inside cover page of the Zoning Regulations, the Table of Contents and Appendix C-Schedule of Amendments also shall be modified accordingly)

The approved wording for these Sections is as follows:

*New wording in bold, deletions in strikeout:*

Modify Section 311, and insert the following in the list of zoning districts after MU Municipal Use Zone (Floating Zone):

**NHR            Noroton Heights Redevelopment Zone (Overlay Zone).**

Insert a new Section 680 as follows:

**SECTION 680. NOROTON HEIGHTS REDEVELOPMENT ZONE (NHR)**

**681.    Background and Purposes**

**The Noroton Heights Redevelopment Zone is an overlay zone intended to maintain the existing retail foundation of the Noroton Heights commercial district while encouraging the development of business and professional offices and dwelling units, including affordable units, in recognition of the zone's proximity to mass transit and Interstate 95. Business and professional offices will also be permitted. These regulations are intended to encourage development that promotes safe pedestrian**

access to businesses by residents within the zone and from adjacent residential neighborhoods. At the sole discretion of the Commission, increased building height may be permitted to encourage the use of architectural design features such as peaked roofs and dormers to soften the appearance from adjacent residential properties. The intent is to strengthen the viability of retail business in the Noroton Heights commercial district, to offer a broader range of housing and office space with convenient access to transportation, to foster pedestrian activity as fully as is practicable, and to reduce reliance on individual motor vehicles to access the retail businesses.

All uses within this zone are Special Permit uses. It is imperative to properly manage and enhance stormwater management in this zone. No development or redevelopment will be permitted if it will result in stormwater impacts on adjacent properties or adjacent streets. Any development or redevelopment must address drainage, traffic and pedestrian safety issues in the area.

**682. Permitted Principal Uses**

The following uses shall be permitted subject to approval of a Zoning Permit in accordance with Subsection 1102:

None.

**683. Permitted Accessory Uses**

The following accessory uses shall be permitted subject to approval of a Zoning Permit in accordance with Subsection 1102:

- a. Signs, as permitted in Section 920.
- b. Any building or use customarily incidental to a permitted use.
- c. Off-street parking and loading facilities in accordance with Section 900.

**684. Principal Uses Requiring Special Permits**

The following uses shall be permitted subject to approval of a Special Permit in accordance with Section 1000:

- a. Commercial sales and services.
- b. Business and professional offices.
- c. Public and semi-public uses.
- d. Protected Town Landmarks.
- e. Restaurants.
- f. The sale of prepared foods whether intended for consumption on or off the premises.
- g. Dwelling units.
- h. Indoor recreation facilities.
- i. Financial services on the first floor

**685. Area and Bulk Requirements**

The following requirements shall be deemed to be the minimum and maximum requirements in every instance of their application. Dimensions are in feet unless otherwise indicated.

<b>1. Minimum Lot Area</b>	<b>1/2 acre</b>
<b>2. Minimum Lot Width</b>	<b>150</b>
<b>3. Minimum Lot Frontage</b>	<b>150</b>
<b>4. Minimum Lot Depth</b>	<b>150</b>
<b>5. Minimum Front Yard</b>	<b>6 (See Note a)</b>
<b>6. Minimum Side Yard</b>	<b>None (See Note b)</b>
<b>7. Minimum Rear Yard</b>	<b>25</b>
<b>8. Maximum Height in Stories</b>	<b>2 (See Note c)</b>
<b>9. Maximum Height in Feet</b>	<b>30 (See Note c)</b>
<b>10. Maximum Building Coverage</b>	<b>35%</b>
<b>11. Minimum Front Landscape Depth.</b>	<b>6</b>
<b>12. Maximum Developed Site Area</b>	<b>80%</b>
<b>13. Maximum Density Dwelling Units/Gross Acre</b>	<b>12</b>
<b>14. Maximum Floor Area of each Dwelling Unit</b>	<b>1,200 sq. ft.</b>

**Notes:**

- a. Minimum front yard of 6 feet required, except that within 100 feet of a Residential Zone, the front yard setback shall be at least one-half that required in that Residential Zone. No parking shall be permitted in front of any building unless the setback from the street line shall be at least 75 feet.**
- b. None, except as follows:**

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- (1) **If a side yard shall be provided, it shall be at least four feet, except where access to parking space shall be provided through a side yard, in which case the side yard shall be at least 25 feet in width. Where access shall be provided jointly by two adjoining properties, the side yard may be reduced by 12 1/2 feet for each of the properties, provided the full 25 feet wide access shall be assured;**
  - (2) **Where a side yard abuts a Residential Zone, it shall equal the side yard requirement of said abutting Residential Zone.**
- c. **The maximum building height shall be two stories and 30 feet, except that the Commission may specifically permit height to be increased to a maximum of three stories and 42 feet, provided that:**
- (1) **The Commission finds that the unique use and design of the building combined with its location in the zone, the topography of that location, and the development plan for the building, will result in a project that will be appropriate for the community, and will not be detrimental to the reasonable use and values of adjacent properties. Where the zone abuts a Residential Zone the maximum building height shall be 2 stories and 30 feet as calculated from the average finished grade of the elevation abutting the residential zone. One level of underground parking shall not constitute a story.**
  - (2) **If an applicant proposes a building that is higher than two stories or 30 feet, such applicant will be required to provide open space per the provisions outlined within Section 656e of the Zoning Regulations.**

**686. Special Controls**

- a. **At-grade parking areas may extend to within 10 feet of a rear lot line except where it abuts a Residential Zone, in which case the minimum rear yard requirement set forth in Section 685 shall apply.**
- b. **Landscaping, screening and buffer areas shall be provided in accordance with Section 940.**
- c. **All uses shall be subject to Site Plan Approval in accordance with Section 1020.**
- d. **Display or storage of materials shall be in accordance with Subsection 373.**
- e. **If more than 2 dwelling units are provided in any building, then at least 30 percent of the total number of such dwelling units shall be limited to one bedroom.**
- f. **Structured parking per Section 907.**

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Modify Section 905 by adding a sentence to the end of section 905, and inserting a new subsection 905.1:

905. Joint Parking

Where two or more different uses occur on a single lot, the total amount of parking facilities to be provided shall be the sum of the requirements for each individual use on the lot, except that the Commission may approve the joint use of parking space by two or more establishments on the same or on contiguous lots, the total capacity of which space shall be less than the sum of the spaces required for each, provided:

- a. The Commission finds that the proposed capacity shall meet the intent of the requirements;
- b. Approval of such joint use shall be automatically terminated upon the termination of the operation of any of such establishments;
- c. Legal documentation shall be furnished establishing such rights for the duration of such joint use.

Such shared parking arrangements shall be limited to use and shall not include shared parking by time. **No parking spaces shall be reserved for any specific building tenant.**

**905.1 Due to the lack of municipal parking or on-street parking within the Noroton Heights Redevelopment Overlay Zone, the Commission there may waive only up to a maximum of fifty percent (50%) of the parking required per Section 904.**

Modify Section 907 as follows:

907. Parking Structures

Parking structures (whether above or below ground; **or understructure**) ~~whether detached or attached) shall not be permitted; however, one level of basement, underground or understructure parking shall be encouraged in appropriate situations as a substitute for surface parking and to allow the area normally occupied by surface parking to remain undisturbed or to provide open space, landscaping and similar amenities. Such subgrade or understructure parking shall be provided in lieu of required surface facilities, and not in addition thereto. The provisions of subgrade or understructure parking shall not be permitted if its use shall result in a larger above ground structure or intensification in use of the site to an above ground floor area exceeding that permitted by these Regulations.~~ **shall be permitted in appropriate situations subject to approval of a Special Permit per Section 1000 *et. seq.*, provided it is located below the finished elevation of surface parking or landscaped areas, or provided that the Commission makes an affirmative finding that, due to the location and/or design of the proposed use, no neighboring property will be adversely impacted by such structure. Any such parking structure shall be fully enclosed by or attached to a principal structure, and shall be limited to one story above the finished elevation of surface parking. In addition, appropriate measures shall be taken to minimize the street level view of such above**

**ground, below ground**, subgrade or understructure parking. The Commission ~~may~~ **shall** require the submission of a sketch plan which ~~shall clearly illustrate the relationship between the alternative proposals for either surface or understructure parking.~~ **compares alternative proposals for surface parking and a parking structure including landscaping or other screening.** Any parking structure approved under this section shall be subject to the setback requirements of the principal structure. The design of any parking structure must architecturally blend in with surrounding design aspects and not delineate itself as a parking structure.

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***Proposed Amendment to the Zoning Map***

22. The Commission believes that a new overlay zone for the Noroton Heights commercial area is appropriate, and fully consistent with the 2006 Town Plan of Conservation & Development, as amended. Portions of the Town Plan of Conservation & Development which would apply were included in the applicant's May 2010 Application Narrative and include the following:

*The policy on page 9-2 which reads as follows:*

*Continue the commitment to upgrading all of the commercial districts within Town, including, but not limited to, Noroton Heights and downtown Darien to better serve the needs of the Town.*

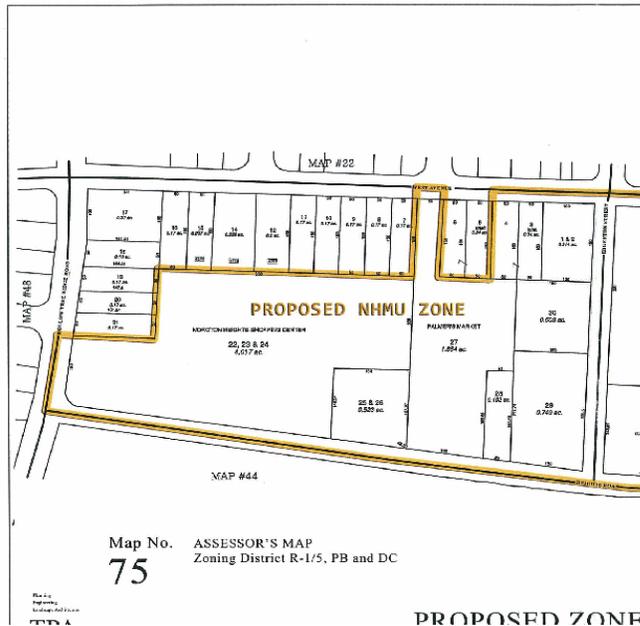
The recommendations on pages 9-4 and 9-5 which read as follows:

- *9. Encourage coordination between property owners/developers to minimize curb cuts, and encourage cohesive development in all commercial zones. Parcel assemblage is beneficial in downtown (the CBD Zone) and in Noroton Heights (the DC Zone) to meet these desires.*
- *10. In large commercial districts, such as Noroton Heights and Downtown, one-stop shopping should be strongly encouraged. Shoppers should be encouraged to park once, and visit numerous businesses in the area.*
- *15. In the Noroton Heights and downtown commercial areas (the DC and CBD Zones), the Planning & Zoning Commission should consider revising the Zoning Regulations to allow a full third floor especially if it would provide some form of housing, with the exception that such a third floor be set back off the road.*

NOW THEREFORE BE IT RESOLVED that ***Proposed Amendment of the Darien Zoning Map*** is hereby ADOPTED WITH AN EFFECTIVE DATE OF SUNDAY, OCTOBER 24, 2010 AT TWELVE NOON.

The proposed map change is shown below, with the area shown as "Proposed NHMU Zone" outlined in gold, being the area the Commission is adopting as the newly established Noroton Heights Redevelopment Zone. Note that the title of the map should read, Noroton Heights Redevelopment Zone, not Noroton Heights Mixed Use Zone (NHMU).

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Chairman Conze then read the following agenda item:

**Coastal Site Plan Review #258, Flood Damage Prevention Application #292, Land Filling & Regrading Application #246, Robert & Justine Stewart, 24 Cross Road.** Proposing to raze the existing residence and construct a new single-family residence with associated septic system and stormwater management system and perform related site development activities within regulated areas. *HEARING CLOSED: 9/28/2010. DECISION DEADLINE: 12/2/2010.*

The draft Resolution was reviewed and discussed. Several typographical corrections and other clarifications were made. The following motion was made: That the Commission adopt the following Resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Spain, seconded by Mrs. Cameron and unanimously approved.

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
October 5, 2010**

Application Number: Coastal Site Plan Review #258  
Flood Damage Prevention Application #292  
Land Filling & Regrading Application #246

Street Address: 24 Cross Road  
Assessor's Map #69 Lot #11

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Name and Address of Property Owners: Robert & Justine Stewart  
24 Cross Road  
Darien, CT 06820

Name and Address of Applicant & Applicant's Representative: Jim McTigue  
Risoli Engineering  
1166 E. Putnam Ave  
Riverside, CT 06878

Activity Being Applied For: Proposing to raze the existing residence and construct a new single-family residence with associated septic system and stormwater management system and perform related site development activities within regulated areas.

Property Location: The subject property is located on the north side of Cross Road, approximately 325 feet west of its intersection with Hope Drive.

Zone: R-1 Zone

Date of Public Hearing: September 28, 2010

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

Publication of Hearing Notices

Dates: September 16 & 23, 2010

Newspaper: Darien News

Date of Action: October 5, 2010

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:

October 15, 2010

Newspaper: Darien News

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

- the proposed use and activities must comply with all provisions of Sections 400, 810, 820, 850 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

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1. The subject application proposes to raze the existing residence and construct a new single-family residence with associated septic system and stormwater management system and perform related site development activities within regulated areas.
2. The Environmental Protection Commission (EPC) approved this project as part of EPC #36-2008 on September 18, 2008. That approval is hereby incorporated by reference. It was noted that a rain garden was required by the EPC. The applicant's representative noted that a level spreader shown on the submitted plans as ten feet from the front property line could be moved further from the property line if that was what the Commission desired.
3. At the public hearing, the applicant's representative noted that all utilities will be placed at or above the base flood elevation.
4. 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.
5. 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.
6. 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.
7. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.
8. The proposed activities also include filling and regrading a portion of the existing property and managing storm water runoff so that it does not negatively impact the nearby properties.
9. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
10. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #258 and Flood Damage Prevention Application #292 and Land Filling & Regrading Application #246 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction shall be in accordance with the following plans submitted to and reviewed by the Commission:
  - Zoning Location Survey Robert & Justine Stewart 24 Cross Road, by Joseph F. Risoli, PE, dated June 17, 2008, Sheet 1 of 1.

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- Septic Design Robert & Justine Stewart 24 Cross Road, by Joseph F. Risoli, PE, last revised 8-20-10, Sheet 1 of 2.
  - Detail Sheet Robert & Justine Stewart 24 Cross Road, by Joseph F. Risoli, PE, last revised 8-20-10, Sheet 1 of 2.
  - 24 Cross Road Single Family Residence – New Construction by Joseph Matto Architect AIA, 8/20/10, Sheets S1-S3, A-01 through A-26.
- B. In order to minimize the likelihood of potential impacts to adjacent properties or the private street (Cross Road), the Commission hereby requires the applicant to move the proposed level spreader to be at least fifteen feet from the front property line.
- C. In conjunction with the Zoning and Building Permit applications, the plans shall be accompanied by a certification from a licensed architect and/or engineer that verifies that the final, detailed design of each foundation complies with the applicable requirements to minimize flood damage.
- D. Because of the nature of the land filling and regrading portion of this project, a performance bond for the filling and regrading is hereby waived.
- E. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- F. During the construction process, a series of “as-built” surveys shall be submitted a) once the in the retaining walls and backfill have been installed; b) when the ground foundation work for the new house has been installed; and c) once the pool and pool equipment have been installed. The surveys must verify that the work complies with all aspects of the Zoning Regulations (setbacks from property lines, elevation, etc.) and with all applicable specifics of this approval.
- G. A final “as-built” survey is hereby required to certify that the site improvements adjacent to the coastal resources and/or within the flood hazard area are all in compliance with the approved plans. In addition, a Professional Engineer shall certify in writing that the drainage and grading work has been properly completed in accordance with the approved plans.
- H. The applicant/property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site of the regrading will not have any negative impacts upon the adjacent property(ies). If such problems do become evident in the future, the owner of the property shall be responsible of remedying the situation at their expense and as quickly as possible.
- I. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive,

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incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.

- J. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agencies. This includes, but is not limited to, obtaining a Demolition Permit from the Building Department, and a septic system approval from the Darien Health Department. Approval for blasting will be needed from the Darien Fire Marshal.
- K. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (September 28, 2011). This may be extended as per Sections 815 and 829f.

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

Chairman Conze read the following agenda item:

*Deliberations only regarding the following item if the public hearing has been closed:*

**Business Site Plan #276/Special Permit, Callari Auto Group d/b/a Mini of Fairfield County, 154 Boston Post Road.** Proposing to raze the existing building formerly occupied by the Cookhouse and construct a new building for automobile dealership with associated service bays and to perform related site development activities. The subject property is located on the southeast side of Boston Post Road across the street and approximately 400 feet east of its intersection with Richmond Drive, and is shown on Assessor's Map #32 as Lot #8, and is in the SB-E (commercial) Zone.

Commission members believed that the application seemed appropriate and asked the staff to draft a Resolution for consideration at a future meeting. They also asked that the Resolution be very specific about car carriers not parking on the street or backing up into the street.

Chairman Conze read the following agenda item:

**Approval of Minutes**

*September 14, 2010 Public Hearing/General Meeting*

The draft Minutes were reviewed. The following motion was made: That the Commission adopt the Minutes. The motion was made by Mrs. Cameron and seconded by Mr. Spain. All voted in favor except Mr. Voigt who had not attended the September 14<sup>th</sup> meeting.

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

The following motion was made: That the Commission consider the Cosi Restaurant location at 980 Boston Post Road under "Other Business". The motion was made by Mrs. Cameron, seconded by Mr. Spain and unanimously approved.

Mr. Ginsberg reviewed the letter from the owners of the building that formerly housed Cosi Restaurant. A new restaurant owner wants to occupy the same space and would have the same hours. They would have one delivery vehicle that would be parked in the municipal parking area behind the building. They will need to install a new odor control and venting system in order to expand the cooking facilities. They will have the same outside seating that was approved for Cosi. Commission members reviewed the request and felt that no action by the Commission was necessary because the new use would be in compliance with the previous approval. The Commission members did note that no deliveries would be permitted from the street and that the odors needed to be adequately controlled.

There being no further business, the meeting was adjourned at 10:10 P.M.

Respectfully submitted,

David J. Keating  
Assistant Director

*10052010min*