

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
October 6, 2009**

Place: Auditorium
Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Conze, Spain, Hutchison, Grimes, Bigelow

STAFF ATTENDING: Ginsberg, Keating
RECORDER: Syat
FILMED: Channel 79

Chairman Conze read the following agenda items:

PUBLIC HEARING

Continuation of Public Hearing regarding Special Permit Application #188-B/Site Plan, Darien Board of Education, Darien High School, 80 High School Lane. Proposing to utilize six (6) portable lights at the Darien High School Stadium Field for seasonal fall use by Darien High School fall sports teams. The subject property is located on the north side of High School Lane approximately 1,200 feet west of its intersection with Middlesex Road, and is shown on Assessor's Map #9 as Lots #80 and #81, R-2 Zone. *PUBLIC HEARING OPENED ON 9/8/2009. DEADLINE TO CLOSE PUBLIC HEARING IS 10/13/2009 UNLESS EXTENSION IS GRANTED.*

Continuation of Public Hearing regarding Special Permit Application #188-C/Site Plan, Darien Junior Football League (DJFL), Darien High School, 80 High School Lane. Proposing to utilize six (6) portable lights at the Darien High School Stadium Field for seasonal fall use by Darien Junior Football League. The subject property is located on the north side of High School Lane approximately 1,200 feet west of its intersection with Middlesex Road, and is shown on Assessor's Map #9 as Lots #80 and #81, R-2 Zone. *HEARING OPENED 9/8/2009. DEADLINE TO CLOSE IS 10/13/2009 UNLESS EXTENSION GRANTED.*

Attorney Bruce Hill represented the Darien Board of Education and explained that two meetings had been conducted with neighbors including their representative, Attorney Greg Cava. He said that Attorney Cava's clients wanted the Board of Education to permanently forego any future application for lights at the High School facility and to install screening and planting around the football field for the temporary lighting and to institute a system of penalties for any violation of the temporary lighting, including the cessation of use of the lights. He said that the Board of Education discussed these requests and met with the neighbors again on September 25, 2009. Attorney Hill said that the Board of Education is not willing to forego any potential for future applications nor is there funding available for the aggressive landscaping that the neighbors demand. The Board of Education also indicated that they will certainly work to solve any problems that might arise through the use of the temporary lights, but will not have a system in place to automatically cease the lights if there is just a problem. Attorney Hill said that at the subsequent meeting, Attorney Cava represented that his clients would be willing to allow the Board of Education to submit an application in the future if the stadium facility is relocated to a

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different portion of the property. Attorney Hill said that he understands that the concerns of the neighbors are sincere but, many of the concerns are well beyond the pending application. Attorney Hill said that Attorney Cava has made a series of demands and threats including litigation and potentially revoking the license for the entire school. Attorney Hill said that while litigation or appeal of any action taken regarding the pending application is always a possibility, the school is a permitted principal use within the residential zone under Section 402e of the Regulations. It is not a Special Permit use for which a license or a permit could be revoked.

Guy Wisinski, representing the Darien Junior Football League, said that his group has met with the neighbors and will continue to address any of the legitimate, reasonable concerns that the neighbors have. Dick Abu, President of the Darien Junior Football League, noted that this is an application for temporary use of the lights for a very short period of time. He said that in the meetings, Attorney Cava implied that the Darien Junior Football League was not concerned enough about the safety of its players. Mr. Abu said that the DJFL does try to provide a very safe and positive situation for all of its participants. He said that they are constantly refurbishing and replacing safety equipment and pads and other materials. He said each of the coaches is trained in CPR and first aid, and in preventing and detecting potential concussions. He said that Post 53 Emergency Medical personnel are in attendance at each game played by the DJFL just in case there is some sort of medical emergency. He said that during practices each team does have a first aid box for the use of the team and each player has to receive medical clearance before they can participate. He said that all of the coaches and assistant coaches undergo a security check to make sure that they are appropriate to participate in the League. Mr. Abu said that the League has made numerous changes to improve safety. This includes things like eliminating kick-offs. He said that the temporary use of the lights will be to improve safety for practice situations so that the players have approximately the same amount of light in November as they did when they practiced in September. This will help to eliminate the use of gymnasiums or parking lots. He also noted by League rules each team is allowed to practice for only six hours per week.

John Sini said the temporary lights to be used within the High School football field are much less extensive than the paddle tennis courts that have been used at various clubs throughout the community for many years and without any known incidents. He said that at the High School the temporary use of the lights will involve approximately 24,000 watts of lights spread over 57,000 sq. ft. of playing area. This is comparable to the 1,500 watts per light he used to cover for paddle tennis courts that encompass approximately 13,000 sq. ft. of area. John Sini displayed aerial photographs of Fairfield Ward High School, Staples High School and Brien McMahon High School to indicate that those High School facilities are close to residential houses. He also showed photographs of Greenwich High School and Norwalk High School and Stamford High School. He said that any claimed reduction in house values is due to the recession and not the proposal for lights. He said that neighbors have claimed that the threat of the proposal for lighting of the stadium has reduced the value of property surrounding Darien High School. Mr. Sini said that the use of the temporary lights by the Darien Junior Football League is secondary to the school usage. He referred to the Hygenix study of the trial use of lights at the Darien High School during 2008. It was noted that the fugitive light at the edge of the field was negligible. He noted that the Board of Education has had a very good working relationship with community as a whole. The various athletic fields at different schools within Town are used by a variety of athletic groups from times as early as 7:00 in the morning until 8:00 p.m. seven days a week depending on the sport and the season. Mr. Sini said that a three decibel difference between the nighttime use and the daytime use

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is negligible. He said that there are many commuters that are still getting off the trains from New York City by 6:50 p.m. and many drivers are still on I-95 and the Merritt Parkway until 7:00 p.m. He said that these commuters coming home to Darien or passing through Darien are creating a constant background noise. He emphasized that the Darien Junior Football League is proposing 15 days of practice at the High School facility that will total a use of no more than 22.5 hours. This would only take place if one or more of the DJFL teams are in the championship playoffs. Guy Wisinski said that he contacted the Chairman of the Light Committee of Greenwich, Tony Vitale. He will provide the name and contact numbers.

Mr. Spain asked about the playoff schedule for the High School athletic teams. John Kelleher, Director of Athletics, said that the High School football team will learn if they are in the playoffs on Thanksgiving Day or the next day. If they are not in the playoffs, then their final evening of practice would have been the Tuesday prior to Thanksgiving (the Wednesday before Thanksgiving is a half day of school, so practice is conducted in the early afternoon on that day). Thanksgiving Day is the last scheduled game within the regular season. Other teams that would use the High School field with temporary lights include the girls' field hockey team, the boys' soccer team and the girls' soccer team. These teams end their regular season play the weekend of November 7. The season, including the playoffs for these teams concludes the weekend before Thanksgiving. Mr. Kelleher said that even if the teams are in the playoffs, there will be no use of the lights by any of the High School teams after 6:00 p.m.

Paul Engemann, Director of Facilities for the Darien Board of Education, said that in response to questions from Mr. Hutchison regarding the neighbors' recollection of dense landscaping between the fields and the property line, he said that the neighbors apparently were recalling an early schematic, conceptual drawing that was embellished by the architect. It was not the final plan approved by the Planning & Zoning Commission. He said that the final approved version for landscaping and planting has been properly implemented. Attorney Hill said that it is not practical or possible to plant screening vegetation this year. It is not practical because it is not in the budget nor is there time to complete that type of work.

Mr. Hutchison said that the standards in the Regulations call for screening of the lighted recreation facilities. Mr. Hill said that this is a school, not a residence and the proposal is for temporary use of temporary lights for a few weeks during the late fall season. The temporary use is permitted in the zone by special permit.

John Boulton, Chairman of the Board of Education, said that the application is designed to allow both the boys' and the girls' teams to have equal access to the temporary lighted facilities if they have a need for such lighted practice facilities. No games would be played utilizing the lights. Mr. Spain asked questions about the DJFL playoff system. Mr. Wisinski said that the DJFL uses five fields throughout the Town and has 16 teams this year. Many of those teams could be eliminated early in the playoffs (the first weekend in November), but some teams could be successful in the playoffs and continue for another few weeks.

Attorney Greg Cava said that he represents neighbors of the Darien High School. This is an organization that is unincorporated and is an informal group of neighbors that has had to deal with proposed lighting at the school facilities in the past. He said there are approximately 20 households involved. He said that the neighbors are tired of this issue and want finality to the

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question involved. He said that in his meeting with the representative of the applicants, he stressed the need for a mechanism to clearly and effectively enforce the conditions and stipulations of any permit that is granted by the Planning & Zoning Commission. He also indicated that practicing or playing under the lights is slightly less safe than practicing or playing in full daylight. Attorney Cava said that if the Commission does not approve the lights there can be no lights, but if the Commission does approve the use of the temporary lights, then such a decision could be appealed by the neighbors and there would be no lights permitted at the High School facility. In either case, there would be no benefit to the applicants. If, on the other hand, there is an agreement reached between the neighbors and the applicant, and the Commission does approve the lights, then the applicants will benefit from the temporary use of the lights. Attorney Cava said that under Section 8-24 of the Connecticut General Statutes, a Mandatory Referral is necessary because this is not maintenance or a repair of existing facilities, rather it is a substantial improvement that includes underground vaults and an underground electrical system that will cost approximately \$45,000 to \$50,000. He claimed that the failure of the applicants to apply for a Section 8-24 referral means that the application is not complete.

Attorney Cava reviewed the Special Permit criteria under Section 1005 in the Regulations. He said that 4 or 5 of the 9 applicable provisions have not been satisfied. He said that the proposed lights are not in harmony with the district of single family homes surrounding the High School and noted that one family moved due to the possible lights. Other families have had their property on the market but have received no offers due to concerns of possible lights at the High School. He said that the prospect of having lights at the High School is interfering with the appropriate development or redevelopment of the district. Attorney Cava said that another criteria is that the lighting be screened in view from neighbors. He said that the fact that the Board of Education has not budgeted the money for lighting or screening does not obviate the requirement. He said that contrary to Section 1005b, this proposal does not include the necessary buffering or screening.

Attorney Cava said that the site plan submitted is incomplete. He referred to a Volume 247 Page 231 deed restriction and accompanying map filed in the Darien Land Records that restricts a portion of the use of the property. He said that this deed restriction is still applicable and it requires a buffer area of at least 50 feet wide along the easterly property line. The buffer must consist of suitable plants to create a complete buffer. He said that the current proposal needs to create that buffer in order for the Special Permit to be granted.

Attorney Cava said that the existing football field was designed and constructed for daytime use only. Converting it to a night time use is not an acceptable minor modification because it is so close to residences that are located to the north and east and because the football field is not screened from view for night time use. Attorney Cava said that contrary to Section 1025.6, the source of the light will be visible from the adjacent streets and properties. He submitted a report dated December 2, 2008 from Eastern Engineering. He said that Section 944 of the Zoning Regulations requires a buffer and the applicant has not provided any buffer between the proposed Special Permit activity and the residences. He submitted photographs of other high schools and Darien High School. He also submitted ground level photographs of Darien High School facilities from neighboring property owners.

Attorney Cava argued that the Darien Junior Football League application, which piggy backs on the Darien High School application, is invalid because DJFL has no standing because they are not

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the property owner or tenant of the property. They are also not the Board of Education and they are not a school. He said that the DJFL application was not signed by anyone of standing and that the use of lights after 6:00 p.m. would be at a time when it is darker and later and quieter and therefore the noise to be created would be more noticeable and obnoxious to the neighbors. He said that the decibel level of sound measurement is not a linear scale. He said that the 10 decibel change from 30 decibels to 40 decibels is actually creating a noise that is perceived to be twice as loud. From 30 to 50 decibels is a change that is perceived to be 4 times as loud. He said that the perception is that we compare the noise that we hear to the background level of other sounds. This background level of noise and sounds is lower during the evening. The quieter night will mean that the noise created by the whistles and voices and activities of DJFL practicing under the lights will be much more noticeable than the same amount of noise that would be measured during daylight. He submitted a chart about noise levels from HMB Engineers.

Attorney Cava said that the Board of Education's mission is education, not to create conflict with the neighbors as the Darien Junior Football League application is doing. He said fostering a private recreational activity is not the Board of Education's function. He said that DJFL would be paying to use the facility and thus a mandatory referral is required under Section 8-24 of the General Statutes.

Attorney Cava said that the Town Plan of Conservation and Development does indicate that certain parks could have lighted facilities, but it does not indicate that any schools could or should have lighted facilities. He said that the applicants try to take that reference out of context to try to make it applicable to the play field at the school. But, clearly the play field at the school is part of the school and not part of a park. He said even the school needs a Special Permit for the lights and that the Planning & Zoning Commission should deny both applications.

A Sunset Table based on information from the U.S. Naval Observatory was submitted. Mr. Cava said that the Planning & Zoning Commission cannot enforce the private deed restriction but it should be shown on the submitted plans.

* * *

At 10:30, Chairman Conze called for a 5 minute recess.

At 10:35, the meeting was resumed. Mr. Conze said that the public hearing about the proposed lights would continue, but, as a formality, the Commission would open the hearing regarding the other item on the agenda and recess that item until a later date. He read the following agenda item:

Land Filling & Regrading Application #231, VR Associates, LLC, 305-309 Middlesex Road.

Proposing to raze the existing structures and construct a new single-family residence with associated filling, regrading, stormwater management and wetlands mitigation and perform related site development activities. The subject property is located on the north side of Middlesex Road, directly across from the intersection of Middlesex Road and Old Parish Road, and is shown on Assessor's Map #9 as Lots #71 & #72 in the R-1 Zone.

Due to the length of the ongoing public hearing regarding the lights at the High School, the Planning & Zoning Commission decided to formally open the public hearing regarding this

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application and to recess it to a later date. Mr. Ginsberg said that Attorney Robert Maslan representing the applicant has agreed to an extension of time to continue the public hearing. He suggested that the hearing be continued on November 17, 2009. The following motion was made: That the Commission continue the public hearing regarding 305-309 Middlesex Road to 8:00 p.m. on November 17, 2009 in the Darien Town Hall. The motion was made by Mr. Bigelow, seconded by Mr. Hutchison and unanimously approved.

* * *

The Commission resumed the public hearing regarding the proposed lights at the High School to be used by the Board of Education and by Darien Junior Football League.

Maureen Minicus of 3 Haskell Lane said she has three boys, ages 12 to 6. She said that the community seems to be losing focus because 20 families around the High School are complaining. She said that those families do not have many elementary age students that would be doing homework or going to bed by 7:00 P.M. She said that she and her family support the temporary lights because they will provide a wonderful and necessary safe area for the athletes to practice. She said she has been worried about the safety of young people if they cannot practice under the lights and then must participate in games where lights are being used. She said that the lights are only temporary and will only be used about 20 days during the year. The lights will allow the facilities to be used in the way they are designed, which is athletic activities by young people.

Jay Hardison of 11 Nearwater Lane said that he lives across the street from Hindley School. He said that there are many special activities there and at the firemen's site located one house away from his property. He said that when there are such activities you can hear the activity and you can see lights, but it is not a hindrance to his use or enjoyment of his property or to the value of his property. He said that there is broad community support for the temporary practice lights at the High School.

Tom Lochtefeld of 2 Hedge Row expressed his support for the applications. The lights will allow the practice times to be consistent even after Daylight Savings Time has ended. He said that the activity and noise level will be the same as would be experienced during the earlier parts of the year when there is more daylight.

Another gentleman spoke in support of the applications. He said that in November the Darien Junior Football League needs to have lights on the practice field so that they can practice in a safe manner.

Attorney Bruce Hill, representing Darien High School, said that a detailed protocol was worked out last year when the temporary lights were allowed at the High School as an experiment. The only violation was reported a month after it supposedly occurred instead of being brought to anyone's attention in a reasonable time period. He said that the Board of Education has no plans at this time for more substantial lights and is certainly willing to accept a moratorium of three to five years for more substantial lights, but could not accept any permanent restriction as suggested by Attorney Cava representing the neighbors. Attorney Hill said that the temporary lights do not invoke the need for a mandatory referral under Section 8-24 of the General Statutes. He did reiterate what Paul Engemann had noted about the conceptual rendering of the school as planned in 2001. It was

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not the final design. In fact, the final landscaping and planting was performed as required. He said that the only information about the difficulty of selling houses has been unsupported hearsay. With respect to the supposed easement or limitation on the property, he noted that it was not pointed out to anyone else's deed nor is it any one specifically named as the beneficiary. He said that because this is a temporary type of use, only the provisions of Section 405b are applicable and that the applicant has complied with those criteria. He did refer to the Engineer's Report submitted by Mr. Cava and noted that it contains only anecdotal observations and no engineering measurements or data or conclusions.

Attorney Hill said that the current applications are consistent with the Town Plan because there is a very specific regulation regarding outdoor lighting of athletic facilities and to say that the proposal is not consistent with the Town Plan is to say that the Regulations are not consistent with the Town Plan. Attorney Hill said that the Board of Education is asking for approval for 2009, 2010 and 2011. This three year time period is for the temporary use of lights each fall.

Attorney Hill said that Section 944 concerns the buffer requirements. Those buffer requirements were determined when the school was approved and built and the use of temporary low lights should not trigger the need for a whole new buffer around the entire perimeter of the school facility. Mr. Spain asked: what about a condition of the approval that, prior to the second or third year that the lights were being used, it be required that the buffer area be improved. Attorney Hill said that the temporary lights for a month each year should not trigger the unfair burden to require tens of thousands of dollars of landscaping to be installed.

There being no further comments, the following motion was made: That the Planning & Zoning Commission close the public hearing regarding the proposed lights at the High School for use by the Board of Education and for use by the Darien Junior Football League. The motion was made by Mr. Hutchison, seconded by Mr. Bigelow and unanimously approved.

As previously noted, the public hearing regarding 305-309 Middlesex Road will be continued on November 17, 2009.

At about 11:11 pm., Chairman called the general meeting to order. He read the following agenda item:

Amendment of Business Site Plan #256/Special Permit, Athos Real Estate/Chipotle, 71 Boston Post Road. Request to modify Conditions I and J of the Commission's September 1, 2009 Adopted Resolution.

Commission members briefly discussed the request to modify the approval. No conclusion was reached. They suggested that the Director of Planning continue to work with the attorney to discuss a reasonable resolution that provides the flexibility that the applicant wants and the assurance that there will not be any problems in the future with respect to odors and parking.

Chairman Conze read the following agenda item:

Discussion, deliberation and possible decisions:

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Coastal Site Plan Review #243, Flood Damage Prevention Application #275, Land Filling & Regrading Application #230, Hay Island Trust, 157 Long Neck Point Road (aka Hay Island).

Proposing to raze the existing residence and construct a new single-family residence; renovate guest house; convert beach house into pool house; construct a swimming pool and deck; relocate/combine an existing driveway; install two new septic systems; install a stormwater management system; and perform related site development activities within regulated areas. *HEARING CLOSED: 9/22/2009. DECISION DEADLINE: 11/26/2009.*

The following motion was made: That the Commission waive the process of reading the draft Resolutions aloud because each Commission member has received the drafts prior to the meeting and has had an opportunity to review each draft Resolution. The motion was made by Mr. Bigelow and seconded by Mr. Spain. The motion to waive the reading was unanimously approved.

The Commission members discussed the draft Resolution regarding the Hay Island project. Several minor modifications were discussed and agreed upon. The following motion was made: That the Commission adopt the following Resolution to approve the project with conditions and stipulations. The motion was made by Mr. Spain, seconded by Mr. Hutchison and unanimously approved.

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ADOPTED RESOLUTION
October 6, 2009**

Application Number: Coastal Site Plan Review #243, Flood Damage Prevention Application #275,
Land Filling & Regrading Application #230

Street Address: 157 Long Neck Point Road
Assessor's Map #59 Lots #12 and #12-A

Name and Address of Property Owner: Hay Island Trust
c/o 20 Thorndal Circle
Darien, CT 06820

Name and Address of Applicant &
Applicant's Representative: McKee Patterson
Austin Patterson Disston Architects
376 Pequot Avenue
Southport, CT 06890

Activity Being Applied For: Proposing to raze the existing residence and construct a new single-family residence; renovate guest house; convert beach house into pool house; construct a swimming pool and deck; relocate/combine an existing driveway; install two new septic systems; install a stormwater management system; and perform related site development activities within regulated areas.

Property Location: The driveway for the subject property is located on the east side of Long Neck Point Road approximately 200 feet south of the southernmost intersection of Long Neck Point Road and Pear Tree Point Road.

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Zone: R-1

Date of Public Hearing: September 22, 2009

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

Publication of Hearing Notices

Dates: September 10 & 17, 2009

Newspaper: Darien News-Review

Date of Action: October 6, 2009

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:

October 15, 2009

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 400, 810, 820 and 850 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 plans, and the statements of the applicant and 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 raze the existing single-family residence and construct a replacement six-bedroom single-family residence; renovate the guest house (aka Caretaker's Cottage); convert the beach house into a pool house; construct a swimming pool and deck; relocate/combine an existing driveway; install two new septic systems; install a stormwater management system; and perform related site development activities within regulated areas.
2. It was noted that although public sewers are available along Long Neck Point Road, that due to the distance from the house to the road, new septic systems were more feasible. The owner plans to re-use the galleries from the guest house for the pool house and abandon the existing septic system.
3. The applicant proposes to remove a large portion of the northern driveway. The northern guest house (also known as a Caretaker Cottage) will be remodeled from four bedrooms to two bedrooms.
4. The State of Connecticut DEP Office of Long Island Sound Programs sent an e-mail regarding this application dated September 21, 2009. In that e-mail, they note that they "...have no comments at this time."

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5. Because of this property's specific location directly adjacent to coastal waters and the fact that the subject property is over 17 acres in size, the Commission does not require stormwater retention or detention for this project. The applicant has proposed measures to address stormwater quality—the installation of a stormwater renovation basin.
6. The Commission notes the need for the applicant or property owner to file a document regarding maintenance of the proposed and installed drainage system (the proposed stormwater renovation basin) in the Darien Land Records. This will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.
7. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
8. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
9. 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.
10. The potential adverse impacts of the proposed activity upon coastal resources, as designed and as modified within this resolution, are minimal and are therefore acceptable.
11. 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.
12. 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 mitigate any adverse impacts by the proposed activity on coastal resources.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #243, Flood Damage Prevention Application #275 and Land Filling & Regrading Application #230 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction, filling and regrading, and related activity shall be in accordance with the following plans:
 - "Site Development and Coastal Resources Plan" Hay Island Trust, by Land-Tech Consultants, Inc., dated 8/01/09, Sheet 1 of 3.
 - "Details & Notes" Hay Island Trust, by Land-Tech Consultants, Inc., dated 8/01/09, Sheet 2 of 3.
 - "Details & Notes" Hay Island Trust, by Land-Tech Consultants, Inc., dated 8/01/09, Sheet 3 of 3.

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- Hay Island Trust—Main House, by Austin Patterson Disston Architects, LLC, dated 7/31/2009, Drawings S-100, A-101 through A-103, A-200 and A-201.
 - Hay Island Trust—Caretaker Cottage, by Austin Patterson Disston Architects, LLC, dated 7/31/2009, Drawings S-100, A-100 through A-102, A-200 and A-201.
 - Basement Plan (Caretaker Cottage), Hay Island Trust, by Austin Patterson Disston Architects, LLC, dated 9/9/2009, Drawing A-100.
 - First Floor Plan (Caretaker Cottage), Hay Island Trust, by Austin Patterson Disston Architects, LLC, dated 9/9/2009, Drawing A-101.
 - Zoning Location Survey depicting proposed improvements to Hay Island prepared for Hay Island Trust, by Redniss & Mead, scale 1"=50', dated 9/3/2009.
- B. The Fire Marshal submitted written comments for the public hearing record. Per those comments, the applicant shall install a fire hydrant off of a minimum 6" water main.
- C. Due to the nature of the project, the Planning and Zoning Commission will not require a Performance Bond.
- D. Accompanying the Zoning and Building Permit applications and prior to commencing construction, a certification shall be submitted from a licensed architect and/or engineer that verifies that the final design of the foundation of the new main residence complies with the applicable flood damage prevention requirements.
- E. 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.
- F. Very limited filling/regrading of the site has been shown on the submitted plans. No filling or regrading beyond that shown on the submitted Site Development and Coastal Resources Plan is authorized.
- G. Prior to the issuance of a Zoning or Building Permit for the new main residence, 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. After approval by the two Directors, it shall be filed in the Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 157 Long Neck Point Road to maintain the stormwater renovation basin, and will alert future property owners of the existing on-site drainage facilities and the need to maintain the stormwater renovation basin to minimize any water quality impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records by the owner before December 6, 2009 and prior to the start of any filling or regrading work.

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- H. As each major aspect or area of work within the project is completed, 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, and that the first floor of the Caretaker Cottage is at least one foot above the base flood elevation. In addition, a Professional Engineer shall certify in writing that the stormwater renovation basin work (the installation of a meadow with earthen berm) has been properly completed in accordance with the approved plans. The applicant shall submit written verification from the project engineer that all aspects of the construction, site regrading, re-vegetation of disturbed areas and utility installation have been completed in compliance with the approved plans.
- I. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- J. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to, review of the plans and obtaining permits for the abandonment of the existing septic system and the construction of a new septic system from the Darien Health Department, and a Demolition Permit from the Darien Building Department. A final Certificate of Occupancy for any structure will not be granted until all conditions of all town bodies have been satisfied. This includes the Building Official, Health Department, and Zoning Official.
- 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 (October 5, 2010). This may be extended as per Sections 815 and 829f.

All provisions and details of the plans shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this action and prior to the start of any filling or regrading work and prior to the issuance of a Zoning and Building Permit for the main residence, or this approval shall become null and void.

Chairman Conze read the following agenda item:

Special Permit Application #125-C, Darien Junior Football League (DJFL), Holahan Field, 2 Renshaw Road. Proposing to install three temporary lights at Holahan Field for DJFL team practices on weekdays. *PUBLIC HEARING CLOSED: 9/22/2009. DECISION DEADLINE: 11/26/2009.*

Commission members reviewed the draft Resolution. Revisions of the draft were distributed for all to review and discuss. Commission members noted that the Field was originally used as a High School athletic field until the building was converted to use as a Junior High School. The building was converted to the Town Hall use in 1984. It is not a typical park or Town Hall field, but rather it has a

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long history of intense recreational use. Mr. Conze summarized the draft Resolution indicating that it would be an approval for a one year trial period only and that Darien Junior Football League would need to submit a detailed report to the Commission after the temporary use has been conducted and the Football League needs to avoid intrusive activities to the neighborhood such as dropping off participants on the side streets. After further discussion, the following motion was made: That the Commission adopt the following revised resolution to grant approval to the application subject to a number of conditions and stipulations. The motion was made by Mr. Spain, seconded by Mr. Bigelow and unanimously approved.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
October 6, 2009**

Application Number: Special Permit Application #125-C
Darien Junior Football League (DJFL), Holahan Field

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

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

Name and Address of Applicant &
Applicant's Representative Darien Junior Football League (DJFL)
c/o Guy Wisinski
35 Scofield Farms Road
Darien, CT 06820

Activity Being Applied For: Proposing to install three temporary lights at Holahan Field for DJFL team practices on weekdays.

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

Zone: R-1/3

Date of Public Hearing: September 22, 2009

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

Publication of Hearing Notices
Dates: September 10 & 17, 2009 Newspaper: Darien News-Review

Date of Action: October 6, 2009 Action: GRANTED WITH
MODIFICATIONS AND STIPULATIONS

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Scheduled Date of Publication of Action: Newspaper: Darien News-Review
October 15, 2009

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

- the proposed use and activities must comply with all provisions of Sections 400, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted sketch, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. The applicant is a youth sports association which conducts football practice and game activities for youngsters in the Town of Darien, starting in the primary grade age levels up into middle school age. It was formed more than twenty years ago with fewer than 100 youngsters playing, and now has more than 500 players on a variety of teams and age levels. It has functioned successfully over these years using Town fields and facilities under the auspices of the Town Park and Recreation Commission without the installation or use of artificial lights.
2. The application is to install three temporary lights at Holahan Field for DJFL team practices on a maximum of 25 weekdays in 2009. DJFL received specific authorization from the Darien Parks and Recreation Commission to proceed with this application for this specific field. It also uses other fields owned by the Town, including some located at one or more public schools. The number, height, location and use of the proposed temporary portable lights were described at the public hearing. The purpose of the temporary portable lights is to have football practices on Holahan field later in the day during the shorter daylight weeks. The proposed temporary lights would allow lighted practices after sunset. The applicant is not expanding the football practice schedule in terms of numbers and duration of practice sessions.
3. The Commission acknowledges that there are two separate yet related applications for 20' portable temporary lights at the Darien High School Stadium field. One of those was for light use by the Board of Education/Darien High School, and the other for DJFL use.
4. Section 405b of the Darien Zoning Regulations allows lighting or illumination of recreation facilities as an Accessory Use Requiring a Special Permit. That Section reads as follows:
 - b. Outdoor recreational uses and tennis courts. The lighting or illumination of recreational facilities is permitted provided that such lighting shall create no hazard or nuisance upon adjacent properties with reference to the following standards:*

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

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

5. At the public hearing, the representatives from the DJFL noted that the proposal is to install three temporary generator-powered light poles to allow DJFL practices at Holahan field weekdays only from Monday October 19 to either a) the date that the last DJFL team is eliminated from the playoffs or b) Friday November 20, 2009, whichever comes first. It was noted that October 19 to November 20 (10 weekdays in October and 15 weekdays in November) is the maximum usage, not necessarily the actual usage. It also was noted that DJFL has held practices on Holahan field for many years. The usage at that field will decrease as DJFL teams get eliminated from the playoffs. Applicant's presentation did not establish a connection between the regular season and the playoff season—except to emphasize that, as November 20 approached, only teams whose record had prevented them from being eliminated in the playoffs would still be practicing. It was also noted that practices are not usually held on Mondays, which also decreases the amount of days the lights are likely to be on.
6. The applicant requested to have the lights on from 5:30pm to 7:15pm, with practice generally ending at or about 7pm, and giving everyone time to exit the field.
7. The applicant noted, and the Commission agrees, that this is a very limited proposal for a limited duration. The details presented to the Commission were satisfactory for this trial period. The Commission is looking for the DJFL to manage this temporary lights program. Use of this field is authorized by the Parks and Recreation Commission.
8. The subject application is solely for portable, lights to be used on a temporary basis. The usage of the lights was specifically defined and limited by the applicant within the application materials and at the public hearing. Any request for lighting beyond November 20, 2009 requires a subsequent Special Permit application to this Commission.
9. The Commission notes that Holahan field is used for many purposes throughout the year. The Commission acknowledges that this field is likely not suitable for permanent lights at any height due to this multi-purpose nature. Fields and historic use of this property is not typical of a Town Hall field, but rather a school field which it was in the past until 1983.
10. The information gathered during this maximum 25 day (herein shortened to a 20 day) trial period nonetheless could be helpful in any future analysis of light proposals for the subject property. The Commission notes that if the trial period proposed had been longer, there

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could have been other stipulations required by the Commission to ensure that the lights would not have a detrimental impact on the neighborhood. The Commission notes that many of the neighbors concerns were due to the proposed use of generators for the lights. If there is a future request, the Commission could be expected to strongly discourage the continued use of diesel generators to power the lights.

11. It was clear from the applicant's presentation that no different or more intense activity or use is being proposed as part of this application. The existing afternoon and early evening football practices on Holahan field now occur, and will continue to occur. Only football practice sessions for Darien Junior Football League teams are proposed to occur under the subject lights. No other use of the lighted field is being requested.
12. This Commission specifically finds that the applicant has operated a highly successful youth sports program for many years, and it has grown and prospered without the use or need for artificial lights. No showing was made at the hearing that applicant's continued successful operation will depend in any material way upon its access to lighted practice fields at any time during its regular season or post-season.
13. The subject property is in an R-1/3 (residential) zone. This request includes tight control of ambient and direct light to minimize the impact on the neighbors' residential properties.
14. The applicant noted during the public hearing that sometimes, parents of DJFL players will turn on the headlights of their vehicles located in the Town Hall rear parking lot in order to provide light for the players. These lights face neighbors on Cherry Street. The Commission has concern regarding this practice, as these lights could shine into Cherry Street residences. The proposed lights configuration is facing away from Cherry Street residences. The normal youth sports activities which this Commission has approved for this location by the Town and by the Park and Recreation Commission does not allow such nuisance activity vis-à-vis surrounding neighbors' residences.
15. At the public hearing, neighbors voiced their concerns with the proposal. Their concerns included the lights and noise of later practices, the noise and smell of the proposed generators used to power the lights, as well as traffic on St. John's Place and Cherry Street from drop-off and pickup of DJFL players.
16. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare. An important aspect of this determination is the fact that this will be a trial use for a limited time, such that any impact upon property values and normal residential levels of nighttime quiet residential use will not be unreasonable given such a short time period of operation.
17. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding residential areas, and the suitability of such actions to the area for which it is proposed.

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18. The nature of the proposed lighting is such that this trial project will not unreasonably hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
19. The site plan has been reviewed by the Commission and is in general compliance with the intent, purposes and objectives of Section 1020.
20. The design, location, and specific details of the proposed use will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole. The activity is not expected to add to the traffic volumes in and out of the Town Hall parking areas beyond what DJFL practices currently entail.
21. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations, particularly because it seeks a short term trial period activity.

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

- A. Installation of the portable, temporary 20 foot high lights shall be in general accordance with the sketch entitled, "Holahan Field & Surrounding Neighborhood", scale 1"=70 yards. Slight positioning adjustments may be made in the field to minimize impacts, but should be substantially similar to the placements shown on that sketch.
- B. The lights (at a maximum of 20 feet high) shall only be turned on for DJFL practices during the time frame specified herein: Monday October 26, 2009 through Friday, November 20, 2009, 5:30pm-7:00pm. Only DJFL personnel shall be allowed to turn on the lights and turn them off. They shall be locked when not in operation.**
- C. The Commission strongly recommends that during the latter part of the 20 day trial period or within a day thereafter or during the day, the lights be positioned for one or two hours at other positions at Holahan field, and the light and sound from that location be analyzed. This will allow the DJFL to understand better the difference in light and sound from various areas on the field when fewer leaves are on the trees. As teams get eliminated from the playoffs, and fewer children are practicing, DJFL is encouraged to continue to move the lights further away from the neighbors, as less field space may be needed during the end of the 20-day trial.
- D. It was noted during the public hearing that on some occasions, parents turn on their vehicle headlights during practice to help illuminate the field. That shall not continue. On or before October 26, 2009, the DJFL shall notify DJFL parents that turning on their vehicle headlights during practice beyond normal driving needs is no longer permitted. It is recommended that this notice be done via e-mail and a sign at the Holahan Field site.

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- E. No players or coaches shall be picked up or dropped off on St. John's Place or on Cherry Street. Anyone dropping off or picking up shall do so from the Town Hall parking lot. It is recommended that DJFL notify parents of this via e-mail and a sign at the Holahan field.
- F. On Mondays through Thursdays, the 20' high portable lights may stay on the field at their normal operating locations. On Friday nights or on Saturday mornings, the lights shall be rolled back by the cemetery (near the 8-man sled) so that the fields may be used by other teams over the weekend.
- G. A contact phone number for DJFL shall be submitted to the Planning and Zoning Office before October 19 and prior to the installation of the portable lights. This should be a phone number where someone can be contacted when the lights are in use and immediately thereafter. This will allow the neighbors to contact someone directly if they believe that any of the conditions herein are not being complied with, or if the lights are not turned off at the correct time. Any phone calls regarding the lights during the trial period shall be logged, and included in the subsequent "post-operation" report required by the Commission herein.
- H. Within 60 days after the final light use allowed under this decision (such final date expected to be on or before November 20, 2009), DJFL shall prepare a written report outlining the following: when the lights were used; any complaints regarding the noise, light, or other potential impacts to the neighbors; and what changes could be made to minimize potential impacts (if any) were similar temporary lights to be used in the future. In order for the Planning & Zoning Commission to get a better understanding of how this trial period has worked, a copy of said report shall be submitted to the Planning & Zoning Office before January 31, 2010, so that the Commission can discuss said report at a meeting in late January or February 2010. This meeting will allow the Commission to hear first-hand from both the DJFL and the neighbors about these temporary portable lights. It will also allow the DJFL to consider what they would do or could do differently, and to better understand what impacts the lights may have had.
- I. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. **The Commission hereby confirms that any future application for lights, whether temporary or permanent, shall require subsequent review and action by the Planning and Zoning Commission.**
- J. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke these permits as it deems appropriate.

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

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Chairman Conze read the following agenda item:

Business Site Plan #143-B, Henry Rioux d/b/a Affordable Hearing Aids of Darien, 1936 Boston Post Road, NB Zone.

Request to establish a store to sell, service, and repair hearing aids on the first floor of the existing building (formerly occupied by Dom's garden/flower shop, and to relocate a shed.

Mr. Ginsberg explained that this application had been withdrawn. The applicant is looking for a different location within Darien in which to conduct his business.

Chairman Conze read the following agenda item:

Site Plan Application #251, Special Permit Application #246, Land Filling & Regrading Application #184, Lot Line Adjustment #609, Hoyt Street Partners, LLC, Hoyt Street/Wakemore Street

Request for extension of time to commence project until April 6, 2010.

The Planning & Zoning Commission discussed the request for additional time to start and complete the project. They agreed to grant an extension to commence construction until April 6, 2010. It was noted that it will take several years to build the project to completion. The motion to grant the extension was made by Mr. Hutchison, seconded by Mr. Bigelow. All voted in favor except Mrs. Grimes who abstained in order to avoid any potential conflict of interest.

Approval of Minutes

September 1, 2009 Special Meeting and Public Hearing/General Meeting

The following motion was made: That the Commission approve the Minutes as submitted. The motion was made by Mr. Bigelow, seconded by Mrs. Grimes and unanimously approved.

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

The following motion was made: That the Commission consider the 135 Five Mile River Road project and the Swap Shop on Ledge Road under "Other Business". The motion was made by Mr. Bigelow, seconded by Mr. Spain and unanimously approved.

Director of Planning Ginsberg explained that **Andy Glazer** had submitted and obtained approval for construction of a replacement house at **135 Five Mile River Road**. The approval required that construction start in October of 2009. Apparently, that will not be feasible. Mr. Glazer has requested an 18 month extension. The following motion was made: That the Commission grant an extension so that the construction regarding this project must commence by November 30, 2010. The applicant would then have one year to complete the construction in compliance with the Special

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Permit that has been granted. The motion was made by Mr. Spain, seconded by Mr. Hutchison and unanimously approved.

The Commission members discussed the **Swap Shop Recycling Center at 126 Ledge Road**. This would encompass a “tent-like” facility so that objects that are being disposed by people and are still in good usable condition can be put aside and other people can pick up those items. This will facilitate actual recycling of a finished product rather than the item being destroyed and requiring disposal. Commission members agreed that this is not a substantial physical improvement of the Town facilities and does not require a new Special Permit. It only requires a minor amendment to the existing Site Plan and Special Permit approval for the facility. The motion to approve that modification was made by Mr. Spain, seconded by Mr. Bigelow. All voted in favor except for Mr. Hutchison who abstained in order to avoid a potential conflict of interest.

There being no further business the meeting was adjourned at 11:35 p.m.

Respectfully submitted,

David Keating
Assistant Planning & Zoning Director

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