

**PLANNING AND ZONING COMMISSION
DRAFT MINUTES
GENERAL MEETING/PUBLIC HEARING
March 24, 2009**

Place: Room 206
Town Hall

TIME: 8:00 P.M.

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

STAFF ATTENDING: Ginsberg
RECORDER: Syat

GENERAL MEETING

Mr. Conze read the first agenda item:

Proposed Amendments to the Darien Zoning Regulations put forth by 333 West Avenue Associates, LLC. A proposal put forth by 333 West Avenue Associates LLC to amend the Darien Zoning Regulations. This proposal would add a new Section 1052 to define and allow "Single-Family Open Space Development" and amend the existing Subsection 404 to allow such use as a Principal Use requiring a Special Permit.

Mr. Finke made a motion to waive the reading of the draft Resolution aloud. That motion was seconded by Mr. Hutchison and unanimously approved. Mr. Spain noted that this draft Resolution tracks the Planning & Zoning Commission's deliberations of March 10th. Ms. Grimes had a comment on paragraph 10 regarding the definition of "sensitive lands". Mr. Ginsberg noted that those would be called out specifically during the submittal of the site plan. It was then suggested that a modification to Note A be added to the effect that "The submitted site plan shall delineate the "Sensitive Land" as defined herein". Mr. Finke noted that although he was unable to attend the public hearing on February 24th on this matter, he watched the DVD of the meeting and is fully familiar with the application. Mr. Spain then made a motion to adopt the Resolution as modified. That motion was seconded by Ms. Grimes and unanimously approved by a vote of 5 to 0. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
March 24, 2009**

Application: Proposed Amendments to the Darien Zoning Regulations
put forth by 333 West Avenue Associates, LLC

Name and Address of Property Owners:	333 West Avenue Associates, LLC c/o John D. Hertz 16 Bouton Street Norwalk, CT 06854
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Name and Address of Applicant & Applicant's Representative:	Wilder G. Gleason, Esq. Gleason & Associates, LLC
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455 Boston Post Road #201
Darien, CT 06820

Activity Being Applied For: A proposal put forth by 333 West Avenue Associates LLC to amend the Darien Zoning Regulations. This proposal would add a new Section 1052 to define and allow "Single-Family Open Space Development"; amend the existing Subsection 404 to allow such use as a Principal Use requiring a Special Permit; and amend Section 906.6 regarding parking setbacks.

Date of Public Hearing: January 27, 2009 continued to February 24, 2009

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

Publication of Hearing Notices

Dates: January 15 & 22, 2009

Newspaper: Darien News-Review

Date of Action: March 24, 2009

Action: ADOPTED WITH
MODIFICATIONS WITH AN EFFECTIVE
DATE OF APRIL 12, 2009

Scheduled Date of Publication of Action:
April 2, 2009

Newspaper: Darien News-Review

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

1. A proposal was put forth by this applicant in 2008. That proposal was to modify the DCR floating zone and was denied by the Commission. That proposal also would have modified the maximum building coverage allowed.
2. In December 2008, the subject application was submitted for proposed amendments to the Darien Zoning Regulations by 333 West Avenue Associates LLC. The original version of this proposal was dated 12-17-08, and included a proposal for a new subsection 404j and a new Section 1052 (1052.1-1052.7) of the Zoning Regulations.
3. According to the subject application materials, the applicant's property locations are 329, 333 and 339 West Avenue (hereinafter referred to as "333 West Avenue") shown on Assessor's Map #48, as Lots #37, #38, #39, #41, and #42. These five lots total 1.86 acres. According to the applicant, Lots #37 and #39 are owned by 333 West Avenue Associates, LLC; Lots #38 and #41 are owned by Michael P. Murray, Trustee; and the applicant's client has an option to purchase Lot #42, which is now owned by Charles S. Moran. Those five lots range in size from .298 to .56 acres.
4. The subject application does not apply to any specific lot (i.e. It is not a Zoning Map amendment), but rather, it is a proposed amendment to the text of the Zoning Regulations to allow a new specific use in certain residential zones via Special Permit. That use is called "Single-Family Open Space Development". During the public hearing process, it was described as a form of cluster development, where multiple single-family residences are constructed on

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one property and a certain amount of open space is specifically set-aside. These types of developments are proposed to be allowed via Special Permit, and only in the R-1/3 and R-1/5 zones in Darien, on parcels with a minimum lot area of 1.66 acres in the R-1/3 zone and one (1) acre in the R-1/5 zone. The applicant's proposal therefore sets the proposed the minimum lot area at five times the existing minimum lot area.

5. As part of this application, the owners have prepared a number of exhibits in support of their proposal. This included a conceptual site plan of the Westerly Court development showing eight houses on the 1.86 acres. This was presented as a type of development which could occur if the proposed "Single-Family Open Space Development" were to be applied to these properties. The current zone regulations would allow only one single family residence on each lot.
6. The applicant submitted materials during the public hearing process showing that the proposed density for the subject property would be generally no greater than the areas around it. The applicant showed a proposal for eight single-family residences on 1.86 acres—a density of 4.3 dwelling units per acre. As noted above, these 1.86 acres reflect five existing properties. Nearby areas are zoned R-1/3 (3 units per acre) and R-1/5 (five units per acre), but have actually in some cases, been developed at a density greater than that. According to the "Surrounding Neighborhood Densities" map prepared by the applicant and dated 1/27/09, densities in the area range from 3.49 houses per acre to 8.25 houses per acre.
7. A revised proposal was dated 2-24-09. This revised proposal made changes in Section 1052.1, which addressed (1) concerns about development on "sensitive lands" and (2) concerns staff expressed about whether the proposed regulations will inadvertently legalize non-conforming uses, particularly apartments. The new second sentence in the fourth paragraph of Section 1052.1 notes that the development pressure on sensitive lands be reduced. The revised version of the proposal, dated 2-24-09, also reduced the maximum building coverage allowed in the R-1/3 zone from 20% to 17.5%, reduced the Maximum Developed site Area from 40% to 35% in the R-1/3 zone, and reduced the Maximum Floor Area Ratio in the R-1/3 Zone from .30 to .25. The Commission notes that the revised version of the 2-24-09 document corrects a typographical error in the Minimum Width in the R-1/5 zone, correcting it from 12 to 120 (two times the lot width in the R-1/5 zone).
8. The Environmental Protection Commission (EPC), in its role as a Conservation Commission, sent a memo dated January 26, 2009 regarding the proposed Zoning Regulation amendment. In that memo, the Commissioners noted their comments related only to the proposed zone change amendment, and not the site plan. One of the Conservation Commission's recommendations was a change to require more formal Open Space demarcations. That recommendation has specifically been included in the applicant's 2-24-2009 revised proposal in Section 1052.3.
9. The applicant noted that if the Commission were to approve this amendment to the Zoning Regulations, then a subsequent application would need to be made for a Site Plan and Special Permit, prior to any project being approved for construction. This subsequent application would include necessary details regarding building locations, parking, drainage, curb cut(s), etc.

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10. The subject application provides for allowing multiple single family residences on one lot, in a condominium-style ownership of the land surrounding the detached single family houses. It also allows those residences to be “clustered”, providing additional open space, while at the same time, preserving “sensitive lands”, such as inland and tidal wetlands, steep slopes, and areas within the flood zone. By specifically including provisions regarding these sensitive lands, the Commission is not opening up these areas for development, or allowing development in these areas. One important note is that the Commission will be encouraging the preservation of additional open space via open space declaration and/or conservation easement, only a portion of which can be sensitive lands. Overall, the Commission believes that “Single Family Open Space Developments” will not be a common type of development in Town, but in certain circumstances, will provide an option for developers while providing greater protection for the natural conditions and the surrounding neighbors. This proposed development option would have strict limits on amounts of impervious area as well as a requirement that at least 30% of the land be set aside as open space.
11. At the public hearing, a number of speakers from the general neighborhood near 333 West Avenue explained their concern with existing drainage and flooding in the vicinity. They also had concerns regarding this alternative form of housing ownership (condominiums). The public noted that this proposed regulation amendment could allow additional housing units at a greater density than the existing R-1/3 and R-1/5 zoning on the subject properties. They said that the property at 333 West Avenue could only be developed into four or five single-family residences each on their own lot under current Regulations. Under the proposed regulations, the subject properties could accommodate up to eight single-family residences.
12. It is noted that since this proposal is only for a zoning text change, it is not appropriate to specifically review any proposals for drainage and/or storm water management. If the text change is approved, and the applicant proposes a “Single-Family Open Space Development”, then, as part of that site plan and Special Permit review by the Commission, issues such as drainage and storm water management will be thoroughly considered by the Commission.
13. The Commission deliberated on this matter at its meeting of March 10, 2009.
14. During the deliberations, the Planning & Zoning Commission noted the many benefits of this proposed Regulation amendment. They include a Maximum Floor Area Ratio (FAR) of .25-.30 depending on the zoning district; a minimum amount of open space required (30%), which is greater than that now required by the Darien Subdivision Regulations; and a maximum Developed Site Area (35% or 40% depending on the zoning district). The proposal also includes a maximum Building Coverage of 17.5% in the R-1/3 zone, which is actually less than the 20% maximum which is now allowed in the R-1/3 zone. Currently, in both the R-1/3 and R-1/5 zones, there are no limits to maximum Developed Site Area and no limits on Floor Area Ratio.
15. The Commission hereby confirms that they have recently adopted Inclusionary Zoning, and that regulation takes effect on May 31, 2009. All applications submitted subsequent to May 31, 2009 for “Single Family Open Space Developments” and other types of development meeting certain criteria will have to address affordable housing either by constructing price restricted housing per that Regulation or paying a fee in lieu thereof.

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16. Commission staff noted its concern with allowing more than one single-family residences on one lot, and possible precedents that this could establish. Since Section 387 is expressly limited to “legally existing uses” at the time the regulations are adopted, the proposed regulations (Section 1052 et. seq.) cannot be used to legalize apartments, etc. which are not already legally nonconforming. However, to avoid any ambiguity the applicant proposed a fifth paragraph to the “purposes” section of Section 1052.1.
17. The Commission believes that although the applicant has proposed a minimum lot area of five times the existing permitted in the R-1/3 and R-1/5 zones, that a larger Minimum Lot Area is appropriate in the R-1/5 Zone. That modification by the Commission is to require 1.666 acres (72,600 square feet) for this type of development in R-1/5 zone and 2.25 acres if it is in the R-1/3 Zone. This modification by the Commission is reflected in Section 1052.2 (below).
18. One provision within the proposed Section 1052.3 (Open Space) would allow up to half of the area of the Open Space to include surface storm water treatment practices that are so vegetated with associated underground drainage structures. These could include items such as a rain garden, bio-retention basin, and/or treatment wetland or similar practice. The wording in Section 1052.3 has been modified to specifically reflect these natural storm water management structure options.
19. The Commission finds that this zoning regulation amendment is consistent with the 2006 Town Plan of Conservation & Development. The following specific recommendations are in the 2006 Plan on page 6-3:
 1. *Consider expanding the current size restrictions for condominiums.*
 3. *Consider establishing regulations regarding impervious surfaces coverage restrictions to maintain the character of the community.*
 10. *Adopt density incentives for congregate/cluster and condominium housing providing significant open space.*

On page 9-5, Recommendation #13 is:

20. *As trends change through time, the Commission should consider methods to accommodate such in the Darien Zoning Regulations. Examples include, but are not limited to: the provision of day care; wireless telecommunications; home occupations, senior housing developments, cluster housing, hotels, and larger condominiums. The Zoning Regulations should continue to be reviewed to ensure that they meet the changing demographic needs of the community, while maintaining existing community character.*

NOW THEREFORE BE IT RESOLVED that based upon the review of all of the materials and information, the Commission, acting in its legislative capacity, hereby ADOPTS WITH MODIFICATIONS the 2-24-09 revised ***Proposed Amendments to the Darien Zoning Regulations*** WITH AN EFFECTIVE DATE OF SUNDAY, APRIL 12, 2009 AT TWELVE NOON, as revised herein:

The approved wording is as follows:
New wording in bold, deletions in strikeout:

Add the following text Article IV - Residential Zone Regulations; Section 400. Residential Zones; Subsection 404. Principal Uses Requiring Special Permits:

- j. Single-Family Open Space Development in accordance with the provisions of Subsection 1052.**

Add the following text to Article X – Special Permit, Site Plan and other Special Regulations; Section 1050 – Special Uses with Special Standards:

1052. Single-Family Open Space Development

1052.1 Background and Purposes

Open space plays an important role in Town for environmental/ conservation purposes, aesthetic purposes and for passive enjoyment and may include woodlands, wetlands, vacant property left in its natural state and naturally landscaped open areas. Single-Family Open Space Development allows for the preservation of such property.

Excess impervious surface area contributes to the volume and velocity of surface water runoff, thereby increasing flooding potential. Establishing regulations restricting impervious surface coverage will reduce flooding impacts caused by development and help to maintain the character of the community. Single-Family Open Space Development achieves these objectives by establishing a Maximum Developed Site Area standard.

The Planning and Zoning Commission generally views a variety of housing options as an enhancement to Darien. Housing that permits Darien residents to “downsize” is needed. Single-Family Open Space Development addresses this need by allowing more than one single-family dwelling on a lot at a density no greater than the existing zone theoretically allows, provided that such housing is appropriate for the specific lot and the neighborhood in general.

Single-Family Open Space Development is intended to apply to oversized lots as an alternative to subdivision. It reduces the intensity of development on lots with sensitive lands by deducting wetlands, steep slopes and flood zones from the lot area for density, coverage and floor area calculations. It protects neighboring properties with buffers and setbacks equal to or greater than those required by the residential zone in which the property is located and with architecture designed to harmonize with the neighborhood and surrounding uses.

Except as specifically provided herein, these regulations shall not legalize or be construed to legalize any residential use not lawfully existing at the time these

regulations are adopted including but not limited to apartments, cottages, or any other residential use involving more than one dwelling unit on a single lot.

1052.2 Area and Bulk Requirements

Single-Family Open Space Development is only permitted in the R-1/5 and R-1/3 Residential Zones in accordance with the Area and Bulk Requirements of Subsection 406 of these Regulations and the additional requirements noted below. The requirements listed below for each zone shall be deemed to be the minimum or maximum requirements in every instance of their application. Dimensions are in feet unless otherwise indicated.

	<u>R-1/3</u>	<u>R-1/5</u>
1. Minimum Lot Area (Square Feet)	98,010	72,600
2. Minimum Width	160	120
3. Minimum Frontage	See Subsection 406	
4. Minimum Depth	See Subsection 406	
5. Minimum Front Yard	See Subsection 406	
6. Minimum Side Yard: Least One	See Subsection 406	
7. Minimum Side Yard: Total of Two	See Subsection 406	
8. Minimum Rear Yard	See Subsection 406	
9. Accessory Structures Minimum Distance from Any Lot Line	25	
10. Maximum Height in Stories	See Subsection 406	
11. Maximum Height in Feet	See Subsection 406	
12. Maximum Building Coverage (See Note a)	17.5%	20%
13. Minimum Building Separation	20	16
14. Maximum Developed Site Area (See Note a, c)	35%	40%
15. Maximum Floor Area Ratio (See Note a)	0.25	0.30
16. Minimum Open Space (See Note b)	30%	
17. Minimum Lot Area per Dwelling (Square Feet) (See Note a)	14,520	8,712

Note a: For calculation of Building Coverage, Developed Site Area, Floor Area Ratio, and Lot Area per Dwelling, the Lot Area shall exclude the following “Sensitive Land”: wetlands, watercourses, land areas sloped at more than 15%, and special flood hazard areas inundated by the 100-year flood as indicated on the Flood Insurance Rate Map and determined in conjunction with an accurate topographic survey of the site. The submitted site plan shall delineate the “Sensitive Land” as defined herein.

Note b: Minimum Open Space shall be 30% of the total area of the lot (not Lot Area as defined in Note a). At least one-third (1/3) of the Minimum Open Space shall affect property that is not Sensitive Land as determined per Note a, above.

1052.3 Open Space

Open Space shall be the portion of the lot subject to an open space easement approved by the Commission that requires such portion to be maintained as indicated on the Landscape Plan and Grading and Drainage Plan approved by the Commission. Such Open Space shall be formally demarked and vegetated with meadow seed mix, shrubs, screening, trees, woody vegetation, and similar native vegetation with habitat value. Up to half of the area of the Open Space may include surface storm water treatment practices that are so vegetated with associated underground drainage structures (such as a rain garden, bio-retention basin, and/or treatment wetland or similar practice). Lawn is not permitted within designated Open Space.

1052.4 Lot to be Served by Public Water and Public Sewerage Facilities

To qualify for development under these regulations, a lot shall be served by public water and public sewerage facilities of sufficient capacity for the proposed development.

1052.5 Off-street Parking, Loading and Vehicular Access

Parking, loading and vehicular access to the lot shall conform to Section 900 except that the Parking Setbacks from adjacent residential zones shall be a minimum of ten feet from any lot line.

1052.6 Landscaping, Screening, and Buffer Areas

Single-Family Open Space Development shall conform to Section 940 except that buffer areas need not exceed ten (10) feet in width and, at the discretion of the Commission, may include lawns, gardens, uncovered walks, patios, terraces and other at grade surfaces not considered a building. Single-Family Open Space Development is not considered a “single-family dwelling” under Section 940.

1052.7 Architectural Design and Review

Single-Family Open Space Development shall conform to Subsection 1023.4. In addition, the proposed architecture shall be suitably diverse in its design and appearance to emulate the look of a single-family neighborhood. Subsequent to Special Permit Approval, any significant modification to the architectural plans of an individual dwelling approved by the Commission shall be reviewed and

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approved by the Architectural Review Board prior to issuance of a Zoning Permit for such modifications.

Add the following text (indicated in **bold**) to Article IX – Supplementary Regulations; Section 900. Off-Street Parking, Loading and Vehicular Access;
Subsection 906. Location of Off-Street Parking Facilities;
Subsection 906.6 Parking Setbacks:

906.6 Parking Setbacks

Subject to other specific buffer or applicable restrictions of these Regulations, parking and off-street loading facilities (including stalls, turning areas, access drives, etc.) shall be located in accordance with the following setbacks and requirements:

<u>Use or Zone</u>	<u>Minimum Distance From:</u>		
	<u>Front Lot Line</u>	<u>Side Lot Line</u>	<u>Rear Lot Line</u>
Special Permit Uses in Residential Zones (See Note a)	25 ft.	25 ft.	25 ft.
<u>All Uses In:</u>			
PR	10 ft.	10 ft.	10 ft.
DBR and DMR	30	25	25
DOR-(1 and 5)	40	25	25
NB	10	4	4
OB	10	5	5
DB-1	20	4	10
DB-2	30	10	10
DC	6	10	10
CBD	none	none	none
SB	6	none	none
SB-E	18 (see 675 note e)	none	none

A buffer area of 25 feet shall be required adjacent to all residential zones. See Subsection 944.

Note a. In a Single-Family Open Space Development (Section 1052 of the Regulations), the parking setback shall be not less than 10 feet.

In addition, the 9th page of the Table of Contents shall be updated to reflect the new Section 1052, Single Family Open Space Development, and Appendix C, Schedule of Amendments, shall be updated to reflect all of these modifications.

Mr. Conze then read the next agenda item:

Request for Clarification and/or Modification of Conditions regarding: Amendment of Zoning Map #4-2008, Amendment of Zoning Regulations #8-2008, Site Plan Application #268, Special Permit Application #122-A, Land Filling & Regrading Application #219, lot line revision, Darien Housing Authority, Noroton Avenue, Elm Street, and West Avenue. Proposing to replace the existing single-family residences and apartment building which now comprise Allen-O'Neill Homes; to amend the DMR Zoning Regulations, and rezone the properties to DMR; abandon the existing Allen-O'Neill Drive; revise lot lines; construct 24 new apartment and townhouse structures containing 107 units of housing; construct one community building; install drainage facilities; and to perform related site development activities.

Mr. Ginsberg distributed the various e-mails received from neighbors, Joe Canas of Tighe & Bond, and the Darien Police Department all in response to Mr. Hill's March 19, 2009 two-page letter. The Commission then reviewed all of those e-mails. The first issue was regarding parking. Mr. Ginsberg noted that in Mr. Hill's letter he mentions to the Commission that by moving the 4 proposed buildings on Elm Street back a few feet, this will result in the loss of 4 parking spaces. He was not asking for the Commission to modify its approval, but rather was just bringing this fact to their attention. Mr. Ginsberg noted that the parking ratio will be even better than the original application as the Commission has eliminated 4 units, but only eliminated 4 parking spaces.

Mr. Ginsberg noted that in the next request from Mr. Hill was regarding paragraph 2-J of the Adopted Resolution – improvements to the intersection of Noroton Avenue and West Avenue. Mr. Hill's specific request was a modification of the condition to install crosswalks and pedestrian signals at the intersection. Mr. Ginsberg noted he asked the Darien Police Department to review this issue and they have responded with an e-mail, which the Commission read this evening. Mr. Spain believed that this is a significant change to the Resolution which he believed needed a public hearing and notice to the neighbors. Ms. Grimes explained that she drives through this intersection frequently and is familiar with that intersection.

Mr. Ginsberg then explained the third request from Mr. Hill regarding drainage requirements within the Resolution. Mr. Conze noted that P&Z staff should see the sequencing plan and this regards issues of the vacancies. Mr. Ginsberg noted that there will be many relocations of residents within the development during the multi-year construction process and keeping the existing apartment building would allow the Housing Authority to have the most flexibility. Mr. Conze acknowledged that this relocation process is difficult to lay out. Mr. Hutchison asked if the curtain drain could be installed early in the process. Mr. Conze noted the need to see the actual multi-year construction plan. Mr. Spain said that the sequencing aspect should have flexibility with input from Mr. Canas on that sequencing plan. He did not believe, however, that the test borings could be eliminated and those should be done. Mr. Finke said that the applicant should return with the sequencing plan and there is a need to show no impact on the Fairfield Avenue properties.

Mr. Conze then read the next agenda item:

Business Site Plan #212-B/Special Permit, Park Animal Hospital of Darien, 168 Noroton Avenue.

Requested modifications to the interior floor plans.

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Mr. Ginsberg then summarized the letter received March 17, 2009 from Sherif Lawendy (three pages). Mr. Ginsberg noted that in Mr. Keating's review of this matter he noted that interior floor plans submitted to the Commission during the Site Plan and Special Permit process are different than those proposed for the Zoning Permit. Mr. Ginsberg noted that those interior changes are not significant and that there are no changes to the outside of the building. There is some loss of storage which Dr. Lawendy acknowledges can be accommodated at sites elsewhere. Mr. Hutchison then made a motion to approve the interior floor plan amendments as proposed. That motion was seconded by Mr. Finke and approved by a vote of 5 to 0.

Mr. Conze then read the next agenda item:

Requested Modification of Special Permit Application #236, The Melting Pot, 14 Grove Street
Request to extend hours of operation to include lunch on Fridays and Saturdays, 11:30-2:30.

Mr. Ginsberg explained the March 14, 2009 letter received from Will Layfield, the owner of The Melting Pot. Mr. Ginsberg noted that, in its original approval, the Commission did not allow lunches to be served at The Melting Pot due to the limited parking. Mr. Ginsberg said that P&Z staff has reviewed the parking situation and believed there is now sufficient parking available on-street and in nearby municipal lots to allow The Melting Pot to serve lunch on Fridays and Saturdays from 11:30am to 2:30pm. Ms. Grimes made a motion to allow lunches to be served Fridays and Saturdays from 11:30am to 2:30pm, thereby amending Condition C of the original Special Permit Application. That motion was seconded by Mr. Finke and approved by a vote of 5 to 0.

Approval of Minutes

March 10, 2009 Executive Session/General Meeting

Ms. Grimes made a motion to approve the Minutes as written. That motion was seconded by Mr. Finke and approved by a vote of 5 to 0.

PUBLIC HEARING

At about 8:30 P.M., Mr. Conze then read the first public hearing agenda item:

Special Permit Application #172-D/Site Plan, Darien Diner (former Driftwood Diner), 171 Boston Post Road. Proposing to construct first floor additions to the front of the existing building, install a handicap access ramp, allow use of the second floor for customer seating, and perform related site development activities. *POSTPONED.*

Mr. Conze noted that this matter has been postponed. Mr. Conze then read the next agenda item:

Continuation of Public Hearing regarding Land Filling & Regrading Application #221, Robert & Kitty Lavin, 480 Middlesex Road. Proposing to fill and regrade adjacent to an existing residence to create a flat yard area and to perform related site development activities. The subject property is located on the east side of Middlesex Road, approximately 350 feet south of its intersection with Saddle Ridge Road, and is shown on Assessor's Map #6 as Lot #158 in the R-2 Zone. *PUBLIC HEARING OPENED 2/24/2009. HEARING TO BE CONTINUED TO MARCH 31, 2009.*

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Mr. Conze noted that this public hearing item has been continued until March 31, 2009 at 8:00 p.m. in Room 119 of Town Hall. Mr. Conze then read the next two agenda items:

Proposed Amendments to the Darien Zoning Regulations put forth by the Darien Planning & Zoning Commission. Create a new Section 880 *et. seq.* of the Zoning Regulations. The purpose of these Regulations is to require storm water management plans for certain projects and applications. The Regulations define the applicability of the new Section and establishes components of Stormwater management plans.

Proposed Amendments to the Darien Subdivision Regulations put forth by the Darien Planning & Zoning Commission. Add to Article IV Section I a new #8 requiring that all subdivisions shall comply with the requirements for Stormwater management as outlined within Section 880 *et. seq.* of the Darien Zoning Regulations.

Mr. Conze noted that Milone & MacBroom will be having a presentation regarding their findings of the Stony Brook watershed on March 31st. In order to allow the public to hear more about drainage in that area, he is postponing the public hearing on these two matters to April 28, 2009 at 8:00 p.m. in Room 206 at Town Hall.

Special Permit Application #160-C, Cellco Partnership d/b/a Verizon Wireless, 24 Chestnut Street. Proposing to install wireless telecommunications antennas on an existing water tank and to install an equipment room within a rebuilt wooden shed. The subject property is located on the north side of Chestnut Street approximately 250 feet east of its intersection with Noroton Avenue, and is shown on Assessor's Map #20 as Lot #60, R-1/3 Zone.

Attorney Kenneth Baldwin of Robinson & Cole was present on behalf of the applicant. He noted that there is now an Aquarion Water Company water tank on the subject property and they are proposing to add 12 telecommunications antennas to that water tank at the elevation 88.5 level. They are also looking refurbish the existing accessory structure and install a generator within it. This is the same application as was proposed to the Planning & Zoning Commission in 2002 and approved by the Planning & Zoning Commission at that time. Mr. Baldwin noted that they have included coverage maps in the application. They have requested waivers of certain requirements, such as topographic information.

Mr. Carlo Centore, of NatComm Inc. Consulting Engineers, explained that they will be applying the antennas to the surface of the tank's structure by welded studs. They will be able to withstand high winds. The coaxial cables will be underground. The existing shed structure now has a dirt floor. They will be constructing a new foundation to that shed structure. The cable tray is painted galvanized metal. Mr. Baldwin added that the antennas are intended to provide 360 degrees of service. Mr. Centore explained that the face of the antenna will follow the curvature of the tank. Four antennas will be placed at each of the three spots. Mr. Spain asked whether it would be possible to hide the four "posts." It will be left unsightly to put a smooth surface in front of it to hide the antennas. Mr. Centore responded that they can create a "screen" to hide the antennas. That will add bulk and be a smoother surface. Enclosing them will make them obvious. The proposal is a relatively clean installation. Mr. Baldwin then passed around photographs of the Waveny Park (New Canaan) water tank with a "screen." He noted that that facility has four carriers. In this

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specific instance on Chestnut Street, there will only be Verizon Wireless antennas proposed. Mr. Finke asked about the possibility of multiple carriers. Mr. Centore responded that there are considerations as to whether additional carriers could go on this tank. The first consideration is ground space, the second is the fact that the tank limits horizontal separation. He added that the height of this tank is about 35 feet lower than Waveny Park, and the existing tree line around the tank is also a factor. Mr. Spain noted that one more carrier may be possible, but beyond that, it is not likely. Mr. Centore agreed with that summary. Mr. Finke asked whether they would be willing to put a ring around the antennas if required by the Commission. Mr. Centore responded that they would.

Mr. Conze asked about the existing coverage gap at present. Mr. Baldwin then reviewed the submitted maps with the Commission. He noted that Verizon Wireless now gets coverage from the antennas at the transfer station at 130 Ledge Road; the water tower at Tower Drive; and two Stamford sites. Mr. Baldwin then referred to the proposed PCS coverage map, and noted that the Chestnut Street proposal fills in existing gaps. Mr. Conze mentioned that sometimes antennas are disguised as trees. Mr. Baldwin mentioned that, in the right setting, this may camouflage an antenna well, but not in this specific location. Mr. Conze noted that the last time Verizon Wireless came before the Commission on its Tower Drive installation, the issue was who will maintain the structure. In this case, Mr. Baldwin explained that Verizon Wireless will maintain both the antennas and the shed. Mr. Spain noted there have been issues on the Tower Drive installation. Mr. Conze mentioned that Tab 10 in Mr. Baldwin's submittal gives the Commission the needed contact information. Mr. Baldwin confirmed that this proposal is simpler than the proposal submitted for Tower Drive by Verizon Wireless a few years ago.

Mr. Alex Van Gestel of 262 Noroton Avenue then spoke. He explained that he lives next to the water tower and the shed. He is concerned about the generator, possible radiation, and the resale value of his property. He noted that he is opposed to this application. Mr. Spain noted that the FCC sets the standard for radial frequency levels and not the Planning & Zoning Commission.

Mr. Christopher Klumb of 260 Noroton Avenue explained that the proposed scheme will be very visible. He noted that other companies may also wish to site here. This could become a visual nightmare and could become an eyesore. Mr. Klumb explained that Waveny Park has a fiberglass covering over the antennas, which in his opinion is less unsightly. He mentioned that he had sent March 17th and March 20th letters to the Planning & Zoning Commission. He wants a fiberglass skirt that would become architectural, that would make this fit in. He noted that overall most neighbors want the antennas elsewhere in Town, but confirmed that if antennas are placed here, the tank should not become an eyesore. Mr. Klumb also mentioned the existing trees on the subject property, and believed that under no circumstances should Verizon Wireless be allowed to trim trees. Mr. Klumb mentioned that Verizon should plant more trees and bushes as well and that the rust streaks now on the Tower should be properly painted.

Mr. Peter Rogers explained that he owns 10 Elm Street. He said that the other tower owned by Aquarion Water Company in this area is in disrepair and not maintained. He noted that Aquarion does not shovel the sidewalk on other properties they own in this neighborhood, and that Aquarion owns three lots in this vicinity.

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Mr. Jodie Dostal of 263 Noroton Avenue said that in Norwalk Exit 16 Norden has a 75 foot high flag pole with an antenna in it. He believed that there are other places in Darien, other than this location for telecommunications antennas. Mr. Victor LaBozzo of 254 Noroton Avenue explained that the tank is a back drop to his house. Once allowed, he believed that other carriers will likely follow. He asked how this will impact the technology in the nearby houses.

Mr. Baldwin responded to the comments from the neighbors. He noted that with respect to the possible interference with technology, Verizon Wireless operates within established FCC standards. In fact, they are located on top of hospitals and have had no problems. With regard to other concerns raised by neighbors, Mr. Baldwin noted that other carriers will need approval from the Planning & Zoning Commission in the future. He believed that the screen proposed the neighbors is a great way to insure that these antennas are not intrusive. He explained that they are utilizing an existing structure. There is now nice screening on the property and Verizon Wireless will not cut or trim any trees and have no intention of cutting trees. He said that he can work with the Planning & Zoning Commission staff on any future plantings, especially near the refurbished shed via a condition of approval in the landscape plan. He mentioned that there is now a fairly substantial buffer on the property. Mr. Hutchison then asked if they will be completely rebuilding the shed. Mr. Baldwin responded that they would be. Mr. Hutchison asked if Mr. Baldwin could move the site of the shed slightly from the property line. This may allow Verizon Wireless to have the generator further away from the house at 262 Noroton Avenue. Mr. Baldwin said that they could accomplish that. Mr. Baldwin added that they will comply with all state noise standards. The generator will be operated on self-test one-half hour once a week. They can schedule that for during the day and not on weekends. It will be scheduled remotely and monitored remotely. Mr. Hutchison noted the desire to have the shed have the same square footage, but be further away with some screening in front of it. Mr. Baldwin explained that they can install noise attenuation into that generator building. It was noted that Verizon Wireless will be responsible for the antenna and Aquarion Water Company will be responsible for the grounds.

Mr. Conze said that he wants to see a formal landscaping plan for this project. Mr. Hutchison suggested that he would like to also see a new footprint for the new proposed shed. Mr. Conze mentioned that he would also like to speak with a representative from Aquarion Water Company regarding the other tank mentioned by Mr. Rogers. Mr. Spain noted that when developing a landscaping plan, Verizon should consider the need for underground conduits relative to such landscaping. Mr. Conze said that Verizon Wireless should include the possibility of hiding the antennas behind a sheath around the water tower. Mr. Ginsberg noted that the next possible hearing night would be Tuesday, April 28, 2009 at 8:00 p.m. in Room 206 at Town Hall. Mr. Spain suggested that the applicant get a plan of the other water tank to better understand its location relative to this tank. Mr. Finke then made a motion to continue the public hearing to April 28, 2009 in Room 206 at Town Hall at 8:00 p.m. That motion was seconded by Ms. Grimes and unanimously approved.

At 9:45 p.m., Mr. Conze then read the next public hearing agenda item:

Coastal Site Plan Review #241, Flood Damage Prevention Application #270, Ian Duncan, 87 Nearwater Lane. Proposing to construct a pier, dock and float and perform related site development activities within regulated areas. The subject property is on the west side of

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Nearwater Lane, approximately 400 feet south of its intersection with Nickerson Lane, and is shown on Assessor's Map #52 as Lot #4 and is located in the R-1 Zone.

Attorney Bruce Hill was present on behalf of Mr. Duncan. He noted that they have received approval from the State of Connecticut DEP and a November 4, 2008 approval from the Army Corps of Engineers. That approval from the Army Corps of Engineers was then distributed by Mr. Hill. Mr. Hill mentioned that the Darien Environmental Protection Commission also approved this project, as the work is near Holly Pond. He explained that John Roberge from RACE was present to answer any questions the Commission may have about this project. Mr. Hill stated that the dock has been specifically designed in discussions with the State of Connecticut DEP in order to protect tidal wetlands.

Mr. Hill noted that a letter has been received from the Darien Land Trust who owns 77 Nearwater Lane and has an easement over a portion of the Duncan property. Mr. Hill said that he had spoken with Doug Calby of 75 Nearwater Lane who is the neighbor most affected, who said to Mr. Hill that he supports this application. Mr. Hill believed that this application is fully consistent with CAM and is minimally intrusive on the pond. He explained that it is a 10' x 10' float replacing a previous float. Mr. Hutchison noted that the Darien Land Trust is a tenant of his, so he is recused on this application. Mr. Ginsberg noted that the State of Connecticut DEP sent a comment on this application noting that since they have approved it, it is consistent with CAM policy. Mr. Hill mentioned that the EPC required that the applicant provide a defined foot path to access the dock walkway as a condition of approval. There being no other questions or comments from Commission members or the general public, the public hearing on this matter was then closed.

At 9:55 p.m., Mr. Conte then read the next agenda item:

Proposed Amendments to the Darien Zoning Regulations put forth by the Planning & Zoning Commission. Proposal to allow blade signs in the Central Business District (CBD), Neighborhood Business (NB) and Designed Commercial (DC) zones. Blade signs are signs that are affixed to and project from a building.

Planning & Zoning Director Jeremy Ginsberg explained that blade signs (sometimes also known as projecting signs) are a sign attached to a building which projects from the building wall and is intended to be read from the side. He noted that support for these types of signs comes from the 2006 Town Plan of Conservation & Development on page 9-4 which states "Consider amending the Zoning Regulations to allow perpendicular hanging signs along the front facades in downtown." Mr. Ginsberg noted that a March 12, 2009 letter of support had been received from the Darien Chamber of Commerce. Staff also explained this proposal to the Architectural Review Board in January of 2009, who was receptive to allowing these types of these signs in the Zoning Regulations and strongly encouraged distinctiveness, creativity and innovation. Mr. Ginsberg noted that a variety of other communities in Connecticut allow such signs, including Norwalk, Westport, Stamford, and Farmington in certain zoning districts.

Mr. Ginsberg then reviewed some photographs with the Commission. The first photograph was of South Norwalk, more specifically Washington Street. This photograph showed a series of blade signs which are easily visible to pedestrians. The second photograph was of Tokeneke Road in Darien taken along the sidewalk. From this angle, pedestrians cannot see the existing wall signs. Blade

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signs in this instance would prove to be beneficial to pedestrians. He noted that Darien is becoming even more pedestrian friendly and these types of signs have been specifically designed to be allowed in three zones which are the most pedestrian friendly zones in Darien – the Neighborhood Business (NB) Zone, the Central Business District (CBD), and the Designed Commercial (DC) Zone. The third photograph showed the blade sign approved by a ZBA variance a few years ago for The Melting Pot. Another photograph showed potential blade signs for the new building at 1020 Post Road. Mr. Ginsberg noted that the Regulations have been specifically designed to allow multiple blade signs on the façade of the building to accommodate multiple first floor tenants. The Commission talked about how far the Regulations should go in specifying locations of these signs on the building and relative to each other.

Mr. Ginsberg noted that one issue is whether the sign will overhang a state road such as Route 1 (Boston Post Road) or Route 136 (Tokeneke Road). In the instance of Grove Street, for example, he noted that since that is a Town road that if the blade sign overhangs it, the property owner would need permission from the Board of Selectmen. Mr. Ginsberg also mentioned that there are specific size restrictions included in the Regulations which he believed are appropriate to achieve the desired purpose. All signs will need to be approved by the Architectural Review Board as is current policy, and the Planning & Zoning Commission would not normally be involved in the routine review and action on proposed signs. He noted that blade signs will be in lieu of hanging signs now allowed in the Central Business District, and will be in addition to wall signs now allowed.

Mr. David Genovese of Baywater Properties, a property owner in downtown, noted that this proposal is consistent with the Darien Town Plan of Conservation & Development. He pushed hard for these blade signs and the Architectural Review Board will encourage cohesiveness. He explained that landlords usually leave it to the tenants to develop signs for their buildings.

A discussion then ensued between Mr. Genovese and the Commission regarding parking issues in downtown, especially relative to the Center Street South lot. Mr. Genovese noted the need for better signage to direct both customers and employees of downtown to become familiar with specific parking locations. There being no other questions or comments from the general public or Commission members, the public hearing on the proposed Zoning Regulations regarding blade signs was then closed.

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

Mr. Ginsberg noted he had one other item to be discussed under “Other Business”, a proposal to install a pergola at 1020 Boston Post Road. Ms. Grimes then made a motion to go into other business to discuss this one item. Mr. Finke seconded that motion which was unanimously approved.

Mr. Ginsberg then explained the March 21, 2009 two page letter received from Baywater Properties requesting the construction of a pergola over the existing outdoor dining area adjacent to the approved restaurant space at 1020 Boston Post Road currently occupied by Ten Twenty Post. Mr. Genovese of Baywater Properties explained that the pergola will be entirely on his property and over the existing patio. It will not be enclosed. He said that this will only be used for the Ten Twenty Post Restaurant and not the other uses on the site. Mr. Finke then made a motion to

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approve the pergola as proposed, as a modification to the existing site plan. That motion was seconded by Mr. Hutchison, and unanimously approved by a vote of 5 to 0.

There being no further business, the meeting was adjourned at 10:20 p.m.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director

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