

**PLANNING AND ZONING COMMISSION
MINTUES
GENERAL MEETING/PUBLIC HEARING
MAY 13, 2008**

Place: Auditorium
Town Hall

TIME: 8:00 P.M.

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

EPC MEMBERS ATTENDING:
Peter Hillman, Susan Cameron, Pete Kenyon, Craig Flaherty, and Rick Rohr

BOARD OF SELECTMEN ATTENDING:
Evonne Klein, Linda Santarella, Seth Morton, David Bayne

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

GENERAL MEETING 8:00-9:00 PM

Discussion of 5/8/2008 draft Storm water Management Report and Draft Regulations.

Fred Conze called the meeting to order on behalf of the Planning and Zoning Commission. Peter Hillman called the meeting to order on behalf of the Environmental Protection Commission. Evonne Klein called the meeting to order on behalf of the Board of Selectman.

The purpose of the discussion was the Storm water Management Report and Draft Regulations. It was noted that this was not a public hearing, but it was an opportunity for the board members to hear about the preliminary Storm water Management Report and Draft Regulations from the Town consultants.

Joseph Canas, PE from Tighe & Bond, and Terry Gallagher also from Tighe & Bond, explained that the purpose for the study was to coordinate the policies and regulations within the Town and to update the regulations where necessary. The engineers recognized that they cannot put an undue burden on owners of properties yet they must properly manage the storm water run off to avoid negative impacts on adjacent properties. They also realize that they must create and over burdensome regulatory process that would be beyond the capabilities of the staff to manage. Mr. Canas explained that in general, the Town needs to better specify land use applications to the Commission that need management plans, what design criteria must be satisfied, what the process for approval will be, and what the process will be for installation, inspection and maintenance of storm water management systems. Regulations need to be modified to collect and coordinate those requirements within each set of regulations and to make sure that the various regulations by the different Boards and Commissions are all coordinated. He explained that an important aspect of the process is a threshold of when to require detailed engineering plans to manage storm water. It was recommended that this threshold be an addition of 1000 square feet or 850 square feet of additional square feet of new roof area. In such cases, the pre development and post development impervious

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surface areas will need to be compared and additional storm water run off provisions must be made for the increase in run off. It was also recommended that for new construction, including replacement of old buildings, the pre development impervious surface areas not be counted so that all of the runoff from the replacement structure and impervious surfaces are properly managed. Recommendation was also made that the maintenance agreement be filed in the Darien Land Records to make sure that on-site detention is properly maintained for many years to come. It was also noted that on site storm water detention be required of most situations but not be required of all situations, particularly those located in the lower portions of the watershed. Mr. Canas explained that they used a 10% rule to study the impact of the site on the total watershed down to the point of site. He said that this helps balance benefits with costs.

In brief, projects that would add zero to 849 square feet of new impervious roof area would only need a letter signed by a professional engineer indicating that the project would not have any adverse impact on the drainage flowing toward neighbors. For projects of 850 square feet or more, a detailed engineering analysis and report would be necessary. If an application of less than 850 square feet needs to be submitted to the Environmental Protection Commission, Zoning Board of Appeals, Planning and Zoning Commission then the detailed engineer report would be necessary. If the project involves a new structure, then the detailed engineer reported analysis would be necessary.

Mr. Ginsberg had provided information regarding the projects that had been undertaken within the past year. Of those, 318 additions and projects would have needed certification letters only from the engineer, and 52 would have needed detailed engineering studies and analysis.

Director of Planning Jeremy Ginsberg said that impervious surfaces like patios and terraces and driveways generally do not now require Zoning or Building Permits. Structures and buildings do need Zoning and Building Permits, and therefore it would be easy enough to regulate based on increasing the structure size not the total impervious surface area. He noted that some projects will still need Land Filling and Regrading Permits and would therefore be in the category of requiring a detailed engineering report and analysis. He said that in some cases, the house, garage, deck, pools and sports courts and similar work would necessitate provision of adequate drainage structures but the driveways, patios, terraces and walkways would not require drainage structures. He said it is difficult to achieve a balance of consistency and fairness. He said that the current practice is to require that there be no increase in the peak rate of discharge. This is different than requiring that there be no increase in discharge.

Mr. Canas said that updated topographic maps will be very helpful to the engineers as part of the analysis of the potential impact to upstream or downstream property owners. He said that the investment by the Town to ensure that updated maps are provided will be very beneficial. He said it would also require considerable investment from other Town departments and agencies to assure that the required reports and data do get submitted and are properly reviewed and that the drainage systems are properly installed and enforcement actions are taken if there are problems.

Mr. Ginsberg said that once the word is out of what is expected and what standards must be adhered to, then it will be more consistent and the two engineers in the public works office will have an easier time reviewing the applications. The possibility was discussed that the Commission may need to hire an outside engineer. Mr. Conze said that all the potential consequences, intended and

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unintended, will need to be closely examined. Mr. Hillman noted that the devil is sometimes in the details and each design will need to be different to accommodate the unusual circumstances of the site. It will also be critical that the Town follow up to make sure that the approved drainage systems are properly installed and maintained.

In response to questions, Mr. Canas said that Cultec units are a dry well or leaching field type of system that allow storm water to percolate into the ground rather than just being discharged into a nearby pipe or watercourse. He said that there are various storm water retention pond designs that can be utilized. In some cases, the intention of the drainage system is to detain or hold back storm water. In other cases the intention of the storm water system is to separate potential pollutants such as sediment. He said that there are rain garden and dry well designs that can be utilized to accomplish various drainage goals. In response to another question, he noted that dealing with the Interstate 95 storm water runoff is not within the Town's control, but that the Town can talk with the Department of Transportation to achieve common goals. The Town does not have any enforcement authority over the Connecticut Department of Transportation or any State facilities.

Mr. Canas said that the Federal Emergency Management Agency (FEMA) maps show areas of existing flooding. The new maps that the Town has talked about getting will show more detailed topographic information and could label areas of concerns and problems. Mr. Canas said that sites in the lower areas of the watershed and along the coast will not need to detain water, but rather will need to cleanse the water before it is discharged into the watershed. He also said that every development activity will increase the total volume of run off but it won't impact the downstream properties unless the discharge time coincides with other peak flows from other development.

Evonne Klein said that although the Town doesn't have enforcement authority over the Connecticut Department of Transportation, the Town does work with the DOT and the Connecticut Department of Environmental Protection to address issues of mutual concern. Staff of the Town and State responds to complaints of potential problems. Mr. Conze suggested a joint sub committee including members of the Planning and Zoning Commission, Environmental Protection Commission and the Board of Selectman.

The Board of Selectman and EPC were adjourned. Planning and Zoning Commission took a five minute break. The Planning and Zoning Commission resumed its meeting at 9:03 PM.

Members Present: Conze, Spain, Hutchison, Bigelow, Grimes and Finke
Staff: Ginsberg, Keating
Court Reporter: Syat

Mr. Conze noted that this is a General Meeting, and that there would be no public input regarding the matters on the agenda. He read the following agenda item:

Mandatory Referral, Board of Selectmen, 126 Ledge Road.

Request to lease 665 square feet of additional area at 126 Ledge Road for cell tower equipment.

Mr. Ginsberg explained that the existing cell tower facilities were on property owned by the Town of Darien. The Town leases the land for the tower and the adjacent equipment facilities. The proposal is to lease additional land for additional equipment. Commission members said that they

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have no problem with the proposed lease as long as it does not interfere with the Town uses of the facility including the recycling station. It is not known if additional space may be needed in the future but the issue at hand is whether or not the Town should lease the land currently being requested. Commission members recommended that the staff draft a report for action at the next meeting.

Chairman Conze read the following agenda item:

Mandatory Referral, Darien Board of Education, Darien High School, High School Lane. Request to a) install light poles for stadium field; b) install supplemental parking lot lighting and low pedestrian lighting; and c) install new sound system at Darien High School stadium field.

Mr. Ginsberg noted that he included in the packet the 1994 minutes from when the Planning and Zoning Commission had denied a previous request for lighting at the high school football field. He also included the letter from Attorney Bruce Hill with the current proposal. It was noted that this is a mandatory referral only and that many other steps would need to be followed before lighting could be installed. Mr. Bigelow noted that there are actually three parts to the request—a) the lighting of the stadium field, b) additional supplemental lighting of the parking lot and other facilities around the school, and c) the new sound system at the stadium field. Mr. Spain said that c) the sound system in and of itself is not a problem, nor is b) the additional lighting of the parking lot and other facilities around the school. The big issue is a) the illumination of the stadium field, which would then allow for the stadium field, the new sound system and the new parking lot lights being utilized well into the evenings and on many occasions.

Mr. Conze said that the Town Plan is predicated on the maintenance of the residential character of the Town. All schools are located in residential areas. This is very different than other Towns that have schools in isolated locations or adjacent to business areas. He said that the 80 foot tall poles are more than twice the normal allowed height of houses in the area. He said that to him the proposal to have the lighted football stadium in the midst of a single family residential neighbor was not consistent with the Town Plan. Mr. Finke said that the lighting of the fields in general may or may not be consistent with the Town Plan. The Commission does not have specific designs to review. He noted that part of the goal is to maximize the use of the field and this is one way to do that. Mr. Bigelow believed that the proposal is not consistent with the Town Plan of Conservation and Development.

Mr. Ginsberg said that in accordance with Section 8-24 of the General Statutes, the Commission only has thirty five days to issue a report. He noted that the report would only be on the conceptual aspect and would not be a Special Permit or Site Plan application. At such time that a Special Permit application would be submitted, more detailed information would be required. The report being requested is part of a mandatory referral and is only to be based on whether the project would be consistent or not consistent with the current Plan of Conservation and Development. He suggested that parts of the request may comply and other parts might not.

Mr. Spain said that no discussion about potential lighting of the fields was suggested when the Town Plan was being drafted. Lighting was not left out by oversight. He said the closest reference to it would be the policy section 9.2. Mr. Spain said that the mandatory referral for Tokeneke School involved the same use of the site, merely flipping the locations of the building and playing

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fields. He said that the new Tokeneke School facilities would have the same impacts on the neighboring properties as the old facilities. He said in the case of the proposed lights at the High School athletic fields, it would be a very new activity with a likelihood of impacts on the neighboring properties. The idea of having such evening activities on the outside fields of the high school is not authorized by the Town Plan. Mr. Bigelow said that he did not believe that all three aspects of the entire proposal were consistent with the Town Plan. Mr. Bigelow believed that the stadium field lighting was not consistent, but parts b and c—the supplemental parking lot lighting and low pedestrian lighting, and the new sound system — were consistent. Also, the applicants could submit a request to amend the Town Plan. Mr. Spain said that the location in the middle of a residential neighborhood is a key issue to the proposed night time sporting activities under the lights.

Mr. Ginsberg said that if the Commission issues a negative report then the RTM can only accept the gift by a 2/3rd's vote. Then the applicant would need to return to the Planning and Zoning Commission for a change of the regulations (which currently limits the height of the light poles) and a site plan and or special permit. Mr. Conze said that on page 6.1 the impact on the existing neighbor would not be consistent with the plan. Mr. Spain agreed, saying that it would create a very different activity at this site. Mr. Finke said that he disagreed with Mr. Conze and Mr. Spain.

Mr. Ginsberg said that he would draft a report for consideration at the May 27th meeting. It was noted that Mr. Finke and Mrs. Grimes would not be present on May 27th. The Commission would discuss this matter on June 3rd.

The motion was made that the Planning and Zoning Commission is to respond to the Mandatory Referral that with respect to the eighty foot tall light poles, the proposal is not consistent with the Town Plan of Conservation and Development. The motion was made by Mr. Spain, seconded by Mr. Hutchison, and approved by a vote of 5-1 (Mr. Finke voted in opposition to the motion.)

Chairman Conze read the following agenda item

Subdivision Application #164-B, Nancy Hyland, 40 Noroton Avenue

Request for extension as outlined in April 18, 2008 letter.

Mr. Bigelow recused from participation because he is an adjacent owner.

Mr. Ginsberg explained that the applicant is requesting an extension of time to complete the process of filing the map in the land records. There has been some litigation and the application wants to make sure that the approval from the Commission will not expire. After a brief discussion the following motion was made: That the Commission approve the request of forty five additional days from the close of the litigation to finalize the subdivision approval. Motion was made by Mr. Finke, seconded by Mr. Hutchison and unanimously approved (Mr. Bigelow had recused himself, and did not vote)

Chairman Conze read the following agenda item:

Review and possible action on May 8, 2008 Memorandum from Andrea Sangrey regarding "Do Not Enter" signs

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Request to eliminate and/or replace existing “Do Not Enter” signs on various commercial properties.

Mr. Ginsberg explained that the request would not be compromising safety. The motion was made that the Commission approve the request. The motion was made by Mr. Hutchison, seconded by Mr. Finke and unanimously approved.

Mr. Conze read the following agenda item

Land Filling & Regrading Application #170, Christian & Kathleen Browning, 17 Greenwood Avenue. Request for extension of time.

Commission members noted that there would be no change in the substance of the permit or the approval. They were willing to grant an extension of three additional months to obtain the Zoning and Building Permits and to start the construction and twelve months to complete the project. The following motion was made: That the Commission grant the extension of three additional months to obtain the Zoning and Building Permits and twelve additional months to complete the project. The motion was made by Mr. Hutchison and seconded by Mr. Finke and unanimously approved.

Mr. Conze read the following agenda item:

Modification of Coastal Site Plan Review #228-A, Flood Damage Prevention Application #238-A, Woodring, 11 Edgehill Drive, R-1 Zone.

Request to modify terrace.

The Commission discussed the request to modifications. The extended terrace area would be closer to main high water and would mean more filling activity within the coastal area management zone and flood hazard zone. After a brief discussion the Commission members felt that the extent of the expansion was fairly limited and agreed to approve this one final amendment for the project. The following motion was made: That the Commission approved the requested expansion of the terrace area as shown on the submitted plans. The motion was made by Mr. Finke, seconded by Mr. Bigelow and unanimously approved.

Chairman Conze read the following agenda item

168 Noroton Avenue, SB Zone.

Question whether proposed musical instrument rental tenant is considered “Commercial Sales and Service use generally requiring external storage or activity”.

Mr. Finke excused himself from the meeting to avoid a potential conflict of interest. He then left the room.

The requested use of the site would involve a music store that would have the need for several large storage structures to be located outside the building. The Commission members thought that this temporary storage would not make the music store a permitted use within the service business zone. They suggested that maybe the building was too small for the use that was proposed or if more storage area is necessary, that it might be appropriate to construct an addition to the building. Ron

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Czebiniak explained that the seasonal storage would be dependent on the school year. The actual year round use of the building would be for the repair and maintenance of instruments in the downstairs shop. Mr. Spain said that if this use is allowed as proposed, than any business could say that if they want or need a temporary storage structure or unit then the use would qualify within the service business zone. That is not the intention of the regulations. Commission members all agreed that the proposed use is not allowed within the service business zone. Mr. Czebiniak withdrew the application.

Chairman Conze read the following agenda item

Modification of Coastal Site Plan Review #225, Flood Damage Prevention Application #249, Lighthouse Holdings, Corp., 229 Long Neck Point Road.

Proposed modification to previously approved dock, float and ramp.

Commission members noted that the dock and float facilities have previously been approved and that the Connecticut Department of Environmental Protection (DEP) had approved the permit with a modification. The Commission members consider this modification very minimal as it had to do with the angle of the dock. It also involved the revised location of the steps and stairs down to the water. The Commission members thought that the requested modification was very minor.

The following motion was made: That the Commission approve the modifications with the steps, dock and float. The motion was made by Mr. Spain seconded by Mr. Hutchison and unanimously approved.

Chairman Conze read the following agenda item

Modification of Coastal Site Plan Review #53-G, Flood Damage Prevention Application #43-G, Brindisi & Yaroseck, 8 Contentment Island Road, R-1 Zone.

Request to install barbeque/grill on previously approved patio/deck, and for a generator on a platform.

Mr. Ginsberg explained that the applicant is requesting the installation of a generator, and a grill area. Commission members said that the generator would need to be elevated on a pad to be up above the expected flood level. They were concerned about the noise to be created by the generator and the screening of the generator from the neighbors, the street and the water. They also did not know about the fuel source for the generator. Commission members thought that the proposed grill was not a problem and approved the requested grill location. They did not approve the generator. Additional information will need to be submitted about the generator and will be considered at a future date.

Chairman Conze then read the following agenda item.

Discussion of Memorandum regarding applicable setbacks for outdoor recreational facilities.

The Commission members discussed whether a sports court is a Special Permit use that must be located at least 25 feet from any property line, or if it is an accessory use located within a residential zone. In some residential zones, an accessory structure only needs to be five or ten feet away from

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the neighboring property boundary. There are examples where the sports courts were treated as a Special Permit with a 25 foot setback requirement and another example where it was only located ten feet from the property line. Commission members couldn't recall whether the ten foot set back was allowed as an oversight or whether it was a conscious decision. Mr. Hutchison suggested that the applicant needs to make their case for the ten foot set back and then the Commission members would decide whether that is appropriate. All the other Commission members agreed.

Chairman Conze read the following agenda item

Requested Amendment of Business Site Plan #247, Baywater Post Road Associates II, 1020 Boston Post Road and 36 Old King's Highway South, CBD Zone.

Request to modify approval of a shared parking agreement rather than a conveyance of an easement to the Town of Darien.

Mr. Ginsberg said that the applicant is still working on this matter and asked that it be postponed to a future meeting.

Chairman Conze read the following agenda item

Flood Damage Prevention Application #259, Danielle Cambridge, 19 Renshaw Road. Proposal to raze the existing residence and construct a new single-family residence and perform related site development activities within a regulated area. The subject property is located on the west side of Renshaw Road, approximately 500 feet north of its intersection with Boston Post Road and is shown on Assessor's Map #41 as Lot #89 in the R-1/3 Zone.

It was noted that the EPC had granted permits and approvals and that the neighbors had "signed off" to waive the need for a public hearing. The subject property is within a flood hazard zone along Stony Brook. Mr. Hutchison noted that he did see the application when he was participating on the EPC, but did not vote on this matter. Commission members reviewed application materials and concluded that it was appropriate to approve the project. The following motion was made: That the Commission waive the need for a Public hearing and approve the application for the proposed development of the property of 19 Renshaw Road. The motion was made by Mr. Spain seconded by Mr. Bigelow and unanimously approved.

The following motion was made: The Commission waive the process of reading each draft resolution aloud because each member has had an opportunity to read the draft resolution prior to the meeting. The motion was made by Mr. Finke, seconded by Mr. Conze and unanimously approved.

Chairman Conze read the following agenda item

Discussion, deliberation and possible decisions regarding:

Subdivision Application #611, James Goulard, Trustee, 18 Overbrook Lane. Proposing to raze existing residence and subdivide the property into two lots and construct two single-family residences and perform related site development activities. *DECISION DEADLINE: JUNE 2, 2008.*

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Commission members reviewed the draft resolution. They noted the no outlets for the sump pumps have been shown on the plans. None would be allowed unless the applicant provides specific information to the entire Commission. Commission also asked the staff to add a condition I on page 3 of the draft resolution.

The following motion was made. That the Commission adopt the modified resolution to approve the project. The motion was made by Mrs. Grimes, seconded by Mr. Hutchison and unanimously approved.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
May 13, 2008**

Application Number: Subdivision Application #611

Assessor's Map #10 Lot #6
Street Address: 18 Overbrook Lane

Name and Address of Property Owner:
And Applicant: James Goulard, Trustee for
the Estate of Marion Reed Goulard
34 Heritage Hill Road
New Canaan, CT 06840

Name and Address of Applicant &
Applicant's Representative: Michael P. Sweeney, Esq.
Sandak Hennessey & Greco, LLP
707 Summer Street
Stamford, CT 06901

Activity Being Applied For: Proposing to raze the existing residence and subdivide the property into two lots and construct two single-family residences and perform related site development activities.

Subject Property: The subject property is located on the north side of Overbrook Lane, approximately 550 feet east of its intersection with Mansfield Avenue.

Zone: R-1

Date of Public Hearing: April 1, 2008

Time and Place: 8:00 p.m. Room 206 Darien Town Hall

Publication of Hearing Notices
Dates: March 20 & 27, 2008 Newspaper: Darien News-Review

Date of Action: May 13, 2008 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action: Newspaper: Darien News-Review
May 22, 2008

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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 of the Darien Zoning Regulations and all applicable sections of the Subdivision 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 showing the proposed two lot subdivision, and the testimony 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 proposes to raze the existing residence on the subject property; subdivide the 2.00 acre subject property into two 1.000 acre lots, and construct two new single-family residences and perform related site development activities. Each of the residences will be served by public water and sewer.
2. The Darien Environmental Protection Commission (EPC) issued its report regarding this subdivision, which consisted of a draft resolution approving EPC Application #3-2008 to allow the two lot subdivision and related construction activities. That report is hereby incorporated by reference.
3. It was noted that the proposed residences shown on the submitted Site Plan are not the actual residences to be constructed, but rather, are a typical footprint size and location showing what could be developed. The applicant's representatives confirmed during the public hearing that if bigger footprints are proposed, the size and location of the proposed drainage facilities will need to be modified accordingly.
4. During the public hearing, Commission members had questions and concerns in two general areas: the proposed drainage facilities and the potential preservation of existing trees.
5. Tighe & Bond was hired to review the proposed drainage plan submitted by the applicant. Redniss & Mead responded to the Tighe & Bond comments on the applicant in two letters dated February 26, 2008 and March 12, 2008.
6. The submitted Sediment and Erosion Control Plan shows the trees to be protected/preserved. During the public hearing, it was agreed that the applicant could protect/preserve the bushes/foliage along the street line along both the front property lines (Overbrook Lane) and along the westerly property line of proposed Lot 6B. Another concern that was discussed during the public hearing was keeping construction equipment and large vehicles away from the tree roots of the trees to be preserved.

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NOW THEREFORE BE IT RESOLVED that Subdivision Application #611 is hereby modified and approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The subdivision shall be in accordance with the following plans submitted to and reviewed by the Commission:
- Wetland Buffer Planting Plan, 18 Overbrook Lane, Darien CT by Environmental Land Solutions, LLC, scale 1"=30'=-, dated January 21, 2008.
 - "Site Plan Depicting 18 Overbrook Lane" (Sheet SE-1); "Sediment and Erosion Control Plan" (Sheet SE-2); and "Details & Soils Information" (Sheet SE-3) prepared by Redniss & Mead and dated 1/23/08 and revised to 2/25/08.
 - Subdivision Map 18 Overbrook Lane prepared for James E. Goulard Trustee for the Estate of Marion Reed Goulard, by William W. Seymour & Associates, dated December 6, 2007, revised January 23, 2008.

All of the plantings shown in the Wetland Buffer Planting Plan shall be planted prior to the issuance of a Certificate of Occupancy for either residence.

- B. The Sediment and Erosion Control Plan shall be modified to reflect tree protection for the foliage along the street line along both the front property lines (Overbrook Lane) and along the westerly property line of proposed Lot 6B. That revised plan shall be submitted to the Planning and Zoning Office by June 30, 2008.
- C. In order to better protect the trees on the subject property to be preserved, there shall be no equipment/vehicles or drainage facilities placed near the oak tree roots in the rear of the property.
- D. Also in order to better preserve/protect the existing trees/bushes on the property, the Commission hereby requires the submittal of a "Construction Project Flow Plan". This plan shall show the location of vehicles and construction equipment during the construction process. It will ensure that the protected areas are not impacted during construction.
- E. There shall be no sump pump in the basement of either residence. This will help avoid any issues related to water being pumped out onto the surface of the property.
- F. To ensure safety, all construction vehicles must park on-site, rather than on the street in front of the subject property.
- G. All utilities serving these properties shall be underground. These include, but are not limited to, electrical, telephone, cable TV, and all other wiring.
- H. Since there is no new road construction and no extension of public utility facilities, the Commission waives the requirement for submission of a Performance Bond.
- I. In accordance with Article IV Section C2 of the Darien Subdivision Regulations, there is no requirement to provide open space as part of this subdivision.

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- J. In preparing the final mylar, lot numbers and street addresses shall be verified with the Assessor. Those should be included on the final mylar for filing.
- K. The Commission notes that although house plans were submitted for the record, there is no condition that said house plans must be constructed on the two lots. As part of the development of each parcel, a detailed storm water management/drainage plan (which can be the plans with associated drainage reports submitted as part of this application) shall be submitted with any application for Zoning and Building Permits for construction on each lot. Each plan shall be implemented to assure that development will not have any negative impact upon the street or neighboring property(ies).
- L. The applicant must make sure that at all times during the redevelopment of the site, the storm water runoff is properly managed to avoid impacts to the neighbors and the street. This shall include, but not be limited to, making provisions for the diversion of water around disturbed areas, sedimentation prevention and control, temporary artificial and/or vegetative cover to minimize erosion of exposed soils, and speedy restabilization of all disturbed areas.
- M. Prior to the issuance of a Zoning Permit for either of the proposed residences, 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 Darien Land Records by the applicant or property owner. The maintenance plan shall require the property owner and all subsequent property owners of each lot to maintain the drainage facilities per the maintenance plan.
- N. The property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site will not have any negative impacts upon the adjacent property(ies) or the adjacent streets. If such problems do become evident in the future, the owner(s) of the property shall be responsible of remedying the situation at their expense and as quickly as possible.
- O. A Professional Engineer shall submit certification that the required drainage has been properly implemented per the approved plans prior to the issuance of a Certificate of Occupancy of each residence.
- P. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans noted in Item A and B, above, and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- Q. This approval of this subdivision 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. The Commission notes that both a Street Opening Permit and Sewer Connection Permit will need to be obtained by the property owner prior to any construction. A

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demolition permit for the existing residence will need to be obtained from the Building Department.

- R. 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 approval as it deems appropriate.

All provisions and details of the plan 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. All completed requirements [the final revised mylar showing the location of any sewer easement(s) with Lot number(s) and street address(es)], shall be submitted to the Planning and Zoning Department for review and signature. The applicant must obtain a demolition permit and raze the existing residence prior to filing the map in the Darien Land Records. Because that will take some period of time, the Commission hereby authorizes the applicant up to 120 days from the date of this action to file the map and appropriate deeds in the Darien Land Records or this approval shall become null and void.

Chairman Conze read the following agenda item

Coastal Site Plan Review #218-A, Flood Damage Prevention Application #255, Robert Minicucci, 159 Long Neck Point Road. Proposing to construct a fixed pier, remove six trees, and re-create a sandy beach environment and perform related site development activities within regulated areas. *DECISION DEADLINE: JUNE 26, 2008.*

The Commission members reviewed the draft resolution. The following motion was made: That the Commission adopt the following resolution to approve the project. Motion was made by Mr. Finke, seconded by Mr. Spain and unanimously approved. The adopted resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
May 13, 2008**

Application Number: Coastal Site Plan Review #218-A
Flood Damage Prevention Application #255

Assessor's Map #61 Lot #1
Street Address: 159 Long Neck Point Road

Name and Address of
Applicant's Representative: Tom Ryder
Land-Tech Consultants, Inc.
31 Franklin Street
Westport, CT 06880

Name and Address of Property Owner:
And Applicant: Robert Minicucci
159 Long Neck Point Road

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Darien, CT 06820

Activity Being Applied For: Proposing to construct a fixed pier, remove six trees, and re-create a sandy beach environment and perform related site development activities within regulated areas.

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

Zone: R-1 Zone

Date of Public Hearing: March 25, 2008 continued to April 1, 2008 continued to April 22, 2008

Time and Place: 8:00 P.M. March 25 (Auditorium); April 1 (Room 119); April 22 (Room 206)
Town Hall

Publication of Hearing Notices

Dates: March 13 & 20, 2008

Newspaper: Darien News-Review

Date of Action: May 13, 2008

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
May 22, 2008

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 and 820 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 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 owner proposes to construct a fixed pier, remove six trees, and re-create a sandy beach environment and perform related site development activities within regulated areas. It was noted during the public hearing that they are not removing the existing cobble. Some of the proposed work will be done by barge.
2. The DEP noted in a letter dated March 19, 2008 that the location of the High Tide Line on this property is in the range of 6.0 to 6.4 feet above sea level. The applicant's engineer estimates this to be elevation 5.7.

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3. The public hearing on this matter was continued from March into April to allow the property owner to received final approval from the State of Connecticut DEP. On April 8, 2008, the DEP approved the plans for a fixed pier. A copy of that permit approval has been submitted for the record. The DEP did not authorize any other work on the beach area.
4. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
5. The proposed activities, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.
6. The Commission 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.
7. 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.
8. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #218-A and Flood Damage Prevention Application #255 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the plans entitled:
 - Coastal Resources Map, prepared for Robert Minicucci, 159 Long Neck Point Road, by Land-Tech Consultants, Inc., Revision No. 4 dated: 2/12/08, Sheet 1 of 1.
 - Proposed Timber Dock and Float, prepared for Robert Minicucci, 159 Long Neck Point Road, by Land-Tech Consultants, Inc., dated.8/27/07, Sheet 3 of 4.
 - Cross Section of Proposed Timber Dock and Float, prepared for Robert Minicucci, 159 Long Neck Point Road, by Land-Tech Consultants, Inc., dated.8/27/07, Sheet 4 of 4.
- B. The Commission concurs with the DEP regarding the extent of the High Tide Line at elevation 6.4 feet above sea level. No sandy beach area may be created below elevation 6.4 feet unless and until approval for that work is obtained from the DEP and the applicant provides a copy of that permit to the Planning and Zoning Commission.
- C. The proposed activity 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.

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- D. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized. Prior to the completion and/or occupancy of the house, all approved site work must be completed and the disturbed areas are to be stabilized with appropriate vegetation.
- E. As-built maps, surveys and/or other documentation shall be submitted to the Commission to verify that the dock has been installed and completed in accordance with the approved plans. No deviation or alterations from the approved plans shall be permitted except with the prior written permission of the Commission.
- F. 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.
- G. 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.
- H. This permit shall be subject to the provisions of Section 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (May 12, 2009). This may be extended as per Section 829f.

All provisions and details of the plan 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.

Mr. Conze read the following agenda item

Coastal Site Plan Review #87-D, Flood Damage Prevention Application #114-A, John & Dudley MacFarlane, 71 Five Mile River Road. Proposal to install solar panels on roof; trench for geothermal lines; install generator; remove tool shed and air conditioning condensers; construct pool; and perform related site development activities within regulated areas. *DECISION DEADLINE: JUNE 26, 2008.*

The Commission reviewed the draft resolution. The following motion was made: That the Commission adopt the following resolution to approve the project. A motion was made by Mr. Finke, seconded Mr. Hutchison and unanimously approved. The adopted resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
May 13, 2008**

Application Number: Coastal Site Plan Review #87-D
Flood Damage Prevention Application #114-A

Street Address: 71 Five Mile River Road
Assessor's Map #66 Lot #15

Name and Address of Applicant's Representative: Rob DeVore
Mark Finlay Architects, AIA
96 Old Post Road
Southport, CT 06890

Name and Address of Applicant: John and Dudley MacFarlane
71 Five Mile River Road
Darien, CT 06820

Activity Being Applied For: Proposal to install solar panels on roof; trench for geothermal lines; install generator; remove tool shed and air conditioning condensers; construct pool; and perform related site development activities within regulated areas.

Property Location: The subject property is located on the east side of Five Mile River Road approximately 1,200 feet east of its intersection with Old Farm Road.

Zone: R-1/2 Zone

Date of Public Hearing: April 22, 2008

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

Publication of Hearing Notices
Dates: April 10 & 17, 2008

Newspaper: Darien News-Review

Date of Action: May 13, 2008

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
May 22, 2008

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 and 810 of the Darien Zoning Regulations for the Commission to approve this project.

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

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

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

1. The subject application is to install solar panels on roof; trench for geothermal lines; install generator; remove tool shed and air conditioning condensers; construct pool; and perform related site development activities within regulated areas.
2. The summary of all of the specific proposed activity and development is outlined in an April 10, 2008 letter to the neighbors sent by Robert J. DeVore. This letter lists nine specific items.
3. The State of Connecticut Department of Environmental Protection (DEP) Office of Long Island Sound Programs sent an e-mail dated April 15, 2008, noting that they have "...no comments at this time".
4. The Darien Environmental Protection Commission (EPC) approved this project on April 2, 2008 as part of EPC #12-2008. That approval is hereby incorporated by reference.
5. 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.
6. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.
7. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 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 #87-D and Flood Damage Prevention Application #114-A are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction and other activity shall be in accordance with the plans submitted to and reviewed by the Commission. These include:
 - Proposed Renovation for: Mr. & Mrs. John MacFarlane, by Mark P. Finlay Architects, AIA, dated 9/28/07 and last revised 03/12/08, Drawing No. SP-1, A-1, A-4, A-5, A-6, A-9.

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- B. The granting of this 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. Zoning and Building Permits will be necessary and approval from the Health Department might also be required.
- C. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- D. 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.
- E. The granting of this 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.
- F. This permit shall be subject to the provisions of Section 815 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (May 12, 2009). This may be extended as per Section 815.

All provisions and details of the plan 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.

Chairman Conze read the following agenda item

Flood Damage Prevention Application #257, Michael & Carolyn Cavolo, 27 Cherry Street. Proposing to elevate the existing residence and perform related site development activities within a regulated area. The subject property is located on the south side of Cherry Street, approximately 100 feet east of its intersection with Ash Street, and is shown on Assessor's Map #41 as Lot #54 in the R-1/3 Zone. *DECISION DEADLINE: JUNE 26, 2008.*

The Commission reviewed the draft resolution. The following motion was made: That the Commission adopt the following resolution to approve the project. The motion was made by Mr. Finke seconded by Mr. Hutchison and unanimously approved. The adopted resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION**

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May 13, 2008

Application Number: Flood Damage Prevention Application #257

Street Address: 27 Cherry Street
Assessor's Map #41 Lot #54

Name and Address of Property Owner: Michael & Carolyn Cavolo
And Applicant: 27 Cherry Street
Darien, CT 06820

Activity Being Applied For: Proposing to elevate the existing residence and perform related site development activities within a regulated area.

Property Location: The subject property is located on the south side of Cherry Street, approximately 100 feet east of its intersection with Ash Street.

Zone: R-1/3

Date of Public Hearing: April 22, 2008

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

Publication of Hearing Notices
Dates: April 10 & 17, 2008

Newspaper: Darien News-Review

Date of Action: May 13, 2008

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
May 22, 2008

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 406 and 820 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 whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

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1. This application is to elevate the existing single-family residence and perform related site development activities within a regulated area.
2. At the public hearing, it was noted that as part of this project, the owner is removing a bilco door and making the front stoop larger.
3. 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.

NOW THEREFORE BE IT RESOLVED that Flood Damage Prevention Application #257 is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction and other activity shall be in accordance with the plans entitled:
 - House Lift for the Cavolo Residence, 27 Cherry Street, by Peter Isidro-Cloudas, PE, dated 03/14/08, Sheets S1-S3.
- B. 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 new foundation complies with the applicable flood damage prevention requirements. The foundation design incorporates several flood gates that will allow flood water to enter the inside of the foundation wall to equalize pressure and minimize the possibility of collapse or lateral movement of the house. When flood waters recede, the design of the slab and the flood gates will allow the flood waters to automatically drain from within the foundation.
- C. No filling or regrading beyond that shown on Sheet S2 of the plans (the fill needed for under the new proposed revised entry stairs and stoop) is authorized. The applicant shall fill no more than six inches adjacent to the new foundation in areas other than those shown specifically on the submitted plans. It is imperative that the existing drainage pattern of the area not be interrupted or re-routed, because storm water runoff and flood waters from adjacent properties must continue to flow through this property.
- D. During construction, the applicant shall utilize the sediment and erosion controls as may be necessary due to site conditions. These sediment and erosion controls as may be needed due to site conditions, 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.
- E. Once the construction work is complete and prior to the issuance of a Certificate of Occupancy, the applicant shall submit verification from the project engineer or architect that all aspects of the building construction have been completed in compliance with the approved plans and the

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flood damage prevention regulations. A final “as-built” survey is hereby required to verify that the final work is in compliance with the approved plans and the Flood Damage Prevention Regulations.

- F. Prior to the request for a Certificate of Occupancy for the proposed elevated residence, 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 and the Flood Damage Prevention Regulations.
- G. The granting of this 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. A final Certificate of Occupancy will not be granted until all conditions of all Town bodies have been satisfied. This includes the Building Official and Zoning Official.
- H. 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.
- I. This permit shall be subject to the provisions of Section 829f of the Darien Zoning Regulations, including but not limited to, submission of certification that the work has been completed in conformance with the permit, and implementation of the approved plan within one year of this action (May 12, 2009). This may be extended as per Section 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.

Chairman Conze read the following agenda item

Discussion and deliberation ONLY regarding:

Business Site Plan #248, Day Street Development, LLC, 1015 Boston Post Road/13 Grove Street. Proposing to raze the existing buildings on the properties, construct two buildings—each with retail use on the first floor and residential apartments on the second floor—with associated shared parking lot and landscaping, and perform related site development activities. The subject properties are located on: the northwest corner formed by the intersection of Boston Post Road and Day Street, and the southwest corner formed by the intersection of Day Street and Grove Street, and are shown on Assessor’s Map #73 as Lots #15 & #16 in the CBD Zone. *DECISION DEADLINE: JUNE 4, 2008*

Mr. Spain said that there were serious problems with respect to the parking on the site and on the street and the permits on the Grove Street lot. The Grove Street lot is supposed to be open to all and not restricted to one owner or another. Mr. Conze asked if there was any way for the Planning and Zoning Commission to get a sign off from the Parking Authority (Board of Selectman) about the need for keeping the Grove Street lot available for everyone. Mr. Bigelow said that there is no way to know about the long term commitment of the Parking Authority or the parking spaces within the

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Grove Street area. The applicants can only purchase permits for only one year at a time. Mr. Conze said that the staff will try to verify what was represented by the applicant about the parking permits in the Grove Street lot. Mr. Spain said that it is not his understanding of the use of Grove Street lot that it be reserved just for one owner. He suggested that maybe the applicant needs to request to re-open the hearing to submit new information or verification. Mr. Bigelow noted that it might be appropriate to approve the project with the stipulation about the use of the Grove Street lot, or an alternative location like Mechanic Street for the residential tenants. This would not require a re-opening of the public hearing. He said that on-site parking should be for customers of the retail stores, not for the workers within the store or for the residential tenants located on the second floor. The staff was directed to draft a resolution. A draft resolution will be prepared for consideration at an upcoming meeting.

Chairman Conze then read the following general meeting agenda item

Update from P&Z Subcommittee regarding Charter Revision (BOS public hearing on May 14).

Mr. Bigelow said that there is no report at this time. Mr. Conze said that one aspect that has concerned him is the issue of who the Planning and Zoning Director reports to. He said that the Planning and Zoning Director reports to the Planning and Zoning Commission on an operational basis. He said it is the Commission that sets the priorities for what work will be done. He reports to the Administrative Officer with respect to administrative issues, but not for policy, or priorities.

Approval of Minutes

February 26, 2008 Public Hearing/General Meeting

A motion to approve the minutes was made by Mr. Bigelow, seconded by Mrs. Grimes. All voted in favor except for Mr. Hutchison, because he had not attended that meeting.

March 4, 2008 Public Hearing

Regarding the minutes of March 4, a motion to approve was made by Mr. Bigelow and seconded by Mr. Finke. All voted in favor except for Mr. Hutchison, whom abstained because he had not attended that meeting.

April 1, 2008 Public Hearing/General Meeting

A motion to approve the minutes was made by Mr. Finke, seconded by Mrs. Grimes. All voted in favor except Mr. Conze and Mr. Bigelow, who both abstained because they had not attended the meeting.

There being no further business the meeting was adjourned at 10:50 PM.

Respectfully submitted,

David J. Keating
Assistant Director of Planning & Zoning