PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING/PUBLIC HEARING
June 28, 2005

Place: Room 206 TIME: 8:00 PM
Town Hall

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Damanti, Conze, Bigelow, Forman, Kenny, Spain

STAFF ATTENDING: Ginsberg, Keating
COURT RECORDER: Beler

GENERAL MEETING

Mr. Damanti read the first agenda item:

Discussion, deliberation and possible decisions on the following item:
Business Site Plan #24-O/Special Permit, Baskin-Robbins Ice Cream, 25 Old King's Highway North. Proposing to establish an ice-cream parlor within Goodwives Shopping Center.

Mr. Bigelow made a motion to waive the reading of the draft Resolution aloud as the Commission members have had the draft over the weekend and had ample opportunity to read and review it. Mr. Kenny seconded that motion which was unanimously approved by the Commission. Mr. Damanti said that he believes the ice cream parlor is more of a restaurant than a convenience food service. Such a determination would allow them to have more than 8 seats indoors. He said specifically that parking is not a problem at Goodwives Shopping Center. Mr. Conze made a motion to adopt the Resolution as amended, noting that Baskin Robbins is considered a restaurant rather than convenience food service. Mr. Kenny seconded that motion which was approved by a vote of 5 to 0 with Mr. Spain abstaining, as he was not at the public hearing.

PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 28, 2005

Application Number: Business Site Plan #24-O/Special Permit

Street Address: 25 Old King's Highway North

Tax Assessor's Map #71 Lot #19

Name and Address of Applicant: Brett Ayvazian
BZA Corp, d/b/a Baskin Robbins
30 White Pine Drive
Brookfield, CT 06804

Name and Address of Applicant's Representative: Neil Hayes
Mingolello & Hayes, architects
90 Huntington Street
Shelton, CT 06484

Name and Address of: Property Owner: UB Darien Inc.
Urstadt-Biddle Properties, Inc.
321 Railroad Ave.
Greenwich, CT 06830

Activity Being Applied For: Proposing to establish an ice-cream parlor within Goodwives Shopping Center.

Property Location: The subject property is within Goodwives Shopping Center, which is located on the south side of Old King's Highway North, approximately 150 feet southwest of its intersection with Brookside Road.

Zone: DC

Date of Public Hearing: June 14, 2005

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

Publication of Hearing Notices
Dates: June 2 & 9, 2005 Newspaper: Darien News-Review

Date of Action: June 28, 2005 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action: July 7, 2005 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 630 and 1000 of the Darien Zoning Regulations for the Commission to approve this project.

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

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

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

1. The proposal is to establish a Baskin Robbins ice cream parlor within the space formerly occupied by the Bottle Shop within Goodwives Shopping Center. The applicant explained that the subject space contains approximately 995 square feet. It is expected that there would be two employees in the store during the busiest times.

2. The ice cream parlor is a Special Permit use under Section 634c of the Darien Zoning Regulations, which allows the sale of prepared foods whether intended for consumption on or off the premises. No outdoor tables and/or chairs are proposed as part of this application and none is permitted. Such a request would require a subsequent application to this Commission. The applicant has requested that a six foot long bench be placed outside the building.

3. The applicant has requested a maximum of twelve indoor seats for the business. The definition of Food Service, Convenience in the Darien Zoning Regulations reads as follows:

   Food Service, Convenience: A retail sales facility that has incidental sales of beverages, sandwiches and other prepared foods to be consumed primarily off--premises and may have a seating capacity of not more than eight persons. Standing room at eating counters shall represent one seating space for every two lineal feet of counter.

   The definition of restaurant is as follows:

   Restaurant: A business or use whose principal function is the preparation and serving of food for consumption on the premises within the confines of the building and normally served at tables, booths or similar sit-down accommodations but not including a night club or facility whose principal function is entertainment. This shall specifically exclude drive-through operations.

   The ice cream parlor appears to be a restaurant operation according to the Darien Zoning Regulations. Thus, they can have a maximum of more than eight indoor seats.

4. As part of previous applications for the Goodwives Shopping Center, the Planning and Zoning Commission made a finding under Section 904 of the Darien Zoning Regulations that although according to the Darien Zoning Regulations, the shopping center would require a total of approximately 1000 on site parking spaces. There are only about 500 parking spaces, but due to the unique nature of the Goodwives Shopping Center, the parking is adequate. Because of the minimal impact on parking created by this business, and its low-impact nature, the Commission finds that no increase in parking spaces would be necessary.

5. The location and size of the use, the nature of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that the application is in harmony with the orderly development of the district in which it is located.

6. The location and nature of the proposed use, is such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.

7. The location and size of the use and the nature and intensity of the proposed operation conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.

8. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

NOW THEREFORE BE IT RESOLVED that Business Site Plan #24-O/Special Permit is hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

1. The Commission hereby approves the floor plan concept entitled, "Baskin Robbins", 10/25/04 Design Release by Mingolello Hayes Architects, Sheet K-1, and submitted as part of the application materials. Final details of the floor plan may be slightly modified subject to final approval by the Fire Marshal, Health Director, Planning & Zoning Director, and Building Official. Any final floor plans and use of the space must be consistent with representations made at the public hearing by the applicant, and this resolution.

2. No request for exterior tables and/or chairs was included as part of this application. Any such request will require subsequent review and action by the Planning & Zoning Commission. However, the Commission hereby authorizes a six foot long bench to be placed on the walkway in front of the store.

3. The applicant shall work with the Fire Marshal, Darien Sewer Services and the Darien Health Department for all necessary permits and approvals.

4. Because of the nature of the business, and the unique location of Goodwives Shopping Center, there are no restrictions on the hours of operation.

5. The applicant shall use the trash area and dumpsters located behind the building. He shall work with other tenants to keep it neat and orderly.

6. Necessary precautions shall be taken by the operator(s) of the Baskin Robbins to minimize and/or eliminate smell and odor from being exhausted from the facility because uncontrolled smell or odor would negatively affect the adjacent businesses.

7. 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.

8. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to, final approval from the Darien Health Department.

9. This permit shall be subject to the provisions of Sections 1009 and 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (June 27, 2006). This may be extended as per Sections 1009 and 1028.

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, the signing of the final approved plans by the Chairman, and filing of the Special Permit form in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

Mr. Damanti then read the next agenda item:

Discussion and deliberation only:

Amendment of Business Site Plan #109/Special Permit, 980 Boston Post Road Associates, LLC, 980 Boston Post Road. Proposing to establish outdoor dining in front of the existing building.

Mr. Damanti noted that this agenda item is for discussion only and no draft Resolution had been prepared. Mr. Bigelow mentioned that the sidewalk is on Route One/Boston Post Road which needs approval from the State of Connecticut D.O.T. He noted that the proposed outdoor dining area is not Town property. Mr. Bigelow then asked a question whether the applicant's proposal makes sense, and that there may need to be a need for the Commission to revisit the Regulations and note the differences between the Route One sidewalk and the Goodwives Shopping Center sidewalk and sidewalks along various side streets in the community, especially relative to safety issues. Mr. Bigelow also noted that usually a written communication is needed by the owner prior to the applicant making an application. Mr. Kenny said that there may be an enforcement question, as the State may not send such a letter of authorization. Mr. Spain noted that the use is allowed by zoning, and the Planning & Zoning Commission has jurisdiction, but there are safety and site questions and concerns. Mr. Ginsberg explained that the Downtown Task Force did the work in the mid 1980s and early 1990s and the model block details show sidewalks, lamp posts and benches. Ms. Forman explained that if the Commission is inclined to approve this project, they could allow tables and chairs for this season only and re-evaluate the issue after the summer. Mr. Damanti made the specific distinction between outdoor dining and seating and service. He also noted there is an issue related to outdoor dining on State property, outdoor dining on Town property, and outdoor dining on privately owned property. There may also be issues related to residential neighbors of the property. Mr. Conze believed that there could be a substitution of tables and chairs for benches in this case. Mr. Kenny suggested that size of the tables and chairs is especially important and that the applicant specifically noted that they are not greater than the size of the existing benches in this case. Mr. Spain mentioned that every location of outdoor dining must stand on its own merits. Mr. Damanti believed that the tables and chairs may be more safe than the existing benches. There was a consensus by the Commission for staff to draft a Resolution for Commission review and action on July 12, 2005.

Mr. Damanti then read the next agenda item:

Business Site Plan #171-A, Thomas Golden Realty Co., 1063 and 1077 Boston Post Road. Proposing to raze the existing structures on Lot #8, construct a two-story building on that Lot;

modify the existing accessway and construct a portion of the parking on the adjacent property at 1077 Boston Post Road; and perform related site development activities.
DECISION DEADLINE: JULY 12, 2005.

Mr. Kenny said that the project is a good concept, but there are significant parking concerns and more work needs to be done on the project. Mr. Bigelow confirmed that it is a big building and that people (probably employees) would have to park elsewhere. Mr. Damanti said that one cannot just throw out the existing parking regulations, and although the building design is architecturally appealing, the building is much too big with not enough parking. Mr. Spain said that the Commission could require that each employee, even if more employees are added, be provided with specific parking/off-site vouchers to leave the on-site parking spaces solely for the customers. Mr. Bigelow said that it is not viable to have off-site employee parking so far away. They should be able to park on premise. Mr. Damanti noted that during the public hearing, the applicant stated that 23 parking spaces are being provided on-site, and the Regulations would require 74 parking spaces. Ms. Forman agreed that given the parking situation, the parking is not sufficient. Mr. Damanti said that in his opinion, this is too much building on a small site and he believed that possibly the 6,000 square foot size building which was the original concept explained by Mr. Golden informally to the Commission, might work on the site. He said that the Commission must base its decision on the facts in the record. Mr. Conze said that the tenant mix will drive the parking demand but the change of tenant or of use will require a review by the Commission. Mr. Conze said that he is troubled by the parking issue. Mr. Damanti said that he is not inclined to approve the project, but would recommend that the applicant re-design it and come back before the Commission. Staff was instructed to draft a resolution to deny the application for the Commission's consideration on July 12th.

Approval of Minutes
May 24, 2005 Public Hearing
On a motion by Ms. Forman, seconded by Mr. Bigelow, the May 24th meeting minutes were unanimously approved as written.

June 7, 2005 General Meeting
On a motion by Mr. Bigelow, seconded by Mr. Spain, the June 7th meeting minutes were unanimously approved as written by a vote of 5 to 0 with Mr. Conze abstaining as he was not at the public hearing on this matter.

At 8:45 p.m., the Commission then went into public hearing, and Mr. Damanti read the first agenda item and noted that it had been postponed.

PUBLIC HEARING

Flood Damage Prevention Application #225, Carl & Anita Mickels, 36 Lake Drive. Proposing 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 northwest side of Lake Drive approximately 1,500 feet west of its intersection with Hoyt Street, and is shown on Assessor's Map #30 as Lot #3, in the R-1/3 Zone. ***POSTPONED***.

Mr. Damanti read the next agenda item:

Business Site Plan #238, Land Filling & Regrading Application #139, 182 West Avenue LLC, 182 West Avenue. Proposing to raze the existing residence, divide the property into two lots, construct a mixed-use commercial building on the front lot, and a residence on the rear lot, and perform related site development activities. The subject property is located on the northwest side of West Avenue, approximately 250 feet northeast of its intersection with Herman Avenue, and is shown on Assessor's Map #20 as Lot #10, in the SB and R-1/3 Zones.

Attorney Robert F. Maslan, Jr. of Maslan Brown & Associates was present on behalf of the applicant. He noted that proof of mailing was submitted for the record and he also submitted a copy of the Deed. He then distributed a letter of support from the neighbors and mentioned that the updated survey prepared by Walter Skidd reflects the ZBA conditions of approval. He noted that a ZBA variance was obtained (Calendar #40-2005). He also submitted a landscaping plan from Terrascape Design. Mr. Maslan then referred to a Development Plan from Rocco V. D'Andrea, Inc. revised 6/23/05. He noted that the property is across from Ring's End Lumber and to the side of it is a busy driveway which is used by commercial trailers. The property is split zoned with the SB Zone in the front of the property, residential zoning in the rear of the property. The existing house is on the zone boundary. They recently received a variance to establish a rear lot, a reduction of the front yard from 80 feet to 38 feet, and 0 feet of frontage, and increasing the rear setback from 25 to 30 feet. Mr. Maslan noted that what appear to be side lot lines are actually rear lot lines because the lot has no frontage. The rear residential lot will be accessed by a right-of-way and an easement. Issues related to the front lot which needed variances, are the HVAC units and the buffer location which is normally required in the commercial zone but in this case, the Zoning Board of Appeals allowed it to be in both zones. In addition, the Zoning Board of Appeals required a sidewalk along the side of the driveway.

He said that they are before the Commission this evening for a Site Plan review. Mr. Maslan noted that they are proposing to establish a nursery and tree care business with the garage on a lower level, and offices on the second floor. The drainage plan was prepared by Sam Northrup and there will be underground galleries in the front and rear of the building. There will be grading, including cutting and filling on the front lot to create a flat parking area. Mr. Maslan explained that under Section 339 of the Darien Zoning Regulations, they are creating a rear lot which has no owned street frontage. He showed conceptual architectural plans for the house but the house lot is to be sold off, and there are no specific house plans at this time. Mr. Conze asked about the cut in the northeast corner of the commercial property, and whether that would be a concern regarding drainage. Engineer Richard Regan responded that there will be trench drains in front of the garage doors on the back side of the building which will pick up the water. Mr. Ginsberg then distributed a letter from Mr. Dan Lovegrove who is two properties over. He had concerns about the Dumpsters on the front of the property. It was noted that trucks for the landscaping business and tree cutting business will be parked both inside and outside the proposed building. Mr. Paul Quick explained that he estimates that there would 4 to 5 trucks outside the building, including a chipper which needs a key to start. The Dumpster which is proposed for behind the building will be enclosed by a fence and will have plantings to screen it from view. Photographs of the existing site conditions were shown. It was noted that all business activities will occur in the Service Business (SB) Zone. The change of grade will prohibit expansion of the business use into the residential zone.

Mr. Kenny mentioned that the parking spaces shown on the plan were 18 feet deep instead of the 20 feet deep as required by the Zoning Regulations. Mr. Kenny also noted that there are no parking spaces double length to accommodate any trucks with chippers or any other equipment. Mr. Paul Quick responded that he can park large equipment next to the building in the handicap spot. Mr. Chris Quick explained that customers do not come to this business that it is the type of business where they go to customers' properties. In response to a question, they noted that there will be approximately eight employees for the landscaping business, and three employees for the tree company business. In addition, there will be two business owners who will park on the site, and thus there will likely be 13 employees on a day-to-day basis. Mr. Quick responded that even with the chipper on the truck, they can still access the other parking spaces on the property. Mr. Quick also mentioned that the Dumpster will probably be a 4 cubic yard dumpster for office refuse from the two businesses. Mr. Maslan explained that very few chemicals will be brought to the site, they go off-site to get fertilizers and other chemicals then bring them to the customer site but not to this property. Mr. Maslan also said that the parking numbers and dimensions comply with the required numbers for a similar business. He mentioned that the commercial building will be 3,400 square feet total, 1,700 square feet on each floor.

Mr. Ginsberg noted that the submitted plans show the building height as greater than 25 feet. Mr. Maslan confirmed that that is an error, that the actual building height will be less than 25 feet. Mr. Ginsberg also asked about parking lot lighting. Mr. Chris Quick responded that there is no parking lot lighting shown on the plans but they might have bollard lighting near the driveway and lights on the commercial building. Those lights on the building will be directed downward to avoid any glare to adjacent properties or to neighbors.

There being no other questions or comments on the application, Mr. Conze made a motion to close the public hearing on this matter. That motion was seconded by Mr. Kenny and unanimously approved.

Mr. Damanti then read the next agenda item:

Coastal Site Plan Review #198-C, Flood Damage Prevention Application #216-C, Land Filling & Regrading Application #133-C, Bluff Island, LLC, 23 Butler's Island Road. Proposing to raze the existing residence and detached garage; to construct a new single-family residence with garage; and to perform related site development activities within regulated areas. The subject property is located on the south side of Butler's Island Road, approximately 600 feet southeast of its intersection with North Road, and is shown on Assessor's Map #67 as Lot #79, R-1 Zone.

Attorney Robert F. Maslan, Jr. of Maslan Brown & Associates was present on behalf of the applicant. He noted that the property is a unique site on Long Island Sound and the existing residence is an old house which is need of upgrading. He then showed photographs of the existing property and residence. They propose to remove the existing garage that is very close to the street. They have recently received variances from the Zoning Board of Appeals from minimum lot width and setbacks from the eastern boundary. Technically, the eastern boundary is a rear lot line but the Zoning Board of Appeals allowed a setback of 27.7 feet to the building eave in lieu of 40 feet. Mr. Maslan noted that the site plan was revised April 18, 2005 and complies as much as possible with the Darien Zoning Regulations. He explained that there is an engineered septic system along the northern portion of the site as far off from Long Island Sound as possible.

Engineer Rich Regan explained that they propose to replace the existing septic system with a living filter design approved by Vince Proto of the Darien Health Department. The septic system can accommodate a five bedroom residence. Mr. Regan explained that stormwater runoff will be designed to flow towards a dry well and to Long Island Sound. Mr. Maslan noted that Butler's Island Road is a private road and the property is approximately ½ acre in size +/- and is located in an R-1 Zone. He explained that there is a retaining wall to be built approximately 5 feet away from the edge of Butler's Island Road. Mr. Maslan explained that the garage will be at elevation 12 which is the expected flood level and the basement will be at elevation 13. There is no impact on flood levels elsewhere on the property.

Mr. Maslan then showed the Commission a map of the 100 foot CAM regulated area and noted that there is a V Zone along the cliff on the rear of the property. There is an A Zone on the north side of the property at elevation 12. Mr. Dave LaPierre of Robert Cardello Architects explained that the average grade around the proposed residence is 16.7 feet, that the ridge of the house is at 29.1 feet currently and that the ridge of the new residence will be at elevation 38. Mr. LaPierre confirmed that the new residence will comply fully with the 30 foot maximum building height regulation. There will be a total of 6,025 square feet of livable floor space in the new residence which is in keeping with the size of other houses in the immediate area. Mr. LaPierre then showed a display board for comparison purposes. The fifth bedroom/bonus room is located within the attic. He explained that much of the rock in the lowest level will be left, and will result in a crawl space rather than a basement.

Mr. Rich Regan explained that there will be some earth work done near the street and they will be filling 2 or 3 feet for both the septic system and to raise the grade to the proposed garage. They will try to hammer out the rock but might need to blast some. It was noted that Calendar #31-2005 which were the ZBA variances for this project were approved, and an appeal by a neighbor is pending. Mr. Maslan explained that previous requests for this property recently had included a swimming pool and spa, but those are no longer part of the proposal. He explained that the Zoning Board of Appeals discussed leaving the vegetation on the eastern side of the property and Ms. Glassmeyer has agreed with Mr. Perrone about putting new plantings in along the Perrone/Glassmeyer property line.

Attorney Wilder Gleason of Gleason Hill & Associates was present representing Kirmar Investments (the neighbor to the east, Mr. Mende). He explained that the shifting of the house location has resulted in the need for more excavation than originally proposed. Substantial ledge rock needs to be removed and this is an unknown amount. Mr. Gleason also mentioned that his client's concerns also include building height, as the new house will be eight feet higher at the ridge than the existing residence. Mr. Gleason also confirmed that the proposed generator received a variance from the Zoning Board of Appeals and he believed it should be located closer to the applicant's residence. Mr. Damanti noted that this is stipulation number one of the ZBA variance which requires it to be located as far as possible from that property line. Mr. Gleason also has concern about the existing hedge and that the hole in the hedge needs to be filled in. He would like a stipulation by the Planning & Zoning Commission to prevent more planting within the 100 CAM setback area because it could impact the views of Mr. Mende. He then summarized his concerns as: the proposed eight foot increase in the ridge of the proposed new residence; the proposed blasting;

the proposed generator to be 85 feet from the Mende house; and the planting within 100 feet of Mean High Water on the common boundary.

Mr. Conze suggested that a pre and post-blast survey be done on this property if there is any ledge to be blasted or chipped. Mr. Maslan noted that there were no public vistas in the area. There being no other questions or comments from the Commission or the general public, the public hearing on this matter was then closed.

At 10:10 pm., Mr. Damanti read the next agenda item:

Amendment of the Darien Zoning Map, The Nielsen Company/One Thorndal Circle, Inc., Thorndal Circle. Proposing to rezone properties and part of the Thorndal Circle right-of-way; and the Department of Transportation right-of-way now zoned DOR-1 (Designed Office and Research, 1 acre minimum lot size) to Office Business (OB). The proposal is also to make the existing Service Business (SB) zone boundary line on Lot #18A contiguous with the northwest property line of Lot #18A. The subject properties are: located on the north, west, and south sides of Thorndal Circle, approximately 100 feet north of its intersection with Boston Post Road, and are shown on Assessor's Map #39 as Lots #11, #16, #17, #17A, #17B, #18, and #18A; part of the Thorndal Circle right-of-way; and the Department of Transportation right-of-way.

Mr. Damanti noted that he has in the past represented the owner of the subject property, but he does not currently represent him. He believes that he has no conflict, but would recuse himself if the Commission members, the applicant or the general public has such an objection. Attorney William Hennessey of Sandak Hennessey & Greco, LLP was present on behalf of the owner and said that he has no objection to Mr. Damanti sitting on this application.

Attorney Hennessey explained that there are now six lots owned by the Nielsen Company within the DOR-1 Zone. He also noted that there are some ambiguities at the rear property line of the Jaguar site, and as part of this application they will make the rear property line of the Miller Automobile/Jaguar property contiguous with the SB Zone line. Attorney Hennessey then submitted a letter of authorization from the property owner. He explained that the DOR Zone now has seven buildings ranging in size from 37,000 square feet down to 10,400 square feet. The buildings total 145,000+/- square feet, and the total office park has about 550 parking spaces. The office park is located between I-95 to the north and Hecker Avenue to the south. It is bounded by the Post Road on the east and a residential zone to the west.

Mr. Hennessey said that one of the potential clients for the site if it is rezoned is for the Stamford Hospital Diagnostic Imaging Center. The Center was originally proposed to be at 85 Old King's Highway North, and recently the Planning and Zoning Commission changed the zoning at that site from DOR-5 to Office Business (OB) to allow the use of that site. The reason to rezone the DOR Zone would be to protect the surrounding uses from increased traffic as a general office zone has patrons coming and going more frequently. Mr. Hennessey noted that the Thorndal Circle Office Park exits to the Boston Post Road, and much of the property is bordered by I-95 and not residential properties.

Mr. Ginsberg explained that if the entire office park is rezoned, that it encourages corporate tenants and creates more in and out traffic due to the business and professional offices which could be

present. He suggested that one option for the Commission would be to rezone just one parcel, possibly the parcel right behind the Nielsen's Florist building. Mr. Bigelow confirmed that traffic flow and parking issues need to be considered by the Commission.

Property owner Gerry Nielsen was present and explained that there is now 26,000 square feet available on two floors. He said that it is likely that if the Commission rezones one parcel, then they will eventually rezone the rest. He said that corporate headquarters were the original intention of the Commission. Mr. Nielsen mentioned that in the 1960s and 1970s there were six tenants in the seven buildings, and now there are 27 tenants in the seven buildings. This shows the difference in the type of tenant mix throughout time. He said that the largest tenant is Executone, which has 250 employees in 45,000 square feet, which he considers to be a high-density operation. He mentioned that the demand has changed for office space throughout time. Mr. Ginsberg mentioned that part of the Zoning Map Amendment is to clarify the SB Zone line relateive to the Miller Automobile/Jaguar property. He also mentioned that part of the overall proposal includes rezoning some of the State of Connecticut Department of Transportation land. A letter from Richard Allen of the DOT was received for the file authorizing such an application. Mr. Ginsberg said that the Office Business (OB Zone) allows greater range of uses and tenants, and is much more flexible than the DOR zoning.

Miss Kathleen Sillard of Stamford Hospital was present and explained that they wish to expand their operation and replace certain equipment.

Mr. Ginsberg said that in the future, the gas station and Splash Car Wash on the Post Road adjacent to this property could be rezoned, and that the Police Department is located behind that. He mentioned that the gas station and car wash and the property behind those properties could possibly accommodate a 45,000+/- square foot building with associated parking.

There were no other comments or concerns from the Commission or the general public, and Mr. Conze made a motion to close the Public Hearing on this matter. That motion was seconded by Mr. Kenny and unanimously approved.

Mr. Damanti then read the next agenda item:

Land Filling & Regrading Application #141, Craig M. Ferguson, 176 Long Neck Point Road. Proposing to fill, excavate, and regrade in association with the construction of a new residence and perform related site development activities. The subject property is located on the west side of Long Neck Point Road, approximately 625 feet south of its intersection with the its southern terminus with Pear Tree Point Road, and is shown on Assessor's Maps #61 and #21, in the R-1 Zone.

Mr. Craig Ferguson and Professional Engineer Jay Keillor of Monroe, Connecticut were present to discuss the application. Mr. Keillor noted that the existing residence and several outbuildings would be removed from the property. The new residence will have less impervious area, and they will be connecting to the sanitary sewer in the street as well as the storm sewer in the street. They will be raising the grade of the garage about four feet and accommodating the existing drainage through that area to an existing pipe. Mr. Ferguson said that they have removed the asbestos

associated with the existing residence and obtained a demolition permit from the Building Department. He mentioned that there is high ground water under the house.

Architect Dan Conlan explained to the Commission that the proposed residence conforms with all Zoning Regulations. They have accounted for the old drainage structure and the new footing drains. He said that it is the grading for the driveway which is near the property line that needs a Special Permit from the Commission.

There were no further comments from the general public or Commission members, and Mr. Conze made a motion to close the Public Hearing on this matter. That motion was seconded by Ms. Forman and unanimously approved.

At 10:50 pm, Mr. Damanti then read the next agenda item:

Land Filling & Regrading Application #143, Thomas H. McGlade, 40 Arrowhead Way. Proposing to fill, regrade, and construct a retaining wall; and to perform related site development activities. The subject property is located on the northwest side of Arrowhead Way at the corner formed by its intersection with Winding Lane, and is shown on Assessor's Map #64 as Lot #18, in the R-1 Zone.

Mr. Tom McGlade said that he is constructing a new single-family residence at 40 Arrowhead Way, and that some regrading associated with the construction of the residence is more than 25 feet from the house or within 15 feet of the property line. He mentioned that there are wetlands in the northeast corner of the property, but they will not be disturbed. He showed that the purple area on the map, which is in the southern portion of the property, is the area that requires the Special Permit from the Commission. He said that the house site is flat, but other portions of the property are steep sloped. They are proposing to relocate the driveway from Arrowhead Way to Winding Lane. The grade changes as part of this application will be no more than two feet deep, and drainage will be properly managed. He then showed a cross-section of the drainage.

Mr. McGlade explained that the septic system has been designed by Stearns & Wheler and approved by the Darien Health Department. The plans were reviewed by the Roads Committee of the Tokeneke Association. Mr. McGlade responded to a question about how much fill would be used. He noted that the exact number has not been calculated yet, but they are more likely to remove more fill from the basement, and will need to bring in some topsoil.

There were no further questions or comments from the Commission, Commission staff, or the general public. Mr. Kenny then made a motion to close the Public Hearing on this matter. That motion was seconded by Mr. Bigelow and unanimously approved.

GENERAL MEETING

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

At 11:05 p.m., Ms. Forman made a motion to go into other business to discuss one item, which was to meet with Bob Baker of the Beautification Commission. That motion was seconded by Mr. Bigelow and unanimously approved. Mr. Baker explained two issues to the Commission. The first

was the issue of newspaper boxes/bins. He said that there are currently no regulations restricting their locations within Darien. He said that he had spoken with the Connecticut Attorney General's office, and they explained that communities may regulate the boxes/bins, but there are some first amendment issues that need to be considered. It was noted that such a regulation may be an issue for a local ordinance, which needs review and action by the RTM.

Mr. Baker also described to the Commission his concern about local real estate signs. He said that he has spoken with New Canaan, the Darien Board of Selectmen, and the Darien Board of Realtors. He noted that the Zoning Regulations require that real estate signs be at least 30 feet from the road, but at a minimum, they should at least be off of the street right-of-way. He also mentioned that the Zoning Regulations restrict the content of these signs.

There being no further business, the meeting was adjourned at 11:37 p.m.

Respectfully submitted,

Jeremy B. Ginsberg
Director of Planning

David J. Keating
Assistant Director of Planning

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