

PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 7, 2011

Application: Proposed Amendments to the Darien Zoning Regulations (#4-2011)
Special Permit Application #266, Site Plan Application #279
Land Filling & Regrading Application #259
Hunter Gregory Realty Corp., 599 Boston Post Road

Street Address: 599 Boston Post Road
Assessors Map #14 Lot #35

Name and Address of Applicant: Hunter Gregory Realty Corporation
274 Riverside Ave, 2nd floor
Westport, CT 06880

Name and Address
of Property Owner(s): 599 Boston Post Road, LLC
173 Bridge Plaza North
Fort Lee, NJ 07024

Name and Address of
Applicant's Representative: Amy Zabetakis, Esq.
Rucci Burnham Carta & Carello, LLP
30 Old King's Highway South
Darien, CT 06820

Activity Being Applied For: Proposing to convert the existing building at 599 Boston Post Road into 66 assisted living units—some for traditional assisted living and some for memory care; with associated pathways and landscaping in the rear of the property; and perform related site development activities. Zoning Regulation amendments are proposed to Section 210 (Definitions) to specifically define Memory Care Facility; a new subsection 624i to allow Assisted Living Facilities and Memory Care Facilities in the DB-2 zone by Special Permit; and a new subsection 627 created with further criteria.

Subject property: The subject property is on the northeast corner formed by the intersection of Brookside Road and Boston Post Road.

Zones: DB-2 and R-1/2

Date of Public Hearing: April 26, 2011 continued to May 10, 2011
Deliberations held on May 24, 2011 and June 7, 2011

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

Publication of Hearing Notices
Dates: April 15 & 22, 2011

Newspaper: Darien News

Date of Action: June 7, 2011

Amendments to the Darien Zoning Regulations: ADOPTED WITH MODIFICATIONS WITH AN EFFECTIVE DATE OF SUNDAY, JUNE 26, 2011 AT TWELVE NOON.

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Special Permit Application #266, Site Plan Application #279, Land Filling & Regarding Application #259, Hunter Gregory Realty Corp., 599 Boston Post Road.

Proposing to convert the existing building at 599 Boston Post Road into 66 assisted living units—some for traditional assisted living and some for memory care; with associated pathways and landscaping in the rear of the property; and perform related site development activities. GRANTED WITH STIPULATIONS WITH AN EFFECTIVE DATE OF SUNDAY, JUNE 26, 2011 AT 12:01 PM.

Scheduled Date of Publication of Action: Newspaper: Darien News
June 17, 2011

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

1. The subject applications consists of two parts:
 - a) Zoning Regulation amendments to Section 210 (Definitions) to specifically define Memory Care Facility; a new subsection 624i to allow Assisted Living Facilities and Memory Care Facilities in the DB-2 zone by Special Permit; and a new subsection 627 created with further criteria.
 - b) To convert the existing building at 599 Boston Post Road into 66 assisted living units—some for traditional assisted living and some for memory care; with associated pathways and landscaping in the rear of the property; and perform related site development activities. The first part of this Adopted Resolution addresses part “a” of the application.
2. On page 9-5 of the Town Plan of Conservation & Development, Recommendation #13 is:

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

The Commission notes that there is now one other Assisted Living Facility/Independent Living Facility in Darien, at Atria of Darien at Ledge Road. There are no Alzheimer’s units/Memory Care Facilities as part of that project, nor anywhere else in Darien. It is clear that the provision of Memory Care Facilities in the DB-2 Zone would serve a community need, while maintaining existing community character.
3. The Commission finds that the proposed zoning regulation amendments are consistent with the 2006 Town Plan of Conservation & Development, as amended.

NOW THEREFORE BE IT RESOLVED that based upon the review of all of the materials and information, the Commission, acting in its legislative capacity, hereby ADOPTS WITH MODIFICATIONS the *Proposed Amendments to the Darien Zoning Regulations* WITH AN EFFECTIVE DATE OF SUNDAY, JUNE 26, 2011 AT TWELVE NOON, as revised herein:

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The approved wording is as follows:

New wording in bold, deletions in strikeout:

Add to Definitions within Section 210, placing this new definition in alphabetical order:

Memory Care Facility (MCF): A managed residential community consisting of private residential units and providing assistance with activities of daily life such as meal services, laundry service, housekeeping, social activities, transportation and personal services in a group setting to persons with Alzheimer’s disease and other forms of permanent memory impairment. A MCF is not a nursing home or convalescent facility as defined by State of Connecticut Regulations.

Amend Definition of Private Residential Unit within Section 210 to include Memory Care Facility:

Private Residential Unit: Any room or group of rooms devoted to the exclusive use or occupancy of one or more residents of an Independent Living Facility (ILF), Assisted Living Facility (ALF), **Memory Care Facility (MCF)**, or combination thereof. Since common kitchen and dining facilities are provided for all residents within the ALF and/or ILF, a private residential unit shall not be considered a dwelling unit even though it may have a small kitchenette facility for occasional use by the resident(s). Because these are not dwelling units, an ALF or ILF may not be converted to or sold as a common ownership interest type dwelling.

Add to the end of Section 624 a new “i”.

624. **Principal Uses Requiring Special Permits**

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

- a. Internal retail sales uses limited specifically to bulky products or goods such as furniture, carpeting and similar items generally requiring convenient or direct access to the customer's motor vehicle.
- b. Commercial sales and service generally requiring external storage or activity.
- c. Personal service businesses.
- d. Indoor recreation facilities.
- e. Clubs or lodges.
- f. Business and professional offices over 5,000 square feet of gross floor area, except that medical offices shall be provided with parking spaces in accordance with Subsection 904 (l).
- g. Protected Town Landmarks.
- h. Dwelling units located on second floor of existing buildings.
- i. Assisted Living Facility, Memory Care Facility or a combination thereof.**

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Add a new subsection 627 entitled, “Assisted Living Facility (ALF) and Memory Care Facility (MCF)”.

627. Assisted Living Facility (ALF) and Memory Care Facility (MCF)

- a. An ALF, MCF or combination thereof shall include common rooms for use by the occupants such as living rooms, laundry, entertainment facilities, dining areas, beauty parlor, library, and kitchen facilities. An ALF MCF or combination thereof shall also include administrative offices, service facilities, and areas for wellness, periodic medical examination, therapy, or similar uses.**
- b. All Area and Bulk Requirements and Special Controls in Sections 625 and 626 shall control.**
- c. The gross floor area of a private residential unit in an ALF, MCF or combination thereof shall be not less than 320 square feet.**
- d. Each ALF, MCF or combination thereof shall be connected to public sanitary sewers and served by public water supply.**
- e. At least 300 square feet of usable open space shall be provided for each private residential unit. The Planning and Zoning Commission may require that a conservation easement be conveyed for this required open space. Some or all of the open space may be located in an adjoining zone at the discretion of the Planning and Zoning Commission.**
- f. To accommodate the parking needs of the residents, visitors, and staff providing services to the occupants, the following minimum off-street parking shall be provided: one space for each employee per maximum shift; plus 0.33 spaces for each ALF unit and 0.25 spaces for each MCF unit.**
- g. Off-street parking design standards of Sections 226 and 900 shall be applicable.**
- h. At least one off-street unloading facility shall be provided per Sections 909.1c and 909.2a-g.**

The Commission has adopted the applicant’s zoning regulation amendments largely as proposed, with the principal modification to the proposal being the specific definition wording of Private Residential Unit being amended to show how Memory Care Facility would included be in the definition.

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The second part of this Adopted Resolution addresses part “b” of the application—the Special Permit, Site Plan, and Land Filling and Regrading Applications.

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

- the proposed use and activities must comply with all provisions of Sections 620, 850, 1000, and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
 - the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the applicant and applicant’s representatives 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.
1. As shown on the submitted Property and Topographic Survey by Redniss & Mead, the subject property is 1.56+/- acres, and is comprised of two parcels. The front property which includes a three story building is split zoned, with DB-2 in the front 150 feet of that property, and R-1/2 in the remainder of that property. It is served by a single driveway access from Boston Post Road, with parking underneath the building. The rear property, shown on the Survey as Parcel 2, currently has a one-story, single-family residence, with a driveway access from Brookside Road. Both properties are served by public water and sewer.
 2. The subject building at 599 Boston Post Road was previously used as Mediplex, a convalescent home—a legally nonconforming use in the DB-2 Zone. It includes a total of approximately 50,895 gross square feet of floor space on three levels, with 17,110 gross square feet of basement level parking. The building will be converted to a combination Assisted Living Facility (ALF) and Memory Care Facility (MCF). The submitted floor plans show 66 total units proposed. These units are not apartments or dwelling units with kitchen or cooking facilities. They are more like oversized dormitory rooms or hotel suites, which allow privacy without being separate dwelling units. Of those, 37 are “Memory Care” units--27 are Alzheimer’s Care units (of those 2 are one bedroom, and 25 are studios); and 10 are “horizons” units (of those, 3 are one-bedroom and seven are studios). The remaining 29 units are proposed to be traditional assisted living units (of those, 4 are one-bedroom and 25 are studios). The basement will be used for parking, and also will include a loading space, trash area, storage area, and elevator room.
 3. The existing single-family residence on Brookside Road is proposed to be razed as part of this application. The existing driveway serving that property would be converted to emergency access only, and gated off. The remainder of the property would be converted to walking paths and stormwater management, which would be part of the ALF/MCF Special Permit use.
 4. At the public hearing on this matter, no neighbors spoke in opposition to the application.

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5. The Architectural Review Board (ARB) approved this project at its meeting on April 19, 2011. That approval is hereby incorporated by reference. The existing exterior of the building will be substantially renovated in accordance with the submitted plans. Part of the renovation includes parapet walls on the roof to conceal, from all sides, all of the HVAC equipment that will be located on the roof.
6. The existing building has a parking lot underneath it, and all parking on-site is located within that underground parking. The submitted Basement Plan (Sheet A-0.0) shows a total of 35 parking spaces. That total amount of parking for the proposed number of units complies with the new zoning regulations approved herein regarding these types of facilities. Based upon the testimony at the public hearing, the Commission believes that this amount of parking is sufficient for the proposed use. However, it was noted at the hearing that there may be special events or holidays, at which larger than normal numbers of visitors are expected. At the public hearing, the applicant noted that it would pursue parking alternatives to avoid on street parking during these occasional high demand events.
7. As part of this application, a new drop off area is proposed from Boston Post Road. The Commission believes this is an integral part of this application, to minimize any traffic congestion and safety issues presented by UPS and FedEx and other delivery vehicles parking on Boston Post Road in front of the subject property. Because this new drop-off area will require a new street opening on Boston Post Road, review and action by the State of Connecticut DOT is required.
8. The Commission finds that in accordance with Section 627e of the Darien Zoning Regulations, the required open space for this project may be located in the rear of the building, in the adjacent R-1/2 zone. That open space will include walking paths, a small fountain, low walls, residential style lighting, plantings and stormwater management. No buildings or utilities are proposed and none are permitted. The existing residence now on that property will be razed, as noted above.
9. The Commission notes the need for the applicant or property owner(s) to file a Notice of Drainage Maintenance Plan in the Darien Land Records. This will alert future property owners of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts.
10. All garbage collection areas will be in the basement of the property. There are no Dumpsters or other garbage cans proposed for any areas other than the basement.
11. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
12. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.
13. The design, location, and specific details of the proposed use and site development, as modified and approved herein, will not adversely affect safety in the streets nor increase traffic congestion

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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.

14. The elements of the Site Plan, submitted as part of the application, AS GRANTED HEREIN, accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that **Special Permit Application #266, Site Plan Application #279, Land Filling & Regarding Application #259**, to convert the existing building at 599 Boston Post Road into 66 assisted living units—some for traditional assisted living and some for memory care; with associated pathways and landscaping in the rear of the property; and perform related site development activities are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction and other site activity shall be in accordance with the following plans as submitted to and reviewed by the Commission, entitled:
- Site Plan depicting 599 Boston Post Road prepared for Maplewood at Darien, by Redniss & Mead, scale 1"=20', dated 3/21/11 and last revised 5/9/2011, Drawing No. SP-1.
 - 599 Boston Post Road prepared for Hunter Gregory Realty Corporation, by Redniss & Mead, dated 3/21/11:
 - Site Grading & Utility Plan, scale 1"=20', Drawing No. SE-1;
 - Sediment & Erosion Control Plan, scale 1"=20', Drawing No. SE-2;
 - Notes & Details, not to scale, Drawing No. SE-3;
 - Details, not to scale, Drawing No. SE-4.
 - Maplewood at Darien, LLC, 599 Boston Post Road, by Stein | Troost Architecture, dated April 26, 2011, First Floor Plan, Sheet A-1.0.
 - Planting Plan, Maplewood, by DiDona Landscape Architects Associates, scale 1"=20', dated 03.21.11, Sheet L-1.
 - Landscape and Lighting Details, Maplewood, by DiDona Landscape Architects Associates, scale 1"=20', dated 03.21.10 (sic), Sheet D-1.
 - Landscape and Lighting Details, Maplewood at Darien, by DiDona Landscape Architects Associates, scale 1"=20', dated 04.05.10 (sic), Sheet D-2.
- B. All utilities serving the 599 Boston Post Road property shall be underground. These include, but are not limited to, electrical, telephone, cable TV, and all other wiring.
- C. Since there is no new public or private road construction and no extension of public utility facilities, the Commission waives the requirement for submission of a Performance Bond.
- D. Because of the minor nature of the land filling and regrading portion of this project, a performance bond for the filling and regrading is hereby waived.
- E. During events for which large numbers of visitors are expected, the Commission strongly encourages the applicant to carry out its stated plan to coordinate with nearby businesses and

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institutions to allow staff and/or visitors to park off-site. This will help to avoid on street parking and to ensure that sufficient on-site parking exists during those events.

- F. The proposed one-way drop-off shall have proper MUTCD signage and pavement markings. All plantings near the driveway exit shall be maintained at a height of three feet or less so as not to obstruct sight lines.
- G. The applicant shall work with the Darien Police Department and/or the State of Connecticut DOT to have "No parking" signs and pavement markings along the Boston Post Road and Brookside Road street frontage. This will ensure proper and safe sight lines coming out of the driveway.
- H. As described at the public hearing, and as shown on the Site Plan, the applicant proposes to install a support beam and column at the corner of the building closest to Brookside Road. The installation of that support beam will allow the removal of a support column which now exists at the entry to the below grade parking. That existing support column divides the entry to the parking area, and is a safety concern to the Commission due to its location. The Commission hereby approves the removal of the existing beam at the entry to the parking and the construction of a new support beam at the corner of the building as shown on the submitted plan.
- I. Per Section 626b of the Zoning Regulations, landscaping, screening and buffer areas shall be provided in accordance with Section 940. Section 944c reads as follows:
c. Where the existing topography and/or landscaping provides natural screening, the Commission may modify the planting and/or buffer area requirements.
In this case, the Commission notes that the existing topography and landscaping provides natural screening, and the Commission hereby modifies the requirements. The Planting Plan along with the related Landscape and Lighting Details submitted by the applicant in Condition A, above meet the requirements. The Commission also hereby allows the required 25 foot buffer to be entirely within the R-1/2 zone. Use of the pathways and landscaped areas in support of the ALF/MCF use is limited to quiet, passive activities and the lighting shall be very subdued.

DURING CONSTRUCTION:

- J. 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.

DRAINAGE/STORMWATER MANAGEMENT

- K. The applicant shall install the drainage system as shown on the submitted plans. The applicant/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

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properties. If such problems do become evident in the future, the owner of the property shall be responsible of remedying the situation at their expense and as quickly as possible.

- L. By August 7, 2011 (within the next 60 days) and prior to the issuance of a Zoning or Building Permit for the proposed construction and prior to the start of any filling or regrading work around the house, a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 599 Boston Post Road to maintain the on-site drainage facilities, and will alert future property owners of the on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this approval.
- M. Per Section 627e, The Planning and Zoning Commission hereby requires that a conservation easement be conveyed for the required open space. As noted herein, the Commission is allowing the open space to be located in the adjoining R-1/2 Zone. An easement and map shall be filed in the Darien Land Records.
- N. Prior to the issuance of a Certificate of Occupancy, a Professional Engineer shall certify in writing that the required drainage work has been properly completed in accordance with the approved plans. Since there is no change proposed to the footprint of the building, no final "as-built" survey is required to certify that all of the regrading and other site improvements are all in compliance with the approved plans. .
- O. Prior to a Certificate of Occupancy for any portion of the building, the applicant shall complete all common improvements for the entire building. These improvements include, but are not limited to: the new drop off area; drainage work; and landscaping and other work within the related open space area.
- P. 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. This would include, but not be limited to: approval from ConnDOT for the new curb cut on Boston Post Road; a Demolition Permit for the existing residence to be demolished on Brookside Road as part of this application; Darien Sewer Services approval to abandon the sewer lateral which now feeds the residence on Brookside Road. Permits from the Fire Marshal will be needed to remove any existing underground oil tanks, to install any new oil tanks, and for removal of any above-ground or underground propane tanks.
- Q. 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 this permit as it deems appropriate.

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- R. This permit shall be subject to the provisions of Sections 858, 1009 and 1025 of the Darien Zoning Regulations, including but not limited to implementation (i.e., the start of construction) of the approved plan within one year of this action (June 7, 2012). This approval may be extended as per Sections 858, 1009 and 1025.

All provisions and details of the plans shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action or this approval shall become null and void. All completed requirements and materials: including the drainage maintenance plan and Notice of Drainage Maintenance Plan; Conservation Easement with associated Open Space Map shall be completed and submitted to the Planning and Zoning Department within 90 days of this action; and the Conservation Easement with associated Open Space Map and Notice of Drainage Maintenance Plan filed in the Darien Land Records, or this approval shall become null and void.