

**PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING / PUBLIC HEARING
JUNE 9, 2015**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Cameron, DiDonna, Voigt, Olvany

STAFF ATTENDING: Ginsberg, Keating
RECORDER: Syat
Channel 79

Chairman Cameron opened the meeting at 8 P.M. and read the first agenda item:

GENERAL MEETING

Town Plan of Conservation & Development.

Discussion of “infrastructure-related” issues. Public input is welcome and encouraged.

Glenn Chalder, the Town’s Consultant, was there to discuss conservation planning, development strategies and infrastructure and facilities planning. The June 5, 2015 Memo from First Selectman Jayme Stevenson was reviewed. It covers open space and environmental issues and parks. It notes that a swimming pool should be added to the list of infrastructure that the Town should consider. It also notes that lights at the High School field and even the possible bubble covers for pools at private clubs should be considered as well. The memo also covers utilities, transportation/parking, drainage, roadways/sidewalks, and Town facilities.

Mary Flynn of the Parks and Recreation Commission noted that there is an ever increasing use of Town parks and programs.

Mr. Chalder said that he will incorporate many of these suggestions into the Draft Report for the Planning & Zoning Commission to consider and discuss and prioritize.

Ed Gentile, Director of Public Works, reviewed possible public works type facilities that might be necessary in the future.

First Selectman Jayme Stevenson said that the Commission may want to continue to discuss the possibility of investigating impervious surface areas to better manage storm water runoff and protect environmental resources.

Alan Gray, Director of the Darien Library, noted that one of their issues is the availability of parking because the Library is so well used. He said that as the Commission discusses the many needs of the community, if there is a solution to the problem or a way to make the Town better, he suggested that the Commission include that in the Town Plan and let other people work on the cost benefit analysis and paying for the implementation. He said that the Commission should not discard a solution to a problem or an improvement to the Town just because it will be expensive.

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Mr. Chalder said that he will be discussing the development activities at the June 23rd meeting of the Commission for approximately 30 minutes. Mr. Ginsberg said that the June 23rd meeting will be held in Room 119 of the Town Hall.

At 9:00 P.M., Chairman Cameron then read the following agenda item:

GENERAL MEETING

Deliberation and possible decisions regarding:

Coastal Site Plan Review #308, Flood Damage Prevention Application #349, James & Christi Hanson, 24 Lighthouse Way. Proposing to construct additions and alterations to the existing residence; install an air conditioning unit on a platform; and to perform related site development activities within regulated areas.

The following motion was made: That the Planning & Zoning Commission waive the process of reading all the draft resolutions aloud because each member has had an opportunity to review the drafts prior to the meeting. The motion was made by Mr. DiDonna, seconded by Mr. Voigt and unanimously approved.

The Commission briefly discussed the draft Resolution. The following motion was made: That the Commission adopt the following Resolution to grant the project subject to the conditions and stipulations as noted. The motion was made by Mr. Voigt, seconded by Mr. DiDonna. All voted in favor except Mr. Olvany who abstained because he had not been present for the public hearing. The motion passed by a vote of 3 to 0 to 1 (Mr. Olvany abstained). The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 9, 2015**

Application Number: Coastal Site Plan Review #308
Flood Damage Prevention Application #349

Street Address: 24 Lighthouse Way
Assessor's Map #53 Lot #29

Name and Address of Applicants & Property Owners: James & Christi Hanson
24 Lighthouse Way
Darien, CT 06820

Activity Being Applied For: Proposing to construct additions and alterations to the existing residence; install an air conditioning unit on a platform; and to perform related site development activities within regulated areas.

Property Location: The subject property is situated on the southeast side of Lighthouse Way, approximately 1,000 feet south of its intersection with Boston Post Road.

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Zone: R-1/2

Date of Public Hearing: June 2, 2015

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

Publication of Hearing Notices

Dates: May 22 & 29, 2015

Newspaper: Darien News

Date of Action: June 9, 2015

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
June 19, 2015

Newspaper: Darien News

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 applicants 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 construct additions and alterations to the existing residence; install an air conditioning unit on a platform; and to perform related site development activities within regulated areas. The Base Flood Elevation (BFE) in the area is 14 feet above NAVD 1988. HVAC compressor unit(s) and or a generator will be installed on a platform at elevation 15.0 on the west side of the house. Those units are now at elevation 12.3.
2. The Environmental Protection Commission (EPC) approved this project as part of EPC #9-2015 on May 6, 2015. That approval is hereby incorporated by reference.
3. This application was referred to the State of CT DEEP. They responded in an email dated April 29, 2015 that they have reviewed the proposal, and find no inconsistencies.
4. The proposed activities, to be implemented with the conditions listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage. In accordance with the submitted engineering information, the proposed activity will have no adverse impacts on flooding on adjacent properties.

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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 proposed activity is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes.
7. The potential adverse impacts of the proposed activity on coastal resources are acceptable.
8. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #308 and Flood Damage Prevention Application #349 are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. The proposed entry foyer and storage addition at the rear of the house will create new enclosed floor space at elevation 11'2", which is below the expected flood level (BFE 14). This small entry foyer and storage space, due to its limited size, unfinished characteristics, and the flood pressure relief vents, are permitted as exceptions to the usual requirement that new floor space must be at least one foot above the expected flood level. Work shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
 - Hanson Residence 24 Lighthouse Way, by Kathleen Poirier Architects, LLC, date issued 4/8/2015, Drawings S-100, and A-100 through A-105.
- B. During construction, the applicant shall utilize the sediment and erosion controls and tree protection illustrated on the "Proposed Site Plan, drawing S-100" in Condition A, 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.
- C. Because of the minor nature of the site work involved in this project, the Commission hereby waives the requirement for a performance bond.
- D. When the Zoning Permit is applied for, the applicant shall provide a detailed cost estimate of all proposed work and improvements to the structure. The total cost of all the proposed improvements is represented to be less than 50% of the value of the structure, thus the proposed work is not a 'substantial improvement' and the Regulations do not require that the entire structure be brought into compliance with the Flood Damage Prevention regulations at this time. If the total cost of improvements to the structure **at this time and for the next three years** following the Certificate of Occupancy for these improvements, exceeds 50% of the value of the structure, then the work would be a 'substantial improvement' as defined by the Regulations, and the entire structure must be brought into compliance with all flood damage prevention requirements.

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- E. Due to this property's location directly adjacent to Holly Pond, the Commission waives the requirement for storm water management. A landscaped buffer now exists adjacent to Holly Pond, which improves water quality.
- F. Once the project is complete, and prior to June 9, 2016, the applicant shall submit a final "as built" map and/or other evidence that all work has been properly completed in accordance with the approved plans, including, but not limited to the elevation of the HVAC units.
- 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.
- 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 this permit as it deems appropriate.
- I. This permit shall be subject to the provisions of Sections 815 and 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (June 9, 2016). This may be extended as per Sections 815 and 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.

Chairman Cameron then read the following agenda item:

Land Filling & Regrading Application #346, Jeffrey & Tracey Grills, 62 St. Nicholas Road.
Proposal for filling and regrading associated with the construction of a replacement single-family residence, pool and stormwater management and to perform related site development activities.

The Commission members discussed the draft Resolution. The following motion was made: That the Planning & Zoning Commission adopt the following Resolution to approve the project subject to the conditions as noted. The motion was made by Mr. Olvany, seconded by Mr. DiDonna. All voted in favor except Mr. Voigt who had not attended the public hearing. The motion passed by a vote of 3 to 0 to 1.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 9, 2015**

Application Number: Land Filling & Regrading Application #346

Street Address: 62 St. Nicholas Road
Assessor's Map #6 Lot #88

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Name and Address of:
Applicant's Representative: Doug DiVesta, PE
DiVesta Civil Engineering Associates, Inc.
51 Painter Ridge Road
Roxbury, CT 06783

Name and Address of Applicant &:
Property Owner: Jeffrey & Tracey Grills
24 Edmond Street
Darien, CT 06820

Activity Being Applied For: Proposal for filling and regrading associated with the construction of a replacement single-family residence, pool and stormwater management and to perform related site development activities.

Property Location: The subject property is located on the south side of St. Nicholas Road, approximately 2,000 feet west of its intersection with Mansfield Avenue.

Zone: R-2

Date of Public Hearing: March 31, 2015 continued to May 12, 2015

Time and Place: 8:00 P.M. Rooms 119 and 206 Town Hall

Publication of Hearing Notices
Dates: March 20 & 27, 2015 Newspaper: Darien News

Date of Action: June 9, 2015 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action: Newspaper: Darien News
June 19, 2015

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, 850, 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 plans, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. The proposal is for filling and regrading associated with the construction of a replacement single-family residence with attached two car garage, associated at-grade patios, pool and

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stormwater management, and to perform related site development activities. The proposed house will be connected to sanitary sewer and public water. Some of the filling and regrading will be within 15 feet of the property lines and/or more than 25 feet away from the building, thus a Special Permit approval from the Planning & Zoning Commission is required.

2. There are flagged wetlands on the rear portion of the site and there will be no activity in that area or within fifty feet of that area, thus, no EPC review or application was required.
3. Professional Engineer Doug DiVesta said that he utilized the fresh meadow design approach as he designed the storm water runoff system. This will ensure that there will be no net increase in the peak discharge of storm runoff water after the development has occurred compared to predevelopment conditions. At the public hearing, he noted that an existing black pipe which is now on the Grills property that could be bringing water toward or onto the adjacent Taylor property at 60 St. Nicholas Road will be removed as part of this proposal.
4. During the March 31 public hearing, it was noted that many trees will need to be removed due to the house construction and proposed regrading. In response to comments and questions from Commission members, at the May 12 public hearing, additional information was provided regarding the trees to remain (22) and the trees to be removed (14). These trees to be added and removed are shown on the landscape plan prepared by Ungemack-McCool. It was also noted at the May 12 public hearing that the owner has decided to keep the garage/barn, rather than remove it.
5. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
6. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling & Regrading Application #346 is hereby approved subject to the foregoing and following conditions, modifications and understandings:

- A. Work shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
 - Zoning Location and Topographic Survey 62 St. Nicholas Road prepared for Jeffrey J. Grills Tracey M. Grills, by William W. Seymour & Associates, scale 1"=20', last revised May 6, 2015.
 - Proposed Site Plan, Grills Residence 62 St. Nicholas Road, by DiVesta Civil Engineering Associates, Inc., last revised 4/29/15, Sheet 1 of 2.
 - Details, Grills Residence 62 St. Nicholas Road, by DiVesta Civil Engineering Associates, Inc., last revised 3/26/15, Sheet 2 of 2.
 - Grills Residence 62 St. Nicholas Rd., by Ungemack-McCool Landscape Assoc., dated 5-5-15.
- B. Due to the minor nature of the filling and regrading associated with this project, the Commission hereby waives the requirement for a performance bond.
- C. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the "Proposed Site Plan" in Condition A, above, and any additional measures as may be

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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. A Site Engineering Report last revised February 2015 was submitted to the Planning and Zoning Office. This report includes a Stormwater Management Operation and Maintenance Plan (Appendix A). A “Notice of Drainage Maintenance Plan” shall be filed in the Darien Land Records within the next 60 days of this approval and prior to the start of any filling or regrading work requested herein and prior to the issuance of a Zoning and Building Permit for the proposed replacement house. This notice will require the property owner and all subsequent property owners of 62 St. Nicholas Road to maintain the subsurface detention systems, and will alert future property owners of the need to maintain said facilities to minimize any potential downhill impacts.
- E. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. Throughout the development of the site, even before the final drainage system is installed, the applicant must properly manage storm water runoff to avoid negative impacts to the neighbors and/or the street.
- F. Prior to the request for the Certificate of Occupancy for the new house, the applicant shall submit verification in writing and/or photographs from the professional designer of the drainage system that all aspects of the storm water management and grading in the yard have been completed in compliance with the approved plans referred to in Condition A, above.
- G. Once the project is complete, and prior to the issuance of a Certificate of Occupancy for the new house, the applicant shall submit a final certification, that all excavation, filling and grading work has been properly completed in accordance with the approved plans.
- H. 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 Demolition Permit is required from the Building Department. A Sewer Connection Permit from Darien Sewer Services is required. Any oil tank removal requires review and coordination with the Fire Marshal.
- I. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- J. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (June 9, 2016). This may be extended as per Sections 858 and 1009.

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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. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next sixty days and prior to the issuance of a Zoning and Building Permit for the replacement house.

Chairman Cameron then read the following agenda item:

Special Permit Application #288/Site Plan, Fjord Fish Market, 1015 Boston Post Road.
Proposing to establish a retail fish market with associated convenience food service use in a portion of the now-vacant 927+/- square foot first floor space at 1015 Boston Post Road.

Numerous clarifications were discussed and agreed upon by the Commission. It was noted that there would be no employee parking on the site due to the previously recorded agreement. The following motion was made: That the Commission adopt the following Resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Olvany, seconded by Mr. DiDonna and unanimously approved.

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
JUNE 9, 2015**

Application Number: Special Permit Application #288/Site Plan

Street Address: 1015 Boston Post Road
Assessor's Map #73 Lot #15 & 16

Name and Address of Property Owner and Applicant's Representative:	Ken Kleban Kleban Day Street c/o 1119 Post Road Fairfield, CT 06824
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Name and Address of Applicant:	Fish Island, LLC 158 East Putnam Avenue Greenwich, CT 06807
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Activity Being Applied For: Proposing to establish a retail fish market with associated convenience food service use in a portion of the now-vacant 927+/- square foot first floor space at 1015 Boston Post Road.

Property Location: The subject property is situated on the northwest corner of the intersection formed by Boston Post Road and Day Street.

Zone: CBD

Date of Public Hearing: May 5, 2015 continued to May 12, 2015

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

Publication of Hearing Notices

Dates: April 24 and May 1, 2015

Newspaper: Darien News

Date of Action: June 9, 2015

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of

Action: June 19, 2015

Newspaper: Darien News

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

- the proposed use and activities must comply with all provisions of Sections 650, 900, 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 draft interior floor plans, and the statements of the applicant and the property owner whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. The applicant proposes to establish a retail fish market with associated convenience food service use in a portion of the now-vacant 927+/- square foot first floor space at 1015 Boston Post Road. The building is served by public water and sewer, and is located within the CBD Zone. Other tenants now in the mixed-use building include Blue Mercury on the remainder of the first floor (in the front of the building), and three residential units on the second floor.
2. At the public hearings, it was noted that the proposed tenant, Fjord Fisheries, has other locations in New Canaan, Westport, and Cos Cob. The Cos Cob location will process the fish and deliver it daily to the proposed Darien site. Some food preparation will occur on-site, including the preparation of sushi, and the use of a fryer for fish and French fries. The application narrative notes that limited on-site cooking will be done using a six foot ventless Giles Hood System—all electrical. The food preparation aspect is a convenience food service use which requires a Special Permit. The submitted application narrative noted that there will be no on-site consumption.
3. A proposed floor plan was reviewed during the public hearing. This floor plan shows the proposed kitchen. No changes are proposed to the exterior of the building.
4. No indoor or outdoor seating/dining is proposed as part of this application. Any request for such would be the subject of a subsequent application.

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VENTING AND EXHAUST SYSTEM

5. At the public hearing, Commission members and the general public noted their concerns with potential fumes and odors. The proposed venting/exhaust system (the six foot ventless Giles Hood System—all electrical) was explained during the public hearing. The Commission noted the importance of utilizing and maintaining said system in order to minimize potential impacts.

PARKING AND DELIVERIES AND TRASH STORAGE AND PICK UP

6. There are approximately twelve striped parking spaces behind this mixed-use building. These are shared between the tenants of this building and the tenants in the two-story mixed use building at 13 Grove Street. The tenant noted that there would be two or three employees in the business.
7. As noted in the application narrative, deliveries of fresh fish will be made daily to the site. At that time, trash will be collected from inside the building. There is no specified unloading dock, and none will be needed, since deliveries will be made by van.
8. As described at the Public Hearing, the applicants, recognizing that the trash generated by the seafood products and processing could create an odor problem, will bag up their trash and store it in their refrigerated storage area overnight until it is collected or otherwise disposed of. It will not be put into the on-site dumpster used by other tenants. Because it is sealed and refrigerated, they will experience no odor problems.
9. 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.
10. 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.
11. 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.
12. 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.
13. The elements of the Site Plan, submitted as part of the application 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 #288/Site Plan is hereby granted subject to the foregoing and following conditions, modifications and understandings:

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- A. All interior construction and related activity shall be in accordance with the floor plan submitted to and reviewed by the Commission:
- Fjord Tenant Fit-out Plan, by JP Franzen Associates Architects, 8-1/2" x 11", dated 3/12/15, Drawing No. FJ-1.
- Modifications to this floor plan may be made with the prior approval of the Fire Marshal, Health Department, and Building Official, consistent with the rest of this Resolution.
- B. Because of the fact that no new impervious surface is created as part of this project, the Commission hereby waives the requirement for storm water management as part of this application as allowed by Section 880 of the Darien Zoning Regulations.
- C. Due to the nature and location of the proposed use, and because of the existing site conditions of this previously developed property, the Commission hereby waives the requirement for a loading zone as authorized by Section 909 of the Darien Zoning Regulations. It was represented that all deliveries will be by van. No van or other delivery vehicles shall be double parked or inappropriately parked. No marked vehicles or delivery vehicles will be parked or stored overnight at this site.
- D. As represented by the applicant, the Commission hereby requires that there be no more than three employees on-site at any one time, and they must park off-site pursuant to the shared parking agreement filed in the Darien Land Records. There shall be no delivery vehicles or other business-related vehicles parked on-site, other than while making a delivery.
- E. It was represented by the applicant that there would be no indoor or outdoor seating, or any tables or eat-at counters. Due to limited on-site parking, the restriction on dining facilities and seating is a strict condition of this approval. Any dining facilities and/or indoor or outdoor seating in the future requires prior review and action by the Planning & Zoning Commission.
- F. There was no outdoor storage or display shown on the submitted plans and none is approved herein.
- G. Prior to the issuance of a Zoning or Building Permit for the business, final interior floor plans and equipment plans shall be reviewed and approved by the Fire Marshal and Darien Health Department.

REQUIREMENT FOR ONGOING MAINTENANCE

- H. In order to minimize potential fumes and odors, the venting/exhaust/filter system shall be maintained pursuant to the manufacturer's specifications. All cooking equipment such as stove(s), range(s), and Frialators must be electric with a proposed exhaust system as per the manufacturer. Charcoal filters must be changed periodically in accordance with the manufacturer's published installation instructions. Baffle filter and electronic air cleaner (EAC) must be cleaned daily. All doors to the business must be closed, so as to minimize the possible impacts of fumes/odors from the business. The Fire Marshal has noted, and the Commission hereby requires, that the hood system shall be listed, tested, and install pursuant to UL Standard 197. Written certification of the required maintenance shall be submitted to the Planning and Zoning Department annually on or before April 1st of each year. Even if the odor control system is properly maintained and utilized, if the use creates any odor nuisance that is not corrected,

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then the use would become in violation of Section 323 of the Regulations and the Commission may take actions to revoke this approval.

- I. At the public hearing, the applicant noted that special precautions would be taken to prevent odors from trash generated from the use. They were agreeable having “zero garbage”. This means that all garbage will be kept inside the building overnight, and picked up by van the next day. To avoid early morning or late night trash pick up that could unreasonably disturb residential neighbors or others, garbage pickup shall be done by van, and shall occur only between the hours of 7:30 am-12 noon, or from 2:00 pm to 8:30 pm. Because of the other uses nearby, trash should not be collected during the “lunch-time rush”. Representations were made that the existing trash enclosure on-site would not be used by this business for food waste.
- J. The trash enclosure area which is now behind the building shall contain all trash, garbage and recycling bins and containers which will be stored outside. It shall be neatly maintained, and it shall continue to be screened with stockade (or similar) doors around it. Those doors/gates shall remain shut at all times that someone is not loading or unloading garbage. The property owner is responsible for maintaining this trash area including ensuring that it is emptied frequently not only enough to minimize odors, but also to ensure that trash does not overflow the area. It is imperative that the doors remain shut when not in use.
- K. All interior site work shall be properly completed prior to the use of this first floor space and/or the issuance of a Certificate of Occupancy for the fit-up and associated use.
- L. 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.
- M. The granting of this Special Permit/Site Plan 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 kitchen plan review by the Darien Fire Marshal and the Darien Health Department. Any proposed signage (wall sign and/or blade sign), awning, or façade changes require prior review and action by the Architectural Review Board (ARB).
- N. 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 9, 2016). 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 and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within sixty days of this approval and prior to the issuance of a Zoning or Building Permit for the interior tenant fit-up or this permit shall become null and void.

At about 9:15 P.M., Chairman Cameron then read the following public hearing agenda item:

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PUBLIC HEARING

Land Filling & Regrading Application #354, Daniel & Amy Bradley, 27 Pasture Lane. Proposal to raze the existing house and construct a new, replacement single-family residence with associated stormwater management and regrading, and to perform related site development activities. The subject property is located on the north side of Pasture Lane approximately 2,300 feet east of its intersection with Nearwater Lane, and is shown on Assessor's Map #51 as Lot #66 in the R-1 Zone. ***POSTPONED TO 6/23/2015.***

Chairman Cameron announced that this matter was postponed until June 23, 2015 at the applicant's request. She then read the following agenda item:

Continuation of Public Hearing regarding Coastal Site Plan Review #302-A, Land Filling & Regrading Application #352, David & Rhonda Sherwood, 245 Long Neck Point Road. Proposing to construct a pool, spa, patio, and pool cabana; install associated storm water management; and to perform related site development activities within a regulated area. The subject property is located on the east side of Long Neck Point Road approximately 2,600 feet south of its southernmost intersection with Pear Tree Point Road, and is shown on Assessor's Map #61 as Lot #13-2 in the R-1 Zone.

Mr. Ginsberg explained that the replacement house has already received administrative approval under the Coastal Area Management Program. The applicant is now requesting construction of a pool and pool house structure, portions of which are within the 100 foot Coastal Area Management zone on the shoreline.

Attorney Bruce Hill represented the applicant and explained that this house is located on the east side of Long Neck Point Road just south of the gates. It is one of the lots that was subdivided by Mr. Edgerton approximately 35 years ago. He said that the property consists of a building lot plus an open space parcel in the same ownership. They propose to construct a pool and patio and cabana structure within the CAM review area. He said that all of the potential environmental impacts are acceptable because the area was previously developed and is currently lawn. According to the experts, they are within the criteria established by the Coastal Area Management Regulations that there will be no adverse impacts on coastal resources. He said that the property is one unified parcel. He distributed copies of Map #3924 as filed in the Darien Land Records. This was in the 1976 Subdivision Map that created the property. He said that there are three portions of land that are now owned by the Sherwoods. One is the piece of property that has the common roadway, the second is the building lot, and the third is the open space parcel. He pointed out that on the 1976 map there was a structure located in the vicinity where the pool and cabana structure are proposed. That old structure had been removed.

Mrs. Cameron said that the Commission has been trying to keep development activities outside of the Coastal Area Management Area unless they are absolutely critical. She said that she knows that neighbor in that area lost a seawall that got washed up onto the lawn during Storm Sandy in 2012. She suggested that the pool be reoriented and relocated to keep it out of the Coastal Area Management 100 foot Regulated Area.

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Attorney Hill said that the 100 Foot Regulated Area is not a prohibition against any development. It only establishes a regulated area. He said that the pool and cabana are not in a flood hazard zone and moving it closer to the house would eliminate much of the lawn area near the house.

Mr. Olvany questioned the methods to be used for the construction of the cabana and whether the wood would be damaged in a severe storm. Mr. Hill said that it is purely speculative as to potential damage of the wooden structure.

Mr. Ginsberg noted that the submitted 1976 survey map shows that the open space parcel is a separate piece of land from the building lot. Attorney Hill said that the parcels have been in the same ownership since 1976 and have been merged into one property.

Zoning Enforcement Officer David Keating said that the parcels were created as separate parcels, one is the building lot, and the other is the Open Space parcel and that the setback for the pool and cabana must be measured from the dividing line between the Open Space parcel and the building lot, not the water's edge of the Open Space parcel. In response, Attorney Hill said that the properties have been merged and submitted a copy of the Deed and Map #2014 of the foundation of the structure. He said that the Assessor's Map gives different total land areas and it is confusing.

Scott Raissis, Project Architect, said that the open air cabana structure is designed with breakaway walls even though they are not required. He said that the structure itself will be very sturdy, but the walls were designed to give way in severe weather. There will be tie downs to keep the structure in place. He said that the shower is to the west of the coastal review line. He described the architecture of the proposed building as being wood and clapboard shingles. He understands that wave actions are not predicted to affect the cabana structure, but, as a precaution, they have designed the cabana with structural wood columns that would remain undamaged even if the walls break away as designed. He said that the ground under the cabana is at Elevation 20 which is 5 feet higher than the expected flood level.

Mr. Hill emphasized that these precautions are not required by the Flood Regulations. Mr. Raissis said that the 6"x6" vertical support posts will be secured to the slab.

Bill Kenny reviewed the Planting Plan and said that there have been some revisions and adjustments. Mr. Kenny is a Landscape Architect. He performed the Coastal Resources Assessment and concluded that there would be no adverse impact at coastal resources due to the proposed development. He said that the building lot is entirely upland, shore land and that portions of the area near the shore are subject to flood hazard, but the house location and pool and cabana location are not in the flood zone. The flood hazard area covers much of the open space which is considered a developed shore front with a seawall and riprap and some tidal wetland. He said that the bottom of the riprap is at Elevation 12 and the top of the riprap is at about Elevation 18. Above that is lawn area. He said that water quality of the storm water runoff is properly managed, and said that some lawn area would be removed and replaced with natural like grasses and planted area.

Alan Shepherd, P.E., said that the storm water is being directed into recharged galleries. He said that the location of the recharged galleries as shown on the previous plan have been shifted due to the location of the proposed pool. He said that the rain garden is designed to be approximately one-third above ground and two-thirds below ground. It will have an overflow that will allow water to then flow

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into the recharged gallery areas. He said that there are two old pipes from the old roof of the house that drain toward the shore and to the seawall. They will tie into those pipes as the overflow. The use of the old pipes will not require a permit from the Connecticut DEEP. Mr. Shepherd said that excavation at the site indicates hard, compacted silt material. It is compressed silt, not sandy material and there is some compacted overburden layer. He said that the Public Works Department has reviewed and commented on the engineering aspects of the Drainage Plan.

Attorney Hill said that drainage structures are exempt from Coastal Area Management Regulations in accordance with Section 813.1. Mr. Shepherd said that they are concentrating on water quality rather than retention of storm water flows. He said that the water quality drainage system is designed to take care of the first flush of storm water and high temperature runoff. Commission members wanted to review the previously approved plan with respect to the location of the approved infiltrators and drainage system.

Mrs. Cameron said that the Commission will want to consult with the Town Attorney regarding the status of the building lot and Open Space parcel and whether they have been merged into one piece, and Mr. Ginsberg will review the drainage aspects with the Town Engineering Department.

Commission members decided that they will continue the public hearing regarding this matter at 8:00 P.M. on July 7, 2015 in the Town Hall.

At about 10:20 P.M., Chairman Cameron then read the following agenda item:

Coastal Site Plan Review #151-B, Flood Damage Prevention Application #153-B, Land Filling & Regrading Application #353, M. Campbell & Paget MacColl, 22 Searles Road Proposal to construct additions and alterations to the existing single-family residence, and to perform related site development activities within regulated areas. The subject property is located on the west side of Searles Road at the southwest corner formed by its intersection with Cross Road, and is shown on Assessor's Map #67 as Lot #87 in the R-1 Zone.

Jeff McDougal, Licensed Land Surveyor, explained that the Zoning Board of Appeals and Environmental Protection Commission have already reviewed and approved the plans. The project does involve removing an old garage structure on the east side of the property and replacing it with a new garage that will be in a slightly different location. A portion of the proposed work is within the Flood Hazard Zone. There will also be some filling and regrading on the westerly side of the property. An over-sized rain garden is proposed on the southwest of the existing house. He said that the body of water to the west of the house is known as Pound Gut and is bounded by an old stone seawall. He said that on previous maps the water body was known as Crab Pond and it is brackish because it has some fresh water input and some salt water influence. He said that all of the driveway and garage development activities are located above the Flood Hazard Zone, however, a small wall and some filling and regrading are proposed on the west side of the house. By implementing this wall and regrading, the house will no longer be in the Flood Hazard Zone.

Mr. Ginsberg read the comments from the Connecticut Department of Energy and Environmental Protection indicating that they found no inconsistencies between the plan and the Coastal Area Management policies. He also read aloud comments from the Town Engineer.

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Mr. DiDonna said that he is very familiar with the site and noted that in the past, the property has flooded, but the house has not been impacted by floods that he knows of. He said that the project will be a great improvement to the property.

There were no comments from the public regarding the application. The following motion was made: That the Commission close the public hearing regarding this matter and a decision will be rendered at a future meeting. The motion was made by Mr. DiDonna, seconded by Mr. Olvany and unanimously approved.

Chairman Cameron then read the following agenda item:

Land Filling & Regrading Application #355, John Barrett, 29 Greenleaf Avenue. Proposing to cut, fill, and regrade, and install storm water management in association with the razing of an existing residence and construction of a new single-family residence, and perform related site development activities. The subject property is located at the northeast corner formed by the intersection of Greenleaf Avenue and Waterbury Lane, and is shown on Assessor's Map #28 as Lot #5 in the R-1 Zone.

Jay Handsman represented the applicant and explained that the project is to build a replacement house. He said that the site slopes up gently from the low level near the street to the high level at the rear of the property. They are doing some slight regrading to accommodate the new house and new driveway and some of that regrading is more than 25 feet away from the proposed structure. This triggers a need for a Special Permit.

Commission members reviewed the application materials and noted that there are some typographical mistakes on the zoning chart and that the building height needs to be specified on the chart. The applicant agreed to do so.

Steve McAllister, P.E., said that storm drainage has been designed using the fresh meadow approach where no engineering credit is taken for the existing impervious surfaces. He said that they will be doing soil testing prior to construction to validate and verify the calculations that they have used. The new house will be connected to sanitary sewer. He said that they will be maintaining the swales on the sides of the property so that no storm water runoff from the development activity will head toward the neighbors. Instead, it will head toward the infiltrators and then the overflow from the infiltrators will go on the surface toward the street, the way it does now.

There were no comments from the public. The following motion was made: That the Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Olvany, seconded by Mr. DiDonna and unanimously approved.

At about 10:35 P.M., Chairman Cameron then read the following agenda item:

Coastal Site Plan Review #230-B, Flood Damage Prevention Application #294-A, Mark Florian, 129 Five Mile River Road. Proposing to remove existing stepping stones and to install bluestone steps down to the Five Mile River and to modify and add plantings between the pool and the River, and to perform related site activities within regulated areas. The subject property is on the

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east side of Five Mile River Road approximately 950 feet south of its intersection with Davis Lane, and is shown on Assessor's Map #67 as Lot #3-B, in the R-1/2 Zone.

Mark Florian explained that they propose to replant and revise the steep slope area from the back of their house down to the Five Mile River. They will be replacing some old stepping stones and replanting and re-landscaping with more plants to make more dense landscaping. This will minimize erosion.

Mr. Ginsberg said that the Environmental Protection Commission (EPC) had approved the project on April 23rd. He read the comments from the Connecticut Department of Energy and Environmental Protection (DEEP) indicating that they found no inconsistencies between the project and the Coastal Area Management policies. Mr. DiDonna said that he felt the plan was very good because they were adding many more plants to the embankment.

There were no comments from the public. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Olvany, seconded by Mr. Voigt and unanimously approved.

Chairman Cameron then read the following agenda item:

Deliberations only regarding:

Business Site Plan #168-F, Equity One, LLC--Trader Joe's, 430 Boston Post Road. Proposal to expand Trader Joe's into a portion of the space now occupied by Orvis and perform related site development activities. *DECISION DEADLINE: JUNE 23, 2015.*

Mrs. Cameron said that she felt the project was well designed, and is pleased that there will be no left turn coming out of the site onto the Boston Post Road. She said that this will include improvements both on and off the site and proper signage so that motorists know that they are not to make a left turn from the site. Staff was directed to draft a Resolution for consideration and action at a future meeting.

There being no other business, the following motion was made: that the Commission adjourn the meeting. The motion was made by Mr. Voigt, seconded by Mr. DiDonna and unanimously approved. The meeting was adjourned at 10:45 P.M.

Respectfully submitted,

David J. Keating
Planning & Zoning Assistant Director