

**PLANNING AND ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
SEPTEMBER 9, 2014**

Place: Room 119, Town Hall

TIME: 8:00 P.M.

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

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

GUEST: Glenn Chalder

Channel 79

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

**GENERAL MEETING**

**Town Plan of Conservation & Development**

Meeting with Glenn Chalder, Planimetrics to discuss Plan.

Glenn Chalder was present and discussed the overview of the process to update the Town Plan of Conservation and Development. He suggested that it might be appropriate to have a public input session early in the process so that all members of the public would be invited to attend. He said that the updating process generally takes 12 to 18 months and that based on his work load of wrapping up other consulting projects, he will be able to devote considerable time and effort to the process in Darien. He said that he will generally try to attend the second meeting of each month to work with the Commission on updating the Plan. Having such a schedule is appropriate to keep the project moving along. The Commission can have discussion meetings with other Boards or Commission members and other groups depending on the topic and extent of participation of those other groups of what to have in the process.

Mr. Chalder said that the format of the plan needs to be discussed. In the past, much of the supporting data and details were included in the Plan. In the most recent Plan adopted by the Commission, much of that supporting data and details were not included in the main text but were included in the appendix or were referenced by the brief master plan. He said that it might be good to include the strategy and some of the backup information in the main portion of the Town Plan of Conservation and Development. Another issue is whether the conceptual or general strategies should be expressed in the Town Plan rather than having each item be too specific. Commission members noted that the specificity will depend on the situations and topics.

During the last Plan of Development update, certain chapters were adopted earlier in the process because they were more background information and were not subject to change. Other chapters needed to be adopted later in the process because the Commission was waiting for additional input or data.

Mr. Chalder said that residential redevelopment of older neighborhoods will be affected by the updating of the Town Plan of Conservation and Development. The redevelopment can have a

PLANNING & ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
SEPTEMBER 9, 2014  
PAGE 2 OF 8

transformative effect upon neighborhoods. He noted the recent redevelopment of 333 West Avenue and the new development taking place adjacent to Wakemore Street. Other items of importance include stormwater management and the redevelop of the Noroton Heights District. It was noted that there are many youth organizations in Town and there is a high level of participation by the children of the Town in those organizations. The number of bedrooms in the residential structures could substantially impact the school system.

Another issue was the rise of sea level and that such changes in the natural conditions should be addressed as part of the long term plan. Commission members were asked to direct any additional thoughts to Mr. Ginsberg by e-mail so that he will know of those issues and will forward them on to Mr. Chalder. The next scheduled meeting with Mr. Chalder will be on October 22, 2014 as part of a general information session to be conducted by the Commission.

Chairman Cameron read the following agenda item:

**Amendment of Coastal Site Plan Review #252-A, Land Filling & Regrading Application #278, Hans Mende, 253 Long Neck Point Road.**

Request to amend previously approved plans relative to the height of the house.

Commission members noted that they had received a copy of the signed agreement. Since the neighboring property owners who could be impacted by the modification are already cognizant of the proposal and have signed off on the amendment, the Commission concluded that there was no need for them to conduct a public hearing. The following motion was made: That the Planning & Zoning Commission approve the requested modification of the approvals to allow the two additional feet of building height in accordance with the submitted materials. The motion was made by Mr. Sini, seconded by Mr. Olvany and unanimously approved.

Chairman Cameron read the following agenda item:

**Discussion and deliberation and possible decision on the following matters:**

**Proposed Amendment to Darien Zoning Regulations put forth by Penelope Glassmeyer.**

Proposing to amend the Darien Zoning Regulations by establishing an overlay zone that would apply to larger sites in the R-1 Residence Zone served by public water supply and sanitary sewer. It would allow multi-family age-restricted developments by Special Permit in the R-1 Zone, if the overlay zone is placed upon a property.

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

Commission members discussed many issues regarding the proposed amendment. These included:

- whether the basements will be counted as part of the 3,000 square feet of allowable square footage, if they are finished or not finished;
- should the 3,000 square foot limit only apply to areas that are above grade;
- is the density bonus of Section 580 to be applicable or not;
- do the below market rate units need to be comparable to the market rate units in size;

PLANNING & ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
SEPTEMBER 9, 2014  
PAGE 3 OF 8

- should the below market rate units be allowed to be half the size of the market rate units and at least 800 square feet in size;
- what is the appropriate density to be allowed in the R-1 Zone and the appropriate number of moderate priced units that should be permitted;

Commission members concurred that they are not yet ready to make a decision on this matter. It will be placed on the agenda for September 23, 2014.

Chairman Cameron read the following agenda item:

**Business Site Plan #288/Special Permit, Standard Realty, LLC/Valero, 1927 Boston Post Road.**  
Proposing to install a 20' x 26' canopy over new fuel dispensers to be installed, and to perform related site development activities.

Commission members reviewed the draft resolution. Ms. Cameron said that she felt there was to be so much construction activity that it would be appropriate to require that the "Model Block" sidewalk be installed as part of the approval. Mr. Olvany said that he agrees with this conclusion. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Olvany and seconded by Ms. Cameron. Voting in favor of the motion were Ms. Cameron, Mr. Olvany and Mr. DiDonna. Voting against the motion was Mr. Sini and Mr. Voigt, who believed that the sidewalk upgrade requirement was too onerous. The motion passed by a vote of 3-2. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
September 9, 2014**

Application Number: Business Site Plan #288/Special Permit

Street Address: 1927 Boston Post Road  
Assessor's Map #42 Lot #3

Name and Address of Applicant: Standard Realty  
And Property Owner: 229 Bishop Avenue  
Bridgeport, CT 06607

Name and Address of Applicant's Representative: Mark G. Smith, PE  
Benesch  
90 National Drive  
Glastonbury, CT 06033

Activity Being Applied For: Proposing to install a 20' x 26' canopy over new fuel dispensers to be installed, and to perform related site development activities.

Property Location: The subject property is located on the north side of the Boston Post Road approximately 70 feet east of the intersection with Garden City Road.

PLANNING & ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
SEPTEMBER 9, 2014  
PAGE 4 OF 8

Zone: Neighborhood Business (NB)

Date of Public Hearing: July 29, 2014 continued to August 4, 2014

Time and Place: 8:00 P.M. Room 206 (July 29) and Auditorium (August 4) Town Hall

Publication of Hearing Notices

Dates: July 18 & 25, 2014

Newspaper: Darien News

Date of Action: September 9, 2014

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:  
September 19, 2014

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 600, 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 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 install a 20' x 26' canopy over new fuel dispensers to be installed; replacement of three existing underground storage tanks with three new double-walled underground storage tanks, with said new tanks to be located at the front of the site adjacent to the fuel dispensers; and two existing fueling dispensers are to be replaced with two new dispensers in the same location. A new concrete drive mat will be installed for the fueling area, and a new concrete tank mat will be over the new tanks. The revised site plan also shows the dumpster relocation, the striping of the handicapped parking space, and the removal of pavement from the required 25 foot buffer adjacent to the residential zone to the north of the property.
2. At the public hearing, the applicant's representative, Mr. Smith, explained that the existing underground gas tanks need to be replaced with new double walled fuel tanks. At the same time, they will be replacing the pump island and pumps. Given market conditions, it is now appropriate to install a canopy to protect customers while they are fueling their vehicles. The proposed canopy does not comply with the front yard setback and that is why they needed a variance from the Zoning Board of Appeals. At the time that they are redeveloping the site,

PLANNING & ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
SEPTEMBER 9, 2014  
PAGE 5 OF 8

they will install a buffer area to provide the proper separation between the business use and the residential zone to the north. The buffer area will be grass with trees, and it will no longer be used as parking, storage, or other business usage. At the public hearing, the applicant's representative Mr. Smith, noted that during the removal of the old fuel tanks they will be checking the site for any contamination or leak. Any leaks or contamination will be properly remediated in accordance with State requirements.

3. The applicant received a variance from the Zoning Board of Appeals (ZBA) on July 16, 2014 (Calendar No. 25-2014). The Zoning Board of Appeals granted the variance of the front yard setback for the canopy and approved the front wall sign on the canopy and stipulated that the price information would not be on the canopy as had been originally proposed. That approval is hereby incorporated by reference. At its meeting of July 15, 2014, the Architectural Review Board (ARB) approved the new canopy as part of ARB #17-2014. That approval is also incorporated by reference. A revised plan was submitted, and it incorporates the comments from the staff and the approvals from the ZBA and ARB.
4. On the front wall of the canopy, Valero proposes to install 10 inch letters with the Valero name and then back at the pump island they will have a 2' x 3' price sign which is not illuminated. This signage complies with the Zoning Board of Appeals variance for the canopy which requires that all new signage comply with the Regulations.
5. No members of the general public spoke at the public hearing on this matter. Two letters were received from nearby property owners, and were submitted for the record. Each letter notes the desire to have the applicant/property owner participate in the sidewalk upgrade program. Both neighbors note that the property owner declined to participate when the sidewalk upgrade program occurred a few years ago. The neighbors suggest that while the site is being redeveloped, the new concrete and brick sidewalk should be continued through this site. The submitted Zoning Location Survey shows an existing concrete sidewalk running along the front of the property adjacent to Boston Post Road. Comments were also received from the Department of Public Works on this application—"State Rd—DOT Permit—Not DPW. Recommend model block sidewalk."
6. Mr. Smith said that the new lighting fixtures at the site will replace the old "shoe box" style. The new lights will be flush mounted LED high efficiency lighting on the underside of the canopy.
7. The location and size of the use, the nature and intensity 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.
8. The location and nature of the proposed use, the size and height of the building are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.

PLANNING & ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
SEPTEMBER 9, 2014  
PAGE 6 OF 8

9. 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.
10. The elements of the Site Plan, submitted as part of the Special Permit application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.
11. 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 #288/Special Permit is hereby modified and approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Construction of the canopy and associated site work shall be in accordance with the plans entitled:
  - Site Plan Application for: Standard Realty, LLC, 1927 Boston Post Road, dated: June 13, 2014. Proposed Fuel Island Improvements, Photometric Plan, Proposed Fuel Island Improvements, Drawing No. C-2.
  - Site Plan Application for: Standard Realty, LLC, 1927 Boston Post Road, dated: June 13, 2014. Proposed Fuel Island Improvements, Canopy Elevations, Drawing No. A-1 (this plan has been superseded/revised by the ARB and ZBA approvals).
  - Site Plan Proposed Fuel Island Improvements, prepared for Standard Realty, LLC, by benesch, dated July 16, 2014 and last revised 8.04.14, Drawing No. C-1. (This plan supersedes Drawing No. C-1 dated June 13, 2014 in the originally submitted package of plans received in the Planning and Zoning Office on June 13, 2014).
- B. The submitted plan shows no change in the amount of developed site area as part of this application. The proposed canopy will be installed above an area that is now paved. The Zoning Location Survey from William W. Seymour & Associates dated April 14, 2014 submitted as part of the application package shows a shipping container in the back right corner of the property. That shipping container was removed during the application process, and is not shown on the proposed plans to be placed anywhere on the property. There is no reduction in the existing landscaped areas on the proposed plan. Due to the fact that there is no proposed increase in Developed Site Area (and due to the removal of the shipping container there may be an actual reduction in Developed Site Area), the Commission hereby waives the requirement for stormwater management.
- C. The Site Plan revised 8.04.14 includes a note stating that “No Storage or Parking with 25 ft. of rear lot line.” This note reflects the requirements outlined within Sections 600 and 944 of the Darien Zoning Regulations. The Site Plan shows a Dumpster on Wheels to be placed so that it is more than 25 feet from the rear property line. No work on vehicles or storage or parking may be done within 25 feet of the rear property line, since the rear property line is the boundary between the NB Zone and the R-1/3 Zone to the north.

PLANNING & ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
SEPTEMBER 9, 2014  
PAGE 7 OF 8

- D. The Commission notes that the application anticipates a substantial redevelopment of the subject property, including the removal of tanks, installation of new tanks, and a new canopy. Thus, the Commission hereby requires that the existing sidewalk near Boston Post Road (Route 1) be upgraded to be consistent with the adjacent properties to the east and west to become “Model Block” standards. This will include the use of granite curbs, brick strips and concrete walkway to be consistent with, and connect to, the adjacent properties to the east and west. Specifications shall be obtained from the Darien Public Works Department. The concrete walkway shall drop down and be continuous through the asphalt driveway for pedestrian safety. This work shall be completed prior to the use of the new tanks or the issuance of a Certificate of Zoning Compliance for the canopy.
- E. 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.
- F. The granting of this Site Plan and 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. The applicant should check with the State of Connecticut DOT to determine if a permit will be needed from that agency for the construction and/or the sidewalk improvements.
- G. 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 (September 9, 2015). This may be extended as per Sections 1009 and 1028.

All provisions and details of the plan, as required to be amended herein relative to the sidewalk and the actual signage/wording on the canopy, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations, the signing of the final documents by the Chairman, and filing of the Special Permit form in the Darien Land Records.

Chairman Cameron read the following agenda item:

**Flood Damage Prevention Application #312, Kehrli, 24 Waverly Road.**  
Request to modify previously constructed stormwater management system.

Mr. Ginsberg explained that during the review process of this application, the Commission members had required that the application be amended to include a rain garden. That rain garden was installed on the property in accordance with those revised plans. The result is a dangerous change in the grade, not far from an exit door from the garage. Mr. Ginsberg said that this is an example of where requiring a rain garden on such a small property is not appropriate. The owner has now submitted plans to replace the rain garden with underground Cultec units so that stormwater will still be managed on site but the dangerous situation will be eliminated. The following motion was made: That the Planning & Zoning Commission modify the approval to allow the underground Cultec units instead of the rain garden, in accordance with the submitted plans. The motion was made by Mr. Sini, seconded by Mr. Olvany and unanimously approved.

PLANNING & ZONING COMMISSION  
MINUTES  
GENERAL MEETING  
SEPTEMBER 9, 2014  
PAGE 8 OF 8

Chairman Cameron then read the following agenda item:

**Discussion of Building Coverage.**

The discussion regarding Building Coverage per the definition in the Zoning Regulations was postponed.

There was no other business to consider. The following motion was made: That the Planning & Zoning Commission adjourn the meeting. The motion was made by Mr. Voigt, seconded by Mr. Olvany, and unanimously approved. The meeting was adjourned at 9:45 P.M.

Respectfully submitted,

David J. Keating  
Planning & Zoning Assistant Director

*09.09.2014min*