

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
MAY 10, 2011**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Conze, Spain, Cameron, Hutchison, Riccardo, Voigt

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

Channel 79

Chairman Conze called the meeting to order at 8:00 P.M. and read the following agenda item:

PUBLIC HEARING

Continuation of Public Hearing regarding Proposed Amendments to the Darien Zoning Regulations (#4-2011), 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. 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. The full text of the proposed zoning regulation amendments is on file and available in the Town Clerk's office and the Planning and Zoning Office for inspection. The subject property is on the northeast corner formed by the intersection of Brookside Road and Boston Post Road, and is shown on Assessor's Map #14 as Lot #35 and is located in the DB-2 and R-1/2 Zones. *PUBLIC HEARING OPENED ON 4/26/2011. DEADLINE TO CLOSE PUBLIC HEARING IS MAY 31, 2011 UNLESS AN EXTENSION OF TIME IS GRANTED BY APPLICANT.*

Attorney Amy Zabetakis represented the applicant and explained that this is a continuation of the Public Hearing regarding the proposed conversion of the former convalescent center into an assisted living facility with memory care units. She said that approval had been obtained from the Architectural Review Board and that responses from the Connecticut DEP and South Western Regional Planning Agency had been submitted to the Town. Director of Planning Jeremy Ginsberg read aloud the comments from the Connecticut DEP as noted in an April 26, 2011 e-mail. They find no inconsistencies with the Coastal Area Management Act and policies. He also read aloud the April 5th comments from the South Western Regional Planning Agency indicating that they found no inter-municipal impacts due to the proposed reuse of the facility. Mr. Ginsberg also noted that an email had been received from the Commission's Traffic Consultant Michael Galante who was not able to attend this continuation of the hearing. He is satisfied with the revised traffic information submitted by the applicant.

Attorney Zabetakis said that the nursing home/convalescent center contained 120 beds, and the new facility will have 66 assisted living units. Twenty-nine of those will be traditional assisted living care units and 37 will be for memory care patients. The units will not be apartments or separate

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living facilities. She said that there will be fewer residents at the site, less need for employees because no medical nursing care will be provided, and that the overall use is less intense than the nursing home use. Attorney Zabetakis said that the current DB-1 zoning district does not allow assisted living facilities or memory care units. Therefore, the applicant proposes to amend the Darien Zoning Regulations to permit such uses within the DB-1 Zone, subject to Special Permit approval by the Planning and Zoning Commission.

In response to questions, Zoning Officer David Keating said that the nursing home was allowed under the site's former zoning designation, but the Regulations were amended and nursing homes were deleted from the list of permitted uses when the area was re-zoned and re-designated as a DB-1 zone.

Attorney Zabetakis said that the proposed amendments of the Regulations would define and specifically allow assisted living facilities and memory care units. She said that the main difference in the designation is that the memory care units will require less parking because none of those residents in the memory care facility will have any cars. She said that the staffing required at the facility will be a maximum of 15 at any given time.

Mr. Spain asked about the demand for on-site parking. Greg Smith, CEO of Maplewood Communities, explained that his group operates three such facilities in Fairfield County. He said that the nearest comparable facility would be in Danbury, which has 65 units. There, they have a staff of 15 people at its peak demand. At that facility they have 22 assisted care units, and only one of those residents has a vehicle on site. He also noted that many of the staff takes public transportation to reach the facility. Therefore, most staff members do not have an on-site vehicle that they drive to and from work. Mr. Smith said that at the proposed Darien facility, they would have three to four staff members during the evening. The morning shift would have the highest staff count, and the majority of the staff would be servicing the residents in the memory care units. If all the units are fully occupied to the maximum capacity, there would be approximately 70 residents.

In response to questions, Mr. Smith said that the licensing from the State would allow them to adjust the number of memory care units and assisted living care units depending on demand, always staying within the total of 66 units. His firm does see a great demand for memory care units, and there are waiting lists at the other facilities. In response, he said that if the entire facility is used for memory care residents, they would probably need to add about three more staff members, which would bring the peak staff to 18. As an all memory care facility, none of the residents would have any vehicles. Mr. Smith said that the State licensing does allow them some flexibility to change between traditional assisted living and memory care units. The licensing is granted through the Connecticut Department of Public Health, and specifically their Assisted Living Facilities Division.

In response to questions about security for memory care patients, Mr. Smith said that at night the memory care floor will be locked down, and key code access would be required to enter or exit that area. This prevents residents from wandering out of the facility. He said that all egress doors are alarmed to make sure that none of the residents can wander where they are not supposed to be. He said that residents receive a physical and mental assessment as they enter the facility, anyone who presents a wander risk will be provided with 24 hour security in a locked facility, and thus be unable to wander. Mr. Smith said that the number of ambulance visits to the site will vary depending on the season (during flu season he expects a higher incidence of residents needing

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ambulance transportation to the hospital), and that two ambulance trips to the site per week should be the norm. He said that as the age of the residents increases, there probably will be a slight increase in the amount of ambulance trips to the site. In any event, the number of ambulance trips should be considerably less than experienced at the nursing home.

Mr. Smith said that at the Danbury facility they have 18 regular parking spaces, and two handicap parking spaces. At the proposed Darien facility, they will have 35 on-site parking spaces. When there is a special event or a holiday, they will make prior arrangements to utilize neighboring parking areas and have a shuttle bus bring visitors from those off-site parking areas to the facility. He said that once people move in to the assisted living facility, they can be re-assigned to a memory care unit, if necessary. If the resident needs medical nursing care, they will be brought to a nursing home facility where skilled nursing care can be provided.

Henry Ditman of Milone & MacBroom Engineering explained that he is a professional engineer specializing in traffic and safety. Mr. Ditman said that his firm conducted site visits, counted vehicle trips, accumulated data, estimated the traffic volume and parking demands, and provided a complete evaluation of the facility from a traffic management perspective. He said that compared to a nursing home, the assisted living facility will generate fewer vehicle trips to and from the site. Using the international traffic engineers' projections, a nursing home would generate 25 vehicle trips during the A.M. peak and 40 vehicle trips during the P.M. peak. An assisted living facility would generate approximately 20 vehicle trips in the A.M. peak hour and 30 trips during the P.M. peak hour. He said that the traffic on the Boston Post Road and Brookside Road is currently rated at Traffic Level of Service C. Slight delays are experienced during peak traffic hours, but are tolerable. He said that the traffic projections for the proposed use will not alter the level of service.

Attorney Zabetakis said that ambulance access to the facility will be easier and safer due to the creation of a new driveway access to the site. Mr. Ditman said that the new, one-way driveway access to the front door will allow for easier drop-off and pick-up by visitors, ambulance and small delivery vehicles. He said that appropriate safety signs and pavement marking will clearly indicate that it is a one-way driveway only. All vehicles leaving the site will use the existing driveway. Sight lines at that existing driveway exceed 500 linear feet in both east and west directions. This is sufficient for traffic moving on the Boston Post Road at 45 miles per hour. He said that the 80th percentile of traffic on that portion of the Boston Post Road is 40 miles per hour. Mr. Ditman said that the change from a nursing home use to an assisted living facility use actually reduces the number of trips in and out of the driveway, and the removal of the Brookside Road house on the property also reduces the number of vehicle trips.

In response to questions, he said that there are no unique accident patterns, only the expected traffic accidents that occur typically at a traffic light such as the one at the intersection of the Boston Post Road and Brookside Road.

Greg Smith said that deliveries of supplies and materials would take place in the lower level garage/parking lot area. That area has 14' to 18' ceilings. He said that only on rare occasions would deliveries be accepted at the front door. He also noted that they provide their own laundry and linen service on site, thus reducing the need for frequent delivery of those materials.

In response to questions, Mr. Ditman said that UPS or FedEx vehicles have routinely parked on the Boston Post Road. With the installation of the new driveway, they will be able to pull off the

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Boston Post Road and be safely on site while they make deliveries. He said that the street could be posted as a “No Parking” area if the Connecticut Department of Transportation deems that to be appropriate. If so, the DOT would make that a requirement of the permit that they issue for the new driveway.

In response to further questions, Mr. Ditman said he has no real concern about left turns out of the existing driveway. He believes that prohibiting left turns is not warranted, because there are only certain peak times during the day when a vehicle waiting to turn left would wait a lengthy time for a break in traffic. He said that because a delay would only occur occasionally, a left turn should be permitted.

Brian McMahon, Professional Engineer from Redniss & Mead, reviewed the revised site plan that he submitted on behalf of the applicant. He said that this revised plan includes details about site distances to the north and south and the double yellow line on the street as recommended by Mr. Galante. He said that the Department of Transportation is generally satisfied with the design of the proposed new driveway, but, before it can be implemented, the applicant must obtain approval from the Town and a permit from the DOT. He said that the new access driveway will be wide enough for two vehicles, so that one vehicle can actually be parked at the door and another vehicle can also pull in off the street.

Mr. McMahon said that the drainage patterns will be very similar to present conditions. Part of the site drains to the west (toward Brookside Road) and part of the site drains toward the Boston Post Road. The site’s storm water runoff goes into catch basins on both streets, and it eventually merges farther downstream. He said that the new patio areas will increase the amount of impervious surfaces by approximately 1,800 square feet. Rain gardens will be installed to accommodate the additional storm water runoff created by these impervious surfaces. He said that in accordance with Section 880 of the Regulations, they have not taken any engineering credit for the existing house and driveway on Brookside Road that are being removed. He said that the revised plans do comply with the provisions of Section 880 of the Zoning Regulations so that there will be no increase in the peak discharge of runoff. In fact, the amount of runoff leaving the site will be slightly reduced because the rain garden facilities have been over-designed. He said that the rain gardens will also provide an important function of enhancing water quality. In response to a question, he said that a storm water maintenance plan can easily be provided. He also noted that emergency access from the site to Brookside Road will be provided through a gate in the northwest corner of the site.

Jane DiDona, Landscape Architect, explained that an important aspect of her job is to minimize the institutional feeling of the facility and make it feel more like a home. The landscaping proposed includes patios, pergolas, paths, planted areas and gardens. She said that low voltage lighting will be provided to keep the entire facility in character with a residential home. She noted that the wall adjacent to the driveway that leads from the street to the basement garage will need to be reconfigured, and they will also change the stone wall adjacent to Brookside Road—all as shown on the plans. As part of this work, the landscaping area in the front of the site along the street frontages will be reshaped. With respect to the open space to the rear of the building, they will regrade the area adjacent to the building so that two distinct patio areas will be created at two different levels. One patio area will be accessible from the Memory Care Floor, and the other patio area will be accessible from the First Floor. Low voltage lighting will be installed on very short light poles, again to maintain the residential feel. She said that the portion of the property in the R-1/2 Zone will be gardens and strolling paths constructed of pavers. Many of the trees on the

perimeter of the property will remain, and new trees will be planted. A small waterfall and pool and a pergola structure will enhance the garden and path areas. Ms. DiDona said that they are removing approximately 25 trees, and will be installing approximately 68 new trees. She said that the rain garden areas adjacent to Brookside Road will be created for storm water management and for beautification. The variety of plants in the rain garden area will also provide biodiversification. A wooden fence will be installed adjacent to Brookside Road for safety and for visual character. The four foot fence will be located approximately two feet away from the 18" high retaining wall that needs to be reconstructed. She said that an important aspect of her landscape design is to have the backyard area be more like that of a home rather than an institution. She said that lighting will be on in the early evening, but would generally be turned off by 9 P.M. In response to questions, she said that there is sufficient space for snow clearing of the driveway in the front and down to the lower level parking area. The snow will need to be stacked on the small islands and in the wider driveway. Garbage collection will be in the basement level parking level. No outside garbage bins are needed.

Attorney Zabetakis said that the driveway entrance into the garage has a column at approximately the middle of the travel lane. This column was placed there because it supports part of the building and also to comply with the setback requirements from Brookside Road. They are proposing to remove this column and instead install a large carrying beam to support the weight of the portion of the building now supported by the column. Michael Stein explained that the carrying beam will then extend to the north side of the driveway and would be supported by a pilaster. This pilaster and the extended carrying beam are proposed to be located in the Brookside Road setback area. They would not have a roof or walls or floor, only the support column and the carrying beam.

Mr. Ginsberg explained that this matter had been discussed at length by the staff, and he asked that the Commission consider whether the support pilaster and carrying beam would be considered part of the structure thus requiring compliance with the setback requirement, or if the Commission would deem that the support structure does not need to comply with the setback requirement. Mr. Stein said that they propose to move the column for driveway safety purposes, so that access to and from the garage will not be hindered.

Mr. Ginsberg confirmed that the comments of the Fire Marshal had been addressed.

There were no comments from the public.

The following motion was made: That the Commission close the Public Hearing regarding this matter. The motion was made by Ms. Cameron, seconded by Mr. Voigt and unanimously approved.

GENERAL MEETING

At approximately 9:20 P.M. Chairman Conze started the General Meeting portion of the evening's business. He read the following agenda item:

Informal discussion regarding potential redevelopment of 745 Boston Post Road. (15-20 mins.)

David Genovese of Baywater Properties made a Power Point presentation explaining how he proposes to demolish the existing building and replace it with a structure that would contain eight

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apartments on the second floor and have approximately 5400 square feet of commercial space on the ground floor. He said that he would expect to rent the apartments easily since the property is within easy walking distance to the train station and shopping. The ground floor would be used for offices or retail.

Attorney Robert Maslan reviewed the zoning aspects of the proposal. He explained how they were using the Moderate Income Housing Incentive to satisfy the Regulations. There would be 22 on-site parking spaces and 10 parking spaces across the Boston Post Road (that are previously reserved for use by this property). The on-site parking spaces would be located on the rear portion of the property, which is in the residential zone with the DBR overlay.

The Commission members will take this preliminary presentation under advisement and provide comments to staff, who will then discuss the matter with the applicant.

At about 9:45 p.m., Chairman Conze read the following agenda item:

Business Site Plan #249-A/Special Permit, Whole Foods Market, 150-152 Ledge Road.
Request for seasonal farmer's market outside of the store.

This application was withdrawn.

Chairman Conze then read the following agenda item:

Site Plan Application #251-A, Special Permit Application #246-A, Land Filling and Regrading Application #184-A, Lot Line Adjustment #609-A, CL Darien Partners, LLC (formerly Hoyt Street Partners, LLC) Cedar Lane.
Request for extension of time to submit a revised site plan and related materials.

Attorney Bruce Hill represented the applicant and explained that the Commission's approval had been obtained in 2007. For more than two and a half years they worked with the Connecticut Department of Transportation to provide driveway access from Hoyt Street. Ultimately, the DOT declined to permit any driveway to access on Hoyt Street. In 2009, the applicants obtained approval from the Planning and Zoning Commission to amend the plan to have the driveway go out to Wakemore Street and then to realign the intersection of Wakemore Street with Hoyt Street. Mr. Hill said that they are now waiting for DOT's final action on that revised plan. They hope to obtain that approval in May or June. He said that the applicants then hope to finalize the purchase of the property in July, and to commence site work in August. They are requesting an extension until the end of December 2011 to commence work.

The following motion was made: That the Commission approve the extension to commence construction by December 31, 2011. The motion was made by Mr. Hutchison, seconded by Ms. Cameron and unanimously approved.

Chairman Conze read the following agenda item:

Coastal Site Plan Review #39-B, Flood Damage Prevention Application #30-B, Shannon & Pamela Bass, 240 Long Neck Point Road, R-1 Zone.
Request for extension of time to construct dock.

The applicant is requesting an extension until December 31, 2011 so that the existing permits will remain in place for the new buyer of the property. Mr. Spain said that it appears that the new buyer is anxious to proceed with the project and is serious about implementing the installation of the dock.

The following motion was made: That the Commission grant the extension so that the work on this project must commence by December 31, 2011. The motion was made by Mr. Hutchison, seconded by Ms. Riccardo and unanimously approved.

Chairman Conze read the following agenda item:

Business Site Plan #205-D/Special Permit, 205 Boston Post Road.

Request for an extension of time to commence project.

Mr. Ginsberg reviewed the applicants' letter requesting an extension from the Planning and Zoning Commission (and from the Zoning Board of Appeals).

After a brief discussion, the following motion was made: That the Commission grant the requested extension to finalize the paperwork regarding the project and a separate extension of the time period to commence construction and implementation of the project.

The motion was made by Ms. Cameron, seconded by Mr. Hutchison and unanimously approved.

Chairman Conze read the following agenda item:

Subdivision Application #323-A, Coastal Site Plan Review #222-A, Flood Damage Prevention Application #244-A, Land Filling & Regrading Application #176-A, Kane, 147 Five Mile River Road.

Request for two-year extension of time.

Mr. Ginsberg reviewed the May 3, 2011 letter from Attorney Wilder Gleason, which requests a two-year extension of time. Mr. Gleason was present to answer any questions. He said that the project was approved in 2009. Due to the uncertainty regarding the development of the adjacent property, Mr. and Mrs. Kane are unsure about whether they should proceed with their project.

Mr. Spain said that he believed that a twelve month extension is warranted, but not a twenty-four month extension.

After further discussion, the following motion was made: That the Commission grant an eighteen-month extension of the time period in order to commence construction of the project. The motion was made by Mr. Voigt, seconded by Mr. Hutchison and unanimously approved.

The following motion was made: That the Commission waive 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 Ms. Cameron, seconded by Mr. Hutchison, and unanimously approved.

Chairman Conze then read the following agenda item:

Discussion, deliberation and possible decisions regarding:

Coastal Site Plan Review #264, and Land Filling & Regrading Application #256, Robert & Kimberlee Ageloff, 18 Crane Road. Proposing to: construct additions and alterations to the existing single-family residence with associated stormwater management; construct a replacement pool with associated patio; install a new driveway and construct a driveway expansion area; and perform related site development activities within a regulated area.

A number of typographical errors and minor corrections and clarifications were discussed and agreed upon.

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. Spain, seconded by Ms. Riccardo and unanimously approved.

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ADOPTED RESOLUTION
MAY 10, 2011**

Application Number: Coastal Site Plan Review #264
Land Filling & Regrading Application #256

Street Address: 18 Crane Road
Assessor's Map #60 Lot #29

Name and Address of Property Owner: Robert & Kimberlee Ageloff
And Applicant: c/o 24 Lighthouse Way
Darien, CT 06820

Name and Address of Applicant's Representative: Robert Tucker, AIA
Huestis Tucker Architects
2349 Whitney Avenue
Hamden, CT 06518

Activity Being Applied For: Proposing to: construct additions and alterations to the existing single-family residence with associated stormwater management; construct a replacement pool with associated patio; install a new driveway and construct a driveway expansion area; and perform related site development activities within a regulated area.

Property Location: The subject property is located on the east side of Crane Road, approximately 1,100 feet south of its intersection with Pear Tree Point Road.

Zone: R-1

Date of Public Hearing: March 22, 2011 continued to April 26, 2011

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

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Publication of Hearing Notices

Dates: March 11 & 18, 2011

Newspaper: Darien News

Date of Action: May 10, 2011

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
May 20, 2011

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, 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 development 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 request is to construct additions and alterations to the existing single-family residence with associated stormwater management; construct a replacement pool with associated patio; install a new driveway and construct a driveway expansion area; and perform related site development activities within a regulated area. Some of the work has already been approved administratively, but the work involving the garage addition and the regrading for the new driveway adjacent to the north boundary does require a Special Permit from the Planning and Zoning Commission. The subject property is served by public water and sewer.
2. In response to comments received by the Commission and Department of Public Works during the public hearing process, the applicant modified the on-site stormwater management proposed as part of this application. These changes include, but are not limited to, the inclusion of a swale in the back yard, and a rain garden in the front yard. Some additional refinements/revisions to the drainage plans are needed to comply with the items discussed at the final Public Hearing.
3. 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.
4. 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.
5. The potential adverse impacts of the proposed activity, as modified within this resolution, on coastal resources are acceptable.

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6. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would mitigate any adverse impacts by the proposed activity on coastal resources.
7. The applicant must make sure that at all times during the redevelopment of the site, the storm water runoff is properly managed to avoid impacts to the neighbors and the street.
8. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
9. 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 Coastal Site Plan Review #264 and Land Filling and Regrading Application #256 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Subject to the revisions discussed at the final Public Hearing, construction, filling and regrading, and associated stormwater management shall be in accordance with the plans entitled:
 - Site Development Plan-Phase 1 & Phase 2-Robert Ageloff Kimberly Ageloff 18 Crane Road, by Sound View Engineers & Land Surveyors, LLC, dated February 9, 2011 and last revised 4/21/2011.
 - Addition and Renovations to the: Ageloff Residence by Huestis Tucker Architects, last revised 2.11.11, Sheets TS-1, SP-1, A-0 through A-7.
 - Ageloff Residence Rain Garden Planting Plan, by Huestis Tucker Architects, dated 4-13-2011.
- B. 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.
- C. 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.
- D. As discussed at the final Public Hearing, an additional above ground rain garden area with above ground overflow spillway will be created adjacent to the street in order to avoid an underground (pipe) connection to the existing catch basin in Crane Road.
- E. By July 10, 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

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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 18 Crane 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.

- F. A final “as-built” survey is hereby required to certify that all of the regrading and other site improvements are all in compliance with the approved plans. In addition, a Professional Engineer shall certify in writing that the work, including the proposed pool, grading, and drainage work have been properly completed.
- G. The applicant must make sure that at all times during the redevelopment of the site, the storm water runoff is properly managed to avoid impacts to the neighbors and the street. This shall include, but not be limited to, sedimentation prevention and control, temporary artificial and/or vegetative cover to minimize erosion of exposed soils, and speedy restabilization of all disturbed areas.
- H. The property owner shall have the continuing obligation to ensure that storm water runoff and drainage from the site will not have negative impacts upon the environment to adjacent property(ies) or the adjacent streets. If such problems do become evident in the future, the owner(s) of the property shall be responsible for remedying the situation at their expense and as quickly as possible.
- I. 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 includes, but is not limited to, a Zoning and Building Permit for construction of the proposed pool.
- J. 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.
- K. This permit shall be subject to the provisions of Sections 815, 858 and 1009 of the Darien Zoning Regulations, including but not limited to implementation and completion of the approved plans for site work, regrading, drainage and stabilization/re-vegetation of all disturbed areas within one year of this action (by May 10, 2012). This may be extended as per Sections 815, 858 and 1009.

All provisions and details of the application shall be binding conditions of this action and such approval shall become final upon 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 60 days of this action and prior to the start of any filling or regrading work, or this approval shall become null and void.

Chairman Conze read the following agenda item:

Business Site Plan #200-E/Special Permit, Tokeneke Properties, LLC, 23-33 Tokeneke Road.
Proposing to convert a portion of the existing second floor from office use to six apartments, with two of those apartments being designated as below market rate units as required by Section 580 of the Darien Zoning Regulations.

A number of corrections and clarifications were discussed and agreed upon. 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 Ms. Riccardo, seconded by Mr. Spain and unanimously approved.

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ADOPTED RESOLUTION
May 10, 2011**

Application Number: Business Site Plan #200-E/Special Permit

Street Address: 23-33 Tokeneke Road
Assessor's Map #72 Lot #45

Name and Address of Applicant & Applicant's Representative: David J. Palombo
Palombo Architectural Design
823 Ridgefield Road
Wilton, CT 06897

Name and Address of Property Owner(s): Tokeneke Properties, LLC
PO Box 193
Rowayton, CT 06853

Activity Being Applied For: Proposing to convert a portion of the existing second floor from office use to six apartments, with two of those apartments being designated as below market rate units as required by Section 580 of the Darien Zoning Regulations.

Property Location: The subject property is on the west side of Tokeneke Road, approximately 300 feet south of its intersection with Boston Post Road.

Zone: CBD

Date of Public Hearing: April 26, 2011

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

Publication of Hearing Notices

Dates: April 15 & 22, 2011

Newspaper: Darien News

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Date of Action: May 10, 2011

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of
Action: May 20, 2011

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 580, 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 redevelopment/internal renovation 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 applicant proposes to convert a portion of the second floor of an existing two-story mixed use building from office use to six apartments, with two of those apartments being designated as below market rate (affordable) units as required by Section 580 of the Darien Zoning Regulations. No new impervious surface is being created as part of this application. The only change is internal renovation to existing second floor space. The applicant does not propose to expand the structure or intensify the use. The subject property is served by public water and sewer. It is in downtown Darien, within walking distance of the Darien Train Station, and within 50 feet of the bus route which runs along Boston Post Road.
2. As explained at the public hearing, the second floor space now consists of six offices and four apartments. These were shown on the submitted floor plans. The ground floor consists of retail sales and restaurant uses, which are not changing as part of this application. The application proposes to convert the second floor office spaces into six additional apartments, resulting in a total of ten, second floor apartments. According to information submitted by the applicant, the second floor now consists of 6,508 square feet. Second floor office space is now approximately 3,500-3,900+/- square feet (with the remaining 2,600-3,000+/- square feet being the four existing apartments). Under the Zoning Regulations, 4,000 square feet of office space requires sixteen parking spaces. The proposed new apartments would require 2.5 spaces per unit x 6 units =15 parking spaces. Thus, from a parking perspective, this is a decrease in intensity. This property is somewhat unique in that the previously approved development included conveyance of land to the Town to expand the municipal parking facilities, thus the need for on-site parking has been waived. Parking is available in the adjacent municipal parking lot. Of these ten apartments, five would be studio apartments and five would be one bedroom apartments. As the office tenants vacate over time, those spaces will be converted to apartments in accordance with the plans. The new dwelling units (the conversions) will not all occur at the same time.

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3. The proposed apartments range in size from 330+/- square feet for a “small studio” (Apartment #10) to 800+/- square feet one-bedroom units (Apartments #1, #7 and #8). The Commission notes that these smaller apartments are not likely to have residents who own more than one vehicle. This is especially true due to the building’s location within downtown Darien, within walking distance of the Darien Train Station and very close to the existing Boston Post Road bus route.
4. Section 580 et. seq. of the Darien Zoning Regulations (Inclusionary Zoning), requires that for projects of more than five new units of housing, that a minimum of 12% of the total dwelling units on the site be designated and deed restricted as affordable housing (either created on-site or off-site), or a fee in-lieu be paid to the affordable housing trust fund. To comply, two of the proposed six new units would need to be deed restricted per Subsection 583, or two below market rate units must be created elsewhere within the Town, or a fee must be paid in lieu; or some combination of these alternatives. The Commission finds that in this case, due to the location of the subject property, that the two required below market rate units are best created on-site.
5. No incentives/waivers have been requested per subsection 585, and none are hereby granted, and the proposal as designed and approved herein complies fully with all of the zoning regulations for the Central Business District (CBD) zone for which the property is located.
6. The existing building is located between Tokeneke Road and Center Street. The Center Street North municipal parking area is behind the subject property, and there is on-street parking on both sides of Tokeneke Road. There is no parking on the subject property. Since there is no on-site parking, the property owner will have to make arrangements for the apartment residents to park elsewhere. This may require the purchase of parking stickers from the Town of Darien.
7. 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.
8. 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.
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 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.
11. 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.

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NOW THEREFORE BE IT RESOLVED that Business Site Plan #200-E/Special Permit is hereby approved subject to the foregoing and following conditions, modifications and understandings:

- A. Changes to the second floor of the existing building at 23-33 Tokeneke Road shall be in accordance with the following floor plan submitted to and reviewed by the Commission:
Tokeneke Apartments, 23-33 Tokeneke Road Floor Plan: 2nd floor, by Palombo
Architectural Design Sheet A1, dated 2.22.11 and last revised 3.14.11 and 4.1.11.
The building plans shall incorporate the comments received from the Fire Marshal dated March 29, 2011.
- B. In order to comply with the Zoning Regulations, one of the studio apartments shall be deed-restricted, and one of the one-bedroom apartments shall be deed restricted.
- C. The Commission is NOT making the determination on whether these new apartments to be “for sale” or “for rent” units. That decision is up to the property owner.
- D. The applicant shall comply with subsection 586 of the regulations by submitting an affirmative fair housing marketing plan for the below market rate dwelling units. All dwelling units shall be offered for sale or rent in compliance with all applicable Federal and State Fair Housing Laws.
- E. The applicant shall also comply with the provisions of subsection 587 of the Zoning Regulations, entitled, “Program Administration”.
- F. Relative to sequencing, on or before the point at which four apartments are available, at least two shall be “below market rate units”.
- G. Once a space within the building has been converted from office use into an apartment, it cannot be converted back into office use (or any other use) unless an amendment of this approval is obtained from the Planning and Zoning Commission.
- H. The Commission hereby waives the requirements under Section 888a(3) of the Zoning Regulations. That provision allows the Commission to waive the requirement for stormwater management due to: “...the scope, nature, and/or amount of work proposed in the application...” In this specific case, the applicant is not changing the amount of impervious surface. This is solely a second floor renovation.
- I. The Commission takes specific note that this is not a “teardown”, and that only a specified portion of the existing building is proposed to be renovated. If during the renovation process, the property owner finds that compliance with the submitted plans is not possible, he shall return to the Planning and Zoning Commission for further review and action.
- J. Because of the nature of the existing and proposed 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.
- K. Final documentation as required by Section 580 et. seq. shall be submitted, reviewed acted upon and filed in the Darien Land Records if necessary, by August 10, 2011. The applicant shall

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consult with and work with Planning and Zoning Department staff on the documents, which will ensure compliance with Section 580.

- 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 application 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.
- N. This permit shall be subject to the provisions of Section 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (May 10, 2012). This may be extended as per Section 1028.

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. All completed requirements and materials shall be submitted to the Planning and Zoning Department within 90 days of this action or this approval shall become null and void. All documentation regarding the restrictions on the two below market rate/affordable units shall be filed in the Darien Land Records prior to the issuance of a Certificate of Occupancy for any one of the apartments.

Chairman Conze read the following agenda items:

Discussion and Deliberation ONLY on the following:

Coastal Site Plan Review #265, Flood Damage Prevention Application #301, Peter & Susan Markham, 4 Shipway Road. Proposing to lift the existing single-family residence, and construct additions and alterations to it; relocate the existing driveway; and to perform related site development activities within regulated areas. *DECISION DEADLINE: 7/7/2011.*

Coastal Site Plan Review #36-B, Flood Damage Prevention Application #34-B, Robert & Amy Rupp, 3 Candlewood Lane. Proposing to construct additions and alterations to the existing residence, remove the existing cottage and perform related site development activities within regulated areas. *DECISION DEADLINE: 7/7/2011.*

Land Filling & Regrading Application #257, Christopher & Margaret Stefanoni, 149 Nearwater Lane. Proposing to allow fill placed adjacent to stone wall on the northerly and westerly boundaries of the property to remain. *DECISION DEADLINE: 7/7/2011.*

These items were discussed on an informal basis, and staff will draft resolutions for action at the May 24th or June 7th meeting.

Chairman Conze read the following agenda item:

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Approval of Minutes

March 22, 2011 General Meeting/Public Hearing

A number of corrections and clarifications were discussed and agreed upon. The following motion was made: That the Commission approve the minutes as discussed and revised. The motion was made by Ms. Cameron, seconded by Mr. Spain and unanimously approved.

There being no further business, the following motion was made: That the Commission adjourn the meeting. The motion was made by Mr. Spain, seconded by Ms. Cameron and unanimously approved. The meeting was adjourned at 10:40 p.m.

Respectfully submitted,

David J. Keating
Assistant Director of Planning and Zoning

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