

**PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
March 9, 2010**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Conze, Hutchison, Riccardo, Voigt

STAFF ATTENDING: Ginsberg, Keating

RECORDER: Syat

FILMED: Channel 79

---

**PUBLIC HEARING**

Mr. Conze read the first agenda item:

**Continuation of Public Hearing regarding Coastal Site Plan Review #239-A, Flood Damage Prevention Application #264-A, Kevin & Jennifer Fay, 22 Beach Drive.** Proposing to construct a replacement patio at a different grade and to perform related site development activities within regulated areas. The subject property is located on the west side of Beach Drive approximately 1,000 feet south of its intersection with Boston Post Road and is shown on Assessor's Map #53 as Lot #11, in the R-1/2 Zone. *PUBLIC HEARING OPENED ON: 2/2/2010, CONTINUED TO 2/23 AND 3/2. DEADLINE TO CLOSE PUBLIC HEARING IS: 3/9/2010.*

Mr. Ginsberg noted that revised plans had been submitted by the Project Architect along with letters from Sound View Engineering dated February 9, 2010 and February 25, 2010. There are also letters that have been distributed to the Commission members from the adjacent neighbor, Mrs. Long. Those letters are dated February 23 and March 9, 2010.

Mr. Hutchison noted that he had missed the first portion of the public hearing, but has reviewed the file and the draft minutes of the public hearing and is familiar with the application.

Mr. Fay explained that the revised Engineering Plan will now include the installation of two additional Cultec units to handle storm water runoff from the entire replacement terrace area. This will assure that there will be no runoff from the terrace going towards the neighbor's property except in the most severe types of storms. Mr. Ginsberg noted that the Project Engineer, Peter Finkbeiner, has indicated in his letters that the two additional Cultec units will handle storm water runoff from all but the 50 year and larger storms because, under those severe rain storms, the back yard will be flooded by rising water from Holly Pond, thus no on-site storm water detention is possible. For smaller storms, the Cultec units will adequately address storm water concerns.

Mr. Fay said that due to the construction ending late last growing season, the lawn that he tried to establish is only about 60% of what it will eventually become. He said that Mrs. Long has noted that a low portion of her property floods, but adding two inches or so of fill in that area might address her concern. He is not proposing to add any fill in that area. He also noted that it might be possible to create a berm along the southern property line of the Fay property and the northern boundary of the Long property, but he indicated that elevating that area is not practical. Mr. Fay said that the low

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MARCH 9, 2010  
PAGE 2 OF 24

parts of the properties get puddles during rain storms, but the puddles go away after a few hours. He said many properties in the neighborhood are pitched so that runoff from the front portions of the properties goes to the rear portions of the sites and the rear sites are pitched through the Fay and Long properties toward Holly Pond.

There were no comments from anyone else regarding the application. The following motion was made: That the Commission close the public hearing regarding this matter. The motion was made by Mrs. Riccardo, seconded by Mr. Hutchison and unanimously approved.

Chairman Conze read the following agenda:

**Continuation of Public Hearing regarding Land Filling & Regrading Application #236, Philip & Lorraine Weyhe, 42 Stanton Road.** Proposing to fill and regrade south of the existing residence and to perform related site activities. The subject property is located on the east side of Stanton Road, at the northwest corner formed by its intersection with Gardiner Street and is shown on Assessor's Map #46 as Lot #68, in the R-1/2 Zone. *PUBLIC HEARING OPENED 2/23/2010.*

Lorraine Weyhe was present to explain her application. She said that she would like to add grass and trees to the area that had been disturbed. She also noted that there is a natural low spot between the edge of where some of the fill has been placed and Gardiner Street. She has not seen water collect or cause problems in that area. She said that she changed the slope from sharp grades to a more gentle, rolling slope in the backyard. No additional fill or soil will be brought to the site.

Mr. Ginsberg explained that during 2009, Mrs. Weyhe had a landscaper do work in the back and side yard of the existing house. This work involved clearing some of the underbrush and filling and regrading. No permits had been obtained and it was determined that after-the-fact permits would be necessary because of the extent of the filling and regrading that had taken place.

A neighbor, Mrs. Parlette, of 54 Gardiner Street, expressed her support for the application. She said that the proposed work makes the property look more beautiful.

The staff noted that there have been no apparent erosion problems from the disturbed area because of the natural, undisturbed area that has been left adjacent to Gardiner Street. There were no further comments regarding the application. The following motion was made: That the Commission close the public hearing regarding this matter. The motion was made by Mrs. Riccardo, seconded by Mr. Hutchison and unanimously approved.

Chairman Conze read the following agenda item:

**Continuation of Public Hearing regarding Coastal Site Plan Review #249, Flood Damage Prevention Application #279, Edward "Tim" Brown & Yael van Hulst, 2 Baywater Drive.** Proposing to remove the existing pier, ramp and dock, and replace it with a new pier, ramp and dock, and perform related site activities within regulated areas. The subject property is on the south side of Baywater Drive, at the southeast corner formed by its intersection with Nearwater Lane, and is shown on Assessor's Map #55 as Lot #105 & #106, in the R-NBD Zone. *PUBLIC HEARING OPENED 2/23/2010.*

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MARCH 9, 2010  
PAGE 3 OF 24

John Hilts represented the owners and explained that the replacement pier and ramp and float will be virtually the same as what had been at the site, but will be slightly reconfigured in accordance with State of Connecticut DEP requirements. Mr. Ginsberg noted that the replacement structures will be about one foot higher in order to facilitate the growth of natural vegetation beneath the structures. Mr. Ginsberg added that the application materials had been referred to the Connecticut Department of Environmental Protection (DEP) and that they had already approved the permit application in late 2009. He read aloud the DEP response indicating that they had no additional comments at this time.

Mr. Hilts said that the replacement pier and float structures have been prefabricated off-site and will be barged to this property and installed. All of the old structure will be hauled away by barge.

There were no comments from the Commission regarding the application. There were no comments from the public regarding the proposal. The following motion was made: That the Commission close the public hearing regarding this matter. The motion was made by Mr. Voigt, seconded by Mr. Hutchison and unanimously approved.

At about 8:15 p.m., Mr. Conze then read the following agenda item:

**Continuation of Public Hearing regarding Coastal Site Plan Review #228-A, Flood Damage Prevention Application #256-A, Land Filling & Regrading Application #201-A, Real & Tara LeClerc, 16 Cross Road.** Proposing to construct additions and alterations to the existing residence and relocate the driveway from Hope Drive to Cross Road and perform related site development activities within regulated areas. The subject property is on the northwest corner formed by the intersection of Cross Road and Hope Drive, and is shown on Assessor's Map #69 as Lot #12, in the R-1 Zone. *PUBLIC HEARING OPENED 2/23/2010.*

Dan Conlon, Project Architect, represented the property owners and explained that they had a previous commitment and could not attend the meeting. The site contains 1.6 acres of land at the corner of Cross Road and Hope Drive. The house will be substantially renovated and additions will be constructed. As part of the redevelopment of the property, they will remove the existing driveway from Hope Drive into the property and construct a new driveway from Cross Road into the property. He said that from a coastal site plan perspective, there are numerous site improvements that include: installation of a storm water filtering and renovation system; installation of a new septic system to replace the old, inadequate system; and proper installation and maintenance of sediment and erosion controls throughout the construction process.

Mr. Conlon explained that a portion of the property is in the Flood Zone Area Designated A-6. The expected flood elevation will extend up to Elevation 12 feet above sea level. A portion of the existing structure is within the Flood Hazard Zone area. Some minor filling is proposed so that the entire structure will no longer be within the Flood Hazard Zone. The contour line 12 will be pushed out slightly resulting in the house being fully compliant with Flood Damage Prevention Regulations. He said that the filling necessary will have an average depth of about 12 inches and will have a maximum depth of approximately 24 inches. About 300 square feet of area will need to be filled and they will use approximately 112 cubic yards of fill to accomplish this proposed regarding. The necessary fill can be brought into the site using approximately 7 truckloads of material.

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MARCH 9, 2010  
PAGE 4 OF 24

Mr. Conlon submitted a February 25, 2010 Memorandum from Robert Oley of Land Tech Engineers. Mr. Oley addresses the concerns and issues that have been raised by the various Town agencies. Mr. Oley noted that it is not possible to have a low level outflow from the storm water detention facilities because they are being placed at the lowest portion of the site. He does note that the ground has excellent percolation rate and as long as the area is not flooded, the retention facilities will be self draining. He also noted that if the retention facilities are inadequate due to a dramatic storm, the natural backup will allow water to flow out of the new catch basin to be installed. It is then a short distance to the catch basin in the street where water can then drain away from the site. Mr. Oley also noted that they will be taking steps to protect and preserve the oak tree that was mentioned in the comments from the Environmental Protection Commission. Mr. Conlon said that they will be carefully relocating the water line so that it is farther away from the roots of the oak tree and they will work with an arborist to determine what steps will assure that the oak tree will survive the redevelopment process.

Mr. Conlon said that a new propane gas tank will be installed per the plan and that the new gas line will go under the proposed addition to the building.

In response to questions, Mr. Ginsberg noted that this property is served by a private road, not a public street. The site does not have public sewer, instead, it has an on-site septic system.

In response to questions, Mr. Conlon said that they are considering the possibility of burying the overhead power lines, but are undecided at this time whether they will actually be able to do that work.

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. The motion was made by Mr. Hutchison, seconded by Mrs. Riccardo and unanimously approved.

### **GENERAL MEETING**

At about 8:30 p.m., Chairman Conze called the General Meeting to order and read the following agenda item:

#### **Review and Brief Discussion of Board of Education Lights Report on DHS Stadium Field.**

The Report has been received by the Commission and individual members have had an opportunity to read and review the Report. Due to the long agenda, Mr. Conze did not want to have a general discussion regarding the matter.

Mr. Conze read the following agenda item:

#### **Review and Brief Discussion of DJFL Lights Report on DHS Stadium Field and DJFL Lights Report on Holahan Field.**

The reports had been received by the Commission and read and reviewed by the individual members. Due to the lengthy agenda, the Commission did not want to discuss the matter.

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MARCH 9, 2010  
PAGE 5 OF 24

Chairman Conze read the following agenda item:

**Informal discussion regarding 934 Boston Post Road, CBD Zone.**

Attorney Wilder Gleason represented the new property owners and explained that the site formerly contained the Crystal Gardens Florist shop along the Boston Post Road. He said that there are actually two buildings on the property. The first building is a two story structure on the corner of the Boston Post Road and Tokeneke Road. This building was formerly occupied by Crystal Gardens Florist shop and most recently occupied by Kellogg's General Store. The second building fronts on Center Street. The first floor of that building is a print shop, and the second floor offices were formerly occupied by the Darien Board of Realtors. Mr. Gleason said that the front building is currently vacant and the second floor of the Center Street building is currently vacant. He said that he spoke with the Commission several years ago about the concept of putting a restaurant in the first floor of Building No. 1. Parking on the site is very limited, but the site is immediately adjacent to the Center Street North parking lot.

Mr. Gleason said that at the time of the discussion several years ago, the parking requirement for a restaurant was one space per 100 square feet of floor area. That matched the parking requirement for a retail business. Since then, the Planning & Zoning Commission has amended the Regulations to require less parking for retail uses (the current regulation is to require only one space for every 150 square feet of retail gross floor area) but they have not changed the regulation regarding restaurants.

Attorney Gleason said that the new owners will work with the adjacent neighboring property owners to get the back portion of those properties cleaned up. At present, the only access to the back portion of the neighboring buildings is through the subject property. Attorney Gleason reviewed two schemes for the proposed redevelopment of the site. The first, scheme "A" would leave the existing footprint as it currently is and add an attic structure to the Center Street building and create a new façade for that building. A pergola type structure would be constructed to accommodate outside dining and there would be a relatively small addition to the building. The entire Boston Post Road side of the building would become a restaurant use. This design would require substantial variances of the parking regulations because little or no on-site parking would be provided.

Scheme B would remove part of Building No. 2 closest to Center Street in order to comply with the rear building setback requirement of the Zoning Regulations. Land adjacent to Center Street would be deeded to the Town so that it could become municipal parking at some time in the future. This would allow the property owner to construct a substantial addition to the remaining building and screen the view of the neighboring buildings from Center Street.

Ken DeLeo, one of the owners of the site, said that the size and shape of the addition could be modified. Mr. Ginsberg noted that the proposed addition to the building would cut off access to the backs of the neighboring businesses. He believed that maintaining access to the rear portions of those businesses was critical. Mr. DeLeo said that the business buildings have not been properly maintained in the past.

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MARCH 9, 2010  
PAGE 6 OF 24

Mr. Hutchison said that he disagrees with the current Regulation that requires that the land be conveyed from the private property owner to the municipality. He believes that the land should remain in private ownership and taxes should be paid on the land. He did note that some form of a pedestrian connector between Center Street and the Boston Post Road should be accomplished so that there was a better way to get from the front of the building to the back of the building. Mr. Gleason replied that they could do a cut-through if they are successful in acquiring some of the additional adjacent land. Mr. DeLeo said that he envisions a good restaurant in the site and that the restaurant would have an adjacent bakery from which they sell their specialized foods.

Mr. Conze said that coordination with the adjacent property owners is critical. It is also necessary to provide some form of entrance to those Tokeneke Road businesses through the back portion of their sites. He also said that taking down the Center Street portion of the building in order to comply with the municipal parking lot expansion program would be the better way to go so that variances would not be necessary. Mr. Hutchison noted that some form of connection between the Boston Post Road and Center Street is appropriate. It was also noted that trash dumpsters and other utility services to all of the properties need to be provided and coordinated. An additional item was that the attic floor being created would be for storage use only. Mr. Voigt asked about possible landscaping in the rear of the property. Mr. Deleo noted that they are considering burying existing overhead wires as part of this redevelopment.

No action was taken on the matter because there was no application pending. Attorney Gleason thanked the Commission for their input and will have his client work on revised plans to reflect the comments of the Commission.

At about 8:50 p.m., Chairman Conze read the following agenda item:

**Amendment of Special Permit #258/Site Plan, Cava Wine Bar, 1077 Boston Post Road, CBD Zone.**

Final details regarding proposed restaurant seating, including, but not limited to: outdoor tables, chairs, lighting, surface treatment and drainage.

Mr. Ginsberg explained that a portion of the first floor of the theater building has already been approved by the Planning & Zoning Commission as a restaurant. When the approval was granted, the applicant was still working on possible designs for outside dining and thus no outside dining has yet been approved. The current proposal is to create an outside dining area and pedestrian area. These designs have been submitted to the Architectural Review Board (ARB). ARB has approved the design concept with respect to materials. The applicant is now seeking approval from the Planning & Zoning Commission for the site plan modifications to accomplish the outside dining and pedestrian mall and lighting and landscaping.

Dwight Collins explained that the concept of the Playhouse Mews project is to facilitate the outside dining and improve the pedestrian access from the parking lot in the rear of the building out to the Boston Post Road sidewalk and the front entrance. During the off-season, the tables and chairs for the restaurant will be stored at an off-site location. He noted that the design plans have accommodated the storm water drainage conditions. In response to questions, Mr. Collins said that the outside dining would involve up to 10 tables and up to 40 customer seats. A separator barrier will be necessary because the restaurant will serve alcohol to its clients. Part of the design features

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MARCH 9, 2010  
PAGE 7 OF 24

include installation of paving blocks to make a new walking surface, landscape trellis type structures to add greenery to the perimeter, a series of overhead cables with suspended lights to provide safety, a well lit atmosphere and a new sign that will require a variance from the Zoning Board of Appeals.

The Commission members reviewed the plans and drawings. There were no comments from the public regarding the proposal. The following motion was made: That the Commission approve the Amendment to the Special Permit for the restaurant and the Amendment to the Site Plan for the location to accommodate the plans for the outside dining for up to 10 tables and up to 40 seats for patrons and the new pedestrian area and landscaping and lighting facilities all in accordance with the submitted plans and drawings. The motion to approve was made by Mr. Hutchison, seconded by Mr. Voigt and unanimously approved.

*Discussion, deliberation and possible decisions regarding:*

Chairman Conze read the following agenda item:

**Business Site Plan #205-D/Special Permit, 205 Post Road Development Partners, LLC, 205 Boston Post Road.** Proposing to modify the existing building and parking area and to establish a new drive-through only restaurant and perform related site development activities. *PUBLIC HEARING CLOSED: JANUARY 12, 2010. DECISION DEADLINE: MARCH 18, 2010.*

Commission members had received draft Resolutions for each of the pending matters. The following motion was made: That the Commission waive the process of reading the draft Resolutions aloud because each member has had an opportunity to read the drafts prior to the meeting. The motion was made by Mr. Hutchison, seconded by Mr. Voigt and unanimously approved.

Mr. Ginsberg summarized the draft Resolution regarding the proposal for 205 Boston Post Road which would approve the application subject to a number of conditions and stipulations regarding the site improvements, the use of the property and any changes that may be necessary in the future due to the traffic concerns or problems that might arise.

Mr. Conze asked if anything could be done to improve the safety of the Boston Post Road and Richmond Drive intersection regardless of whether this project moves forward. Mr. Ginsberg said that he has discussed the matter with the Police Department and Connecticut Department of Transportation (Conn DoT) officials. Mr. Conze suggested that the Town should put pressure on the Department of Transportation to make those improvements as quickly as possible. He suggested that the Selectman's office might become involved to support the efforts of the Police and the Planning & Zoning Department.

After further discussion, the following motion was made: That the Commission adopt the following Resolution to approve the project subject to the conditions and stipulations as noted in the Resolution. The motion was made by Mr. Hutchison, seconded by Mr. Voigt and unanimously approved.

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
March 9, 2010**

Application Number: Business Site Plan #205-D/Special Permit  
205 Post Road Development Partners, LLC

Street Address: 205 Boston Post Road  
Assessor's Map #13 Lot #6

Name and Address of Applicant & Applicant's Representative: Wilder G. Gleason, Esq.  
Gleason & Associates, LLC  
455 Boston Post Road, #201  
Darien, CT 06820

Name and Address of Property Owner: Connecticut Community Bank, NA  
d/b/a The Greenwich Bank and Trust Company

Name and Address Of Contract Purchaser: 205 Post Road Development Partners, LLC  
2 Greenwich Office Park  
Greenwich, CT 06830

Activity Being Applied For: Proposing to modify the existing building and parking area and to establish a new drive-through only restaurant and perform related site development activities.

Property Location: The subject property is located on the north side of Boston Post Road at its northwest intersection with Richmond Drive.

Zone: SB-E

Date of Public Hearing: November 24, 2009 continued to January 12, 2010

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

Publication of Hearing Notices  
Dates: November 12 & 19, 2009 Newspaper: Darien News-Review  
December 31, 2009 & January 7, 2010

Date of Action: March 9, 2010 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: March 18, 2010 Newspaper: Darien News-Review

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

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MARCH 9, 2010  
PAGE 9 OF 24

- the proposed use and activities must comply with all provisions of Sections 670, 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 plan, 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 modify the existing building and parking area and to establish a new drive-through only restaurant and perform related site development activities. The subject property is 11,057+/- square feet or about .25 acres. The property used to be the site of a drive-through dry cleaner pick-up and drop-off shop. No dry cleaning plant operated at the site.
2. It is important to note that this healthy food drive-up is a first of its kind in this area. The proposed restaurant is a Special Permit use, and therefore requires action under Section 1000 of the Darien Zoning Regulations. It is an amendment to the Business Site Plan.
3. The existing building is about 480 square feet. It is served by public water and public sewer. The existing building will be slightly modified as part of this application. Changes to the building include a proposed extension of the roof line and moving a window. An employee only, handicapped accessible ramp will be added to the property. An existing berm will be enhanced in the back of the property and a five foot fence placed atop this berm. New plantings will be installed as shown on the submitted plan listed in Condition A, below on page 5.
4. The restaurant proposes to be open for breakfast, lunch, and dinner. There will be no customer access except through the drive-up window. Outdoor seating/dining is NOT proposed as part of this application.
5. As explained by the applicant at the public hearing, due to the specific nature of this business, the proposed on-site cooking needs are small. Some of the items they will be preparing include sandwiches, wraps, soups, drinks and desserts. The concept is to assemble and reheat on site. Most menu offerings would be prepared off-site. It was noted that very little food would be prepared on the site. Mostly, it would be prepared elsewhere and then brought to this site where it would be put together in accordance with the customers' requests. There will be no deep fryers on site. There will be no customer seating, either indoors or outdoors. Usually there will be two employees on site and sometimes a third. Deliveries of food and supplies will be at non-peak hours as will the dumpster pick-up. All deliveries will be by van, not by 18 wheel trucks or other large vehicles due to the limited size of the site.

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MARCH 9, 2010  
PAGE 10 OF 24

6. The Commission's policy regarding restaurants is to have all fumes and odors minimized. In this case, nearby residential uses need to be considered. The applicant proposes to comply with the established restaurant exhaust requirements accepted by the Planning & Zoning Commission.
7. At the public hearing it was explained that customers will be allowed to fax, text, and/or e-mail orders in, and the proposed restaurant operators envision the use of a loyalty card. The applicant is currently looking at methods to improve the throughput (the process of receiving, preparing, packaging and delivering customer orders). The applicant anticipates two minutes from order to payment. As mentioned above, this restaurant is a new concept, and no current similar stores exist. As a comparison, the applicant's traffic consultant used a nearby KFC for analysis of order to delivery wait times.
8. Although shown on the originally submitted floor plans, there will be no pick-up counter. All customer activity will be at the drive-up window. Customers will not be allowed to park on site or to walk up to the building to place an order or pick up an order.
9. The revised plans submitted to the Commission in January 2010 incorporated the following changes: 1) creating the double entry lanes to increase queuing capacity; 2) moving the order box farther from the street; 3) improving the access for delivery vehicles and trash trucks; 4) creating snow shelves so that there is someplace for the cleared snow to be placed that will not block any areas where vehicles need to have access; and 5) having a bypass lane within the site.

#### DRAINAGE

10. Under Section 880 of the Darien Zoning Regulations, the applicant is requesting a waiver of the full drainage study because of the limited size of the site (it is 0.25 acres), and the fact that they have two front landscaped areas that limit development, and they are increasing the impervious by only 487 square feet net. (There are 821 square feet of new impervious surface minus some of the existing impervious surface to be removed.). An October 2009 Site Engineering Report was prepared by DiVesta Civil Engineering Associates with an associated October 23, 2009 letter. That was later supplemented by January 12, 2010 Drainage Calculations along with an associated two-page letter of the same date. A proposed four inch depressed area in the lawn east of the building and west of the easterly property line will contain sufficient volume to handle the increase in volume of runoff for a 50-year design storm.

#### PARKING, TRAFFIC AND QUEUING

11. The only access driveway into the site is from Richmond Drive. The application as originally submitted had one queuing lane, which accommodated 2-3 vehicles on-site. Commission members had significant concerns regarding queuing issues on that plan. After the public hearing on November 24, 2009, a revised plan was prepared which contains two lanes for queuing, and accommodates a total of 6-7 queuing vehicles on-site. The only exit driveway from the site is to the Boston Post Road. When exiting the drive-thru, it will be a right turn only onto the Boston Post Road.
12. The Darien Diner across the street has an entrance driveway from and exit driveway onto Richmond Drive.

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MARCH 9, 2010  
PAGE 11 OF 24

13. A letter dated November 12, 2009 was submitted on behalf of the applicant by Adler Consulting. The Commission hired Michael Galante of Frederick P. Clark Associates to review that submitted report/letter and other aspects of traffic flow and parking related to the project. Mr. Galante sent a letter dated December 29, 2009, and a subsequent letter dated January 12, 2010, which reviewed the revised plan, as well as a supplemental Adler letter/report dated January 8, 2010.
14. At the public hearings, neighbors submitted letters and spoke regarding their concerns on the project. Neighbors concerns include: the use of the curb cut on Richmond Drive; potential traffic flow and parking conflicts with Darien Diner traffic; additional traffic generated by this business; the fact that turning left into Richmond Drive from Boston Post Road is already a safety problem and should not be allowed to be made any worse by the proposed Special Permit use; the difficulty and possible queuing problems exiting the site onto Boston Post Road; the potential for vehicles to turn around in nearby residential driveways on Richmond Drive; and the need for plantings and landscaping to provide greater separation between the business use and the residential neighborhood.
15. Comments from the Darien Fire Marshal, Health Department, Public Works Department, and Traffic Authority were received regarding this application. The Traffic Authority's December 22, 2009 letter noted that the Police Commission "...voted to mandate that traffic queuing related to this proposed business cannot occur on Richmond Drive at any time during business hours and that, as a condition of any approval, the applicant be required to take any and all necessary corrective steps to alleviate on-street queuing if it occurs with regularity after the proposed business opens."
16. In an e-mail dated January 8, 2010, Darien Police Lieutenant Don Anderson noted that "...the revisions that the applicant has proposed, from my perspective, will be helpful in ensuring that traffic does not queue up on Richmond Drive, which, as you are aware, is our primary concern."
17. On November 18, 2009, the Architectural Review Board (ARB) approved the design of the building alterations, new windows, dumpster enclosure, and signage as part of ARB #20-2009. That approval is hereby incorporated by reference, and noted in a December 1, 2009 letter to Wilder Gleason, Esq.
18. The Zoning Board of Appeals (ZBA) approved variances as part of Calendar #47-2009. Those variances were relative to: allowing a restaurant use within this zone with no indoor customer tables/seating; the stair platform location; the HVAC and generator/transformer location; the location of the pole sign; and the allowance of 4 in lieu of 5 required on site parking spaces. That approval is also hereby incorporated by reference.
19. During the public hearing process, the applicant's representative said that his client is prepared to accept conditions and stipulations comparable to those set out in the Commission's approvals of other food service establishments. A one-page document entitled, "Palm Ventures 205 Post Road Proposed Stipulations" was distributed at the January 12, 2010 public hearing. These conditions address such issues and concerns as - any traffic back up having to be remedied, no queuing of vehicles on Richmond Drive, no on-street parking, the hours of operation, hours of deliveries and trash pick-up being controlled, and the trash dumpster enclosures being the roll-

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MARCH 9, 2010  
PAGE 12 OF 24

out style dumpsters to have minimal impact on the neighborhood. All of those proposed stipulations have been incorporated into this resolution as stipulations of the approval.

20. 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.
21. 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.
22. 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.
23. 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.
24. 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 Business Site Plan #205-D/Special Permit is hereby granted subject to the foregoing and following conditions, modifications and understandings:

- A. All construction, installation of plantings, and related activity shall be in accordance with the plan submitted to and reviewed by the Commission:
  - 205 Boston Post Road Development Partners, LLC, Proposed Site Plan, by DiVesta Civil Engineering Associates, Inc., dated 01/08/10 and last revised 1/12/10, Sheet No. 1 of 1.The floor plans prepared by Haverson Architecture and Design PC Sheets A-0.01, A-1.01 and A-2.01 shall be revised to reflect the modified site plan as listed above; modified location of the Dumpster; and the fact that there is no pick up counter. It is noted that the interior floor plans may also need to be modified to meet any requirements of the Building Official, Fire Marshal and/or the Darien Health Department.
- B. This approval is for a very specific use—a “healthy” fast-food drive-through only restaurant. Any change of this use, even to become another fast-food restaurant, shall require prior review and action by the Planning and Zoning Commission. The property owner shall re-apply to the Planning and Zoning Commission if there are any use and/or tenant changes within this building and/or site. This will allow the Commission to determine and address potential traffic, queuing and/or parking and other issues related to those tenants. Even a different drive-through only restaurant may have different food preparation or larger menu alternatives which could affect queuing and traffic, and which could require more vents and filters.

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MARCH 9, 2010  
PAGE 13 OF 24

- C. The Commission believes that the success of this restaurant will depend in part on having patron queuing be safe and on-site, rather than backing up to or overflowing into Richmond Drive.
- D. Because of queuing concerns and the desire to have patrons move as quickly as possible through the site, the Commission hereby requires that the order board show only the items that are available at that time. In the morning, the menu order board shall only have breakfast items. After the late morning, the menu order board shall be converted to reflect only lunch items at lunch time, and to show only dinner items at dinner time. The reason for this is so that customers will have less selection, and thereby decrease queue times, as customers will not be distracted by menu offerings which are not available during that certain time period. As noted at the public hearing, longer queue times may result in queuing onto Richmond Drive, which would be problematic, and a potential safety hazard. The Commission also requires that the number of options/variety of items offered/served at each mealtime be equivalent to or less than one would find at a typical fast food establishment during that specific mealtime.
- E. If traffic problems arise, the Planning and Zoning Director may require the applicant to work with the Darien Police Department on implementing the recommendation in Michael Galante's January 12, 2010 letter for a NO RIGHT TURN sign on Richmond Drive, prohibiting right turn movements into the site. If it is determined that this is a problem in the future, the Richmond Drive curb cut shall be modified to physically prohibit this movement.
- F. Because of the nature 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. No unloading or deliveries to the business shall occur from any vehicles on the Boston Post Road or Richmond Drive.

DRAINAGE

- G. The Commission hereby approves the submitted drainage improvements as shown in the Proposed Site Plan listed above in Condition A, and specifically waives the requirements under Section 888a of the Zoning Regulations.
- H. By May 2, 2010 (within the next 60 days) and prior to the issuance of a Zoning or Building Permit for the proposed construction, 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 205 Boston Post Road to maintain the on-site drainage facilities, and will alert future property owners of the on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within 60 days of this approval.
- I. The developer/builder shall install the drainage system as shown on the submitted plans in Condition A, above. The property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site will not have any negative impacts upon the adjacent property(ies) or the adjacent streets. If such problems do become evident in the future,

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MARCH 9, 2010  
PAGE 14 OF 24

the owner(s) of the property shall be responsible of remedying the situation at their expense and as quickly as possible.

STIPULATIONS AS PROPOSED BY THE APPLICANT AND CONDITIONED HEREIN (J-P)

- J. As proposed by the applicant in his 1-12-10 "Proposed Stipulations", if the opening of the store generates significant traffic, and possible queuing on Richmond Drive, the applicant shall work with and follow the directions of the Darien Traffic Authority and/or Chief of Police to deal properly and safely with the increase in traffic and any new traffic patterns. This may involve hiring traffic control personnel on Richmond Drive as well as other traffic and safety measures deemed needed by the Darien Traffic Authority or Chief of Police.
- K. No queuing of customers shall occur on Richmond Drive. In the event such queuing occurs, the Planning & Zoning Director shall so advise the applicant and the Commission. Thereafter, the Director shall meet with representatives of the applicant and with the Commission's designated traffic expert/consultant and shall undertake to identify such steps as may be necessary to adjust applicant's business operations, site plan and/or other steps and measures which will eliminate queuing on Richmond Drive. All such remedial measures shall be at the applicant's expense. The Planning & Zoning Director shall determine what remedial measures shall be carried out in order to achieve this compliance objective.
- L. No on-street parking, parking in landscaped areas or within buffer areas or other inappropriate and/or unsafe parking is permitted. There shall be no parking of vehicles on Richmond Drive or Boston Post Road or in landscaped or buffer areas.
- M. Because of the restaurant's specific location adjacent to a residential zone, the Commission hereby restricts the maximum hours of operation of the restaurant to the following: 7:00 a.m. to 10:00 p.m. every day. As noted by the applicant at the public hearing, and hereby approved by the Commission, employees may arrive as early as 6:00 a.m. and leave no later than 11:00 p.m.
- N. As proposed by the applicant in his 1-12-10 "Proposed Stipulations", and to avoid early morning or late night trash pick up that could unreasonably disturb others, garbage pickup shall be done on an "as-needed" basis, and shall occur only between the hours of 8:00am-12 noon, or from 1:30pm to 4pm. All deliveries shall be between 7:00am and noon or between 1:30 to 4:00pm. It is imperative that vans and/or trucks for deliveries of supplies or trucks for the pickup of trash not interfere with the internal flow of vehicles on the site. The Commission specifically prohibits dumpster pickup or deliveries during noon to 1:30pm, thereby avoiding any lunch-time conflicts. During the public hearing, it was noted that one of the proposed business operators said that he has spoken with trash haulers and any conditions of approval with respect to pick up of the trash during daytime hours, after the breakfast rush and before the lunch rush, can easily be accommodated.
- O. The Dumpster enclosure area shall contain all trash, garbage and recycling bins and containers. It shall be neatly maintained, and it shall continue to be screened with new stockade (or similar) doors around it. Those new doors shall remain shut at all times that someone is not loading or unloading waste. The property owner is responsible for maintaining this trash area including ensuring that it is emptied frequently enough to minimize odors. It is imperative that the doors be maintained in good operating condition and that they remain shut when not in use.

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MARCH 9, 2010  
PAGE 15 OF 24

- P. In order to minimize exhaust and/or venting odors from the building, the Commission hereby requires that the applicant install a pollution control unit that is at least as effective at reducing odors as a water wash grease trapping design and charcoal filters and that the exhaust come out from the roof and be pointed away from the residential zone. The property owner is responsible for assuring that the venting system functions properly at all times. The other details of the venting system shall be reviewed and acted upon by the Darien Health Department and the Darien Fire Marshal.

ADDITIONAL CONDITIONS AND STIPULATIONS

- Q. No queuing shall occur on Richmond Drive. If there is queuing, specific changes shall be made to the business operations to eliminate this situation. This may include, but not be limited to, modifying the menu by eliminating more time-intensive items; only allowing pre-orders during certain busier times; and/or not accepting phone/fax/internet orders during certain times.
- R. The applicants have indicated that if there is a traffic problem, they will modify the business operation to address such a problem. This could include, but may not be limited to, the option of limiting orders only to being submitted by fax, email or phone.
- S. Prior to the issuance of a Zoning or Building Permit for the restaurant, final revised plans/elevations shall be submitted reflecting the installation of a venting system to control kitchen emission of odors and particulates. The system shall include a pollution control unit that is at least as effective at reducing odors as a water wash grease trapping design and charcoal filter and high voltage precipitator. These plans/elevations shall be reviewed by the Fire Marshal, Health Director, Planning & Zoning Director, and Building Official. This is imperative to minimize any potential odors to the nearby businesses and residences. All equipment to be installed shall be maintained by the applicant. All hood and venting systems shall be fully installed and operational prior to the issuance of a Certificate of Occupancy for the restaurant.
- T. All landscaping and all of the grading, drainage, and proposed site improvements shall be installed per the approved Landscape Plan and other Plans listed in Condition A above, prior to the issuance of a Certificate of Zoning Compliance or a Certificate of Occupancy for the building.
- U. All site work, including but not limited to site improvements as shown on the approved plans and as noted herein shall be properly installed and completed prior to the use of this space and/or the issuance of a Certificate of Occupancy for the restaurant.
- V. A final as-built drawing and certification shall be submitted by a professional engineer confirming that the entire project, including the required drainage, lighting, parking, curbing, sidewalks, landscaping, and other site development features have been properly completed per the approved plans, as noted in Condition A, above. This certification shall be submitted prior to the issuance of a Certificate of Occupancy for the project, and/or use of the proposed building.

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MARCH 9, 2010  
PAGE 16 OF 24

- W. As noted on the submitted Site Plan, all lighting shall comply fully with Section 232 of the Darien Zoning Regulations.
- X. 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.
- Y. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to, final approval from the Darien Fire Marshal for venting and emergency lighting; and final kitchen review by the Darien Health Department. If the applicant's grease trap will be outside the building envelope, a permit from Darien Public Works Department is required. A Street Opening Permit/Curb Cut Permit from the Darien Public Works Department will be required for the modified curb cut on Richmond Drive. A similar permit/approval may be needed from the State of Connecticut Department of Transportation for the new use using the exit only onto Boston Post Road (Route 1).
- Z. 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 (March 8, 2011). This may be extended as per Sections 1009 and 1028.

All provisions and details of the site plan, and the floor plan as required to be revised herein, 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, including, but not limited to any modified floor plans regarding kitchen venting and elimination of the customer pickup window shall be submitted to the Planning and Zoning Department within 90 days of this action or this approval shall become null and void. A Special Permit form and Drainage Maintenance Plan shall be filed in the Darien Land Records within sixty days of this approval or this permit shall become null and void.

Chairman Conze read the following agenda item:

**Land Filling & Regrading Application #235, Jim Reilly, 54 Stanton Road.** Proposing to fill and regrade behind the proposed residence and construct an associated retaining wall and to perform related site activities. The subject property is located on the east side of Stanton Road approximately 700 feet north of its intersection with Gardiner Street and is shown on Assessor's Map #46 as Lot #65, in the R-1/2 Zone. *DECISION DEADLINE: APRIL 8, 2010.*

A draft Resolution had been distributed and the Commission had previously adopted a motion to waive the process of reading the Resolution aloud. After a brief discussion about the proposal, the following motion was made: That the Commission adopt the following Resolution to approve the project subject to the conditions and stipulations as noted in the Resolution. The motion was made by Mr. Voigt, seconded by Mrs. Riccardo and unanimously approved. All voted in favor of the motion except Mr. Hutchison who abstained because he had not attended the public hearing regarding this matter. The motion was passed by a vote of 3 to 0 to 1.

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
March 9, 2010**

Application Number: Land Filling & Regrading Application #235

Street Address: 54 Stanton Road  
Assessor's Map #46 Lot #65

Name and Address of Applicant & Property Owner: Jim Reilly  
Reilly Builders  
40 Pasture Lane  
Darien, CT 06820

Activity Being Applied For: Proposing to fill and regrade behind the proposed residence and construct an associated retaining wall and to perform related site activities.

Property Location: The subject property is located on the east side of Stanton Road approximately 700 feet north of its intersection with Gardiner Street.

Zone: R-1/2

Date of Public Hearing: February 2, 2010

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

Publication of Hearing Notices  
Dates: January 21 & 28, 2010

Newspaper: Darien News-Review

Date of Action: March 9, 2010

Action: APPROVED WITH  
CONDITIONS

Scheduled Date of Publication of Action:  
March 18, 2010

Newspaper: Darien News-Review

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

- the proposed 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 activities are described in detail in the application, the submitted plan, 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.

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MARCH 9, 2010  
PAGE 18 OF 24

- 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 subject application is to fill and regrade behind the proposed residence and construct an associated retaining wall and to perform related site activities. The retaining wall will be 4-5 feet high.
2. During the application process, a letter was received from Rolf Swensen of Gardiner Street. In that letter, Mr. Swensen requested that evergreen trees be planted both in front of and behind the proposed retaining wall. The applicant was agreeable to planting in order to minimize the visual impacts of the proposed retaining wall.
3. To accommodate anticipated runoff, the submitted Plan shows three rows of Cultec rechargers between the replacement residence now under construction and the proposed retaining wall. The submitted plan shows that this detention/retention system may need to be field adjusted in order to provide adequate separation from the existing sanitary sewer lateral now on-site.
4. The Commission notes with respect to the proposed drainage system behind the house, the need for the applicant and/or property owner to file a document outlining the protocol for maintenance of the proposed and installed drainage system 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.
5. In a February 2, 2010 letter from Gregory Pidluski of Land Engineering & Surveying, LLC, a waiver of Section 884.b of the Darien Zoning Regulations was requested. Attached to that letter were stormwater calculations for the project. That letter notes that when designing the drainage system for this property, no credit was taken for pre-existing impervious areas. Due to the minimal flows from the site and the fact that at the downstream point of confluence the site is less than 10% of the drainage basin, the Commission hereby grants said waiver.
6. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
7. 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 and Regrading Application #235 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Land filling, excavation, and regrading work shall be in accordance with the following plan submitted to and reviewed by the Commission:

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MARCH 9, 2010  
PAGE 19 OF 24

- Prop. Site, Grading, and Drainage Plan property located at 54 Stanton Road prepared for James Reilly, by Land Engineering & Surveying, LLC, scale 1"=20', dated Dec. 15, 2009 and last revised 12/30/09.  
(Note: These are the revised plans submitted to the Commission at the February 2 public hearing, which show "Proposed 3 rows (15 total) CulTech Recharger R-330 Chamber Min. Or Approved (Floor Elev.=75.0))
- B. The applicant/builder shall plant at least ten evergreens a minimum of six feet high (at least five both directly in front of and directly behind the proposed retaining wall) to minimize the visual impact of the proposed 4-5' high retaining wall. Prior to receiving a Certificate of Occupancy for the residence, evidence of this planting shall be submitted to the Planning and Zoning Office. It is the property owners' responsibility for maintaining these plantings.
- C. As discussed at the public hearing, a splash pad shall be installed at the proposed 4" PVC footing drain discharge behind the retaining wall. This will minimize erosion in that vicinity.
- D. By April 25, 2010 (within the next 60 days) and prior to the issuance of a Zoning or Building Permit for the proposed construction and prior to the start of any filling or regrading work around the house, a Drainage Maintenance Plan shall be submitted to the Planning and Zoning Office for review and action by the Director of Public Works and the Planning and Zoning Director. After approval by the two Directors, it shall be filed in the Planning & Zoning Department. The Drainage Maintenance Plan shall require the property owner and all subsequent property owners of 54 Stanton 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.
- E. During the regrading and site work, the developer/builder shall utilize the sediment and erosion controls illustrated on the Prop. Site, Grading, and Drainage Plan referred to in Condition A above, and any additional measures as may be necessary due to site conditions, including tree protection as may be necessary. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the filling and regrading 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, and as needed by site conditions. All erosion control measures must be maintained until the disturbed areas are stabilized.
- F. The developer/builder shall install the drainage system as shown on the submitted plans in Condition A, above. The property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site will not have any negative impacts upon the adjacent property(ies) or the adjacent streets. If such problems do become evident in the future, the owner(s) of the property shall be responsible of remedying the situation at their expense and as quickly as possible.
- G. 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

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MARCH 9, 2010  
PAGE 20 OF 24

Engineer shall certify in writing that the work, including the proposed grading and drainage work have been properly completed.

- H. 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.
- 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 the permit as it deems appropriate.
- J. The granting of this approval does not relieve the developer/builder of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- K. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (March 8, 2011). This may be extended as per Sections 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 #274, Paws & Reflect, 1080-1082 Boston Post Road, CBD Zone.**

Request to locate a dog grooming business within a portion of an existing building at 1082 Boston Post Road, with some shared parking with 1096 Boston Post Road. The other portion of the building would be used by an office use, Brindisi & Yaroseck. Property is shown on Assessor's Map #72 as Lot #19.

Mr. Ginsberg explained that the site has an unusual history and is subject to a number of variances that were granted by the Zoning Board of Appeals many years ago. David Genovese of Baywater Properties explained that they purchased the property about three months ago in their continuing effort to acquire and consolidate properties in the vicinity. He said that the Town has approved the re-establishment of the contractors' office as had previously been approved by the Zoning Board of Appeals and they are now seeking to use approximately one-half to two-thirds of the building as a pet grooming facility. There will be **no** overnight kennel or overnight boarding of animals at the site. Mr. Genovese said that sufficient parking is available on this site and on the adjacent property located at 1096 Boston Post Road (the Fairbanks Photo site) which is also owned by Baywater Properties.

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MARCH 9, 2010  
PAGE 21 OF 24

Mrs. Riccardo asked where the dogs will be walked and where they could eliminate. The owner of the grooming business said that the dogs are dropped off during the day by their owners and are picked up later the same day. Any time the dogs do need to be walked, the employees will pick up after the dog. Mr. Genovese said that he understands that if the Planning & Zoning Commission approves the Shared Parking Agreement, they will need to file documents in the Land Records and return to the Commission anytime there is a change of use or a proposed change of tenant.

After further discussion, the following motion was made: That the Commission approve the Amendment of the Site Plan and approve the new use of the dog grooming facility (with no kennel or boarding) and approve the shared parking arrangement with the property at 1096 Boston Post Road. Proper paperwork must be filed to document the shared parking arrangement and future uses on each of the properties are subject to prior action by the Planning & Zoning Commission. The motion was made by Mr. Hutchison, seconded by Mr. Voigt and unanimously approved.

Chairman Conze read the following agenda item:

**Amendment of Flood Damage Prevention Application #267 and Land Filling & Regrading Application #217, James & Hallie Palen, 45 Brookside Road, R-1/2 Zone.**

Request for extension of time and modification of previously approved plans.

Mr. Ginsberg explained that the applicants had obtained a permit from the Planning & Zoning Commission and from the Environmental Protection Commission to do certain work adjacent to the Goodwives River. The EPC permit is still valid, but the Planning & Zoning Commission approval has expired. One of the requirements of the private deed restriction was that they obtain permission from all neighboring property owners. They have obtained that permission, but the project has not yet moved forward. The owner now requests that the Commission extend the Planning & Zoning Commission Permit and modify the Permit slightly in accordance with the plans that have been submitted. The Commission members discussed the matter and the following motion was made: That the Planning & Zoning Commission approve the extension and modification in accordance with the recently submitted materials. The work must now be completed by March 8, 2011. The motion was made by Mr. Hutchison, seconded by Mrs. Riccardo and unanimously approved.

Chairman Conze read the following agenda item:

**Business Site Plan #156-B, 1001-1003 Boston Post Road, CBD Zone.**

Request for new upstairs office tenant above Darien Rowayton Bank/David Harvey Jewelers.

Mr. Hutchison abstained from participation in this matter in order to avoid any perception of a potential conflict of interest. He remained in the room so that the Planning & Zoning Commission would still have a quorum.

Mr. Ginsberg explained that because the property was redeveloped using a Shared Parking Agreement with an adjacent property, each and every tenant and user of the building is required to obtain Planning & Zoning Commission approval prior to their use. The proposed tenant would occupy a portion of the second floor offices above the bank and jewelry store. The tenant is an employment agency that specializes in executive positions. They are known in the industry as "head hunters". They will have only a few employees. The Commission members discussed the

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MARCH 9, 2010  
PAGE 22 OF 24

letter and the following motion was made: That the Commission approve the office use of the employment agency specializing in executive positions in accordance with the submitted materials. The motion was made by Mr. Voigt, seconded by Mrs. Riccardo. All voted in favor except Mr. Hutchison who abstained. The motion was passed by a vote of 3 to 0 to 1.

Chairman Conze then read the following agenda item:

**Amendment of Business Site Plan #186-B/Special Permit, Burgers Shakes & Fries, 800 Boston Post Road, CBD Zone.** Proposal to establish a new restaurant in space formerly occupied by Brueggers.

Kory Wollins explained that they wish to occupy the space formerly approved for the Brueggers Bagels at 800 Boston Post Road. Whereas the previous tenant had no heavy cooking or fryers, the proposed tenant would have fryers and would therefore need to provide a fire suppression system and an exhaust hood with filters. They are in the process of working up the details for the exhaust hood and filters. They also want to change the hours of operation. The new filters and exhaust stack would go through the interior of the building and exit through the roof of the building. Mr. Wollins noted that there would be no off-loading of supplies or materials from the Boston Post Road and that the trash dumpster located on the site will be sufficient for their needs. They will request a restaurant beer and wine license from the State.

The topic of outdoor dining was discussed. The previous approval had allowed up to 16 customer seats located on the outside of the building and underneath the building overhangs. No details regarding outside dining for the proposed use are available at this time. Mr. Wollins indicated that as long as they had the approval for the interior renovation work and the use in general, they would commence construction and come back to the Planning & Zoning Commission with details about any potential outside dining. Mr. Wollins estimated that it would take 4 to 6 months of renovation work before the restaurant could be opened. Commission members believed that the proposed use would be acceptable, provided there is adequate control of potential odors. The staff is to draft a formal resolution which would be considered for action at a future meeting.

Chairman Conze read the following agenda item:

**Amendment of Business Site Plan #24-Q, Lanphier Day Spa, 25 Old King's Highway North, DC Zone.** Request to modify previously approved plans for the addition to the rear of the Goodwives Shopping Center.

Staff and Commission members discussed the fact that the previously approved plans had not been complied with during the construction process and the construction has been halted until this matter is resolved. Revised plans have been submitted and reviewed by the Fire Marshal, Building Official and Health Department. All departments indicate that the revised plans are acceptable. Commission members expressed concern that the previously approved work had not been properly implemented.

After further discussion, the following motion was made: That the Commission approve the requested modifications and Amendment of Business Site Plan 24-C. The motion was made by Mr. Hutchison, seconded by Mr. Voigt and unanimously approved.

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MARCH 9, 2010  
PAGE 23 OF 24

Chairman Conze read the following agenda item:

**Amendment of Subdivision Application #433-A and Coastal Site Plan Review #213, Frances B. Dorrance, Juniper Road, R-1 Zone.** Request to install a split rail fence within regulated areas.

This request involves installation of a split rail fence that is technically within the coastal site plan review area and is a modification of the subdivision. The Commission members believed that the proposed split rail fence might have an adverse environmental impact. The following motion was made: That the Planning & Zoning Commission approve the requested modifications to allow the split rail fence as described on the submitted letter and as shown on the submitted drawing. The motion was made by Mrs. Riccardo, seconded by Mr. Hutchison and unanimously approved.

Chairman Conze read the following agenda item:

**Amendment of Special Permit #209/Site Plan, Andrew Shaw Memorial Cabin, 140 West Avenue.** Proposal to modify existing parking lot.

Commission members reviewed the March 3, 2010 letter from Mr. Ziga regarding the requested modifications to the parking lot layout. The Commission members agreed that the modifications are acceptable. Mr. Ginsberg indicated that Richard Jacobson, staff to the Environmental Protection Commission, has indicated that since the parking spaces would be removed from the regulated area adjacent to the wetlands and the area would be converted to lawn, that no formal EPC action is necessary. The following motion was made: That the Commission approve the requested modification of the site plan. The motion was made by Mr. Hutchison, seconded by Mrs. Riccardo and unanimously approved.

Chairman Conze read the following agenda item:

**Discussion and deliberation only on any public hearing items closed on March 9, 2010.**

The Commission members saw no problems with the items that have been discussed at the public hearing earlier. They asked staff to draft resolutions for consideration at a future meeting.

Chairman Conze read the following agenda item:

**Approval of Minutes**  
*February 2, 2010 Public Hearing/General Meeting*

The following motion was made: That the minutes be approved as submitted. The motion was made by Mr. Voigt, seconded by Mrs. Riccardo and unanimously approved.

Chairman Conze read the following agenda item:

**Any Other Business (Requires two-thirds vote of Commission)**

PLANNING & ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
MARCH 9, 2010  
PAGE 24 OF 24

Mr. Ginsberg asked that the Commission consider two items under Other Business. One concerns a request for an extension of the approval for 17 Old Kings Highway South and the second has to do with the Snow property on Shipway Road. The following motion was made: That the Commission consider the two Other Business items as noted by Mr. Ginsberg. A motion was made by Mr. Hutchison, seconded by Mrs. Riccardo and unanimously approved.

17 Old King's Highway South: Mr. Ginsberg explained that the developer, David Genovese, has been in the process of resolving issues with the neighbors and finalizing the approval. He asked that the Planning & Zoning Commission grant 60 days of additional time to submit the proper documents to finalize the approval and obtain the necessary permits. Commission members agreed that the extension would be appropriate. The following motion was made: That the Planning & Zoning Commission grant the requested 60 day extension for the approval concerning the property at 17 Old King's Highway South. The motion was made by Mr. Hutchison, seconded by Mr. Voigt and unanimously approved.

Approval of development of the Snow property on Shipway Road: Mr. Ginsberg explained that the Planning & Zoning Commission has granted an approval for the redevelopment of the Snow property on Shipway Road. Due to a death in the family, the family members have requested an extension of the time in which to commence and complete the project. The Planning & Zoning Commission agreed that it would be some time before this matter is resolved and therefore, they agreed to grant a two year extension of the time to complete the project. The motion to grant the extension was made by Mr. Hutchison, seconded by Mr. Voigt and unanimously approved.

Mr. Conze noted that he had received the letter of resignation from Gwynne Grimes who had served on the Planning & Zoning Commission. He said that he is sad to see her leave the Commission.

There being no further business, the meeting was adjourned at 9:40 p.m.

Respectfully submitted,

David J. Keating  
Assistant Director of Planning