

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING/GENERAL MEETING
July 20, 2010**

Place: Auditorium, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Conze (arrived at 8:10 p.m.), Spain, Cameron, Hutchison, Riccardo, Voigt

STAFF ATTENDING: Ginsberg

RECORDER: Syat

FILMED BY: Channel 79

PUBLIC HEARING

Vice Chairman Spain read aloud the first three Public Hearing agenda items, and noted that all of them had been postponed to July 27, 2010.

Special Permit Application #125-D/Site Plan, Darien Junior Football League (DJFL), Holahan Field, 2 Renshaw Road. Proposing to install three temporary lights at Holahan Field for DJFL team practices on weekdays. The subject property is located on the northeast corner of the intersection formed by Renshaw Road and Park Place, and Holahan Field is behind Town Hall. The property is shown on Assessor's Map #41 as Lot #85, in the R-1/3 Zone.

Special Permit Application #188-D/Site Plan, Darien Junior Football League (DJFL), Darien High School, 80 High School Lane. Proposing to utilize six (6) portable lights at the Darien High School Stadium Field for seasonal fall use by Darien Junior Football League. The subject property is located on the north side of High School Lane approximately 1,200 feet west of its intersection with Middlesex Road, and is shown on Assessor's Map #9 as Lots #80 and #81, R-2 Zone.

Business Site Plan #275/Special Permit, Noroton Heights Shopping Center (tenant: Phil's Grill), 340 Heights Road. Proposing to establish a restaurant with seasonal outdoor dining in the space formerly occupied by Roxy Video, within Noroton Heights Shopping Center. The subject property is located on the north side of Heights Road approximately 250 feet east of its intersection with Hollow Tree Ridge Road, and is shown on Assessor's Map #75 as Lot #22-24, and is in the Designed Commercial (DC) Zone.

GENERAL MEETING

Discussion, deliberation and possible decision regarding the following closed public hearing items:

Mr. Spain then read the first General Meeting agenda item.

Coastal Site Plan Review #237-A, Flood Damage Prevention Application #263-A, Foster Kaali-Nagy, 70 Five Mile River Road. Proposing to install an access walkway, dock, ramp and float, and perform related site activities within regulated areas. *DECISION DEADLINE: 8/5/2010.*

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Mr. Ginsberg explained that the Commission had two major issues with the proposed application. The first was the possible need for an extension of time for the permit granted by the State of Connecticut Department of Environmental Protection (CT DEP). During the public hearing, it was clear that the applicant's approval of his dock from the State was about to expire. It was unclear during the hearing whether an extension from the State would be forthcoming, and if one was not forthcoming what the ramifications of that were. The second issue was the fact that the subject property consists of a sliver of land which is across the street and around the corner from the main house at 70 Five Mile River Road. Mr. Spain said that he was concerned that if the sliver of land was not permanently part of 70 Five Mile River Road, it could be used by the general public. In that case, he would have a concern about parking on the street in this area. He said that somehow there must be a limit on use to residents and guests of 70 Five Mile River Road. He believed that there is also a problem in that this could set a bad precedent where owners could convey slivers of land along shorelines in Darien. That may not be what happened here, but he believes that the record could be updated and expanded to show the history in any subsequent reapplication. He believed that the sliver has been connected to 70 Five Mile River Road for many years. If there was access directly across the street, this may have been okay. He said that extra assurances are needed to prevent unintended consequences. Further work by the applicant was needed to give the Commission proper assurances and comfort.

At this point, Mr. Conze arrived at the meeting.

A motion was made by Mr. Voigt to deny the application without prejudice and to encourage the applicant to reapply once these issues could be properly addressed. That motion to deny was seconded by Ms. Riccardo, and that motion was approved by a vote of 5-0, with Mr. Conze abstaining.

Mr. Conze then chaired the meeting and read the next agenda item:

Coastal Site Plan Review #256, Flood Damage Prevention Application #287, Melissa B. Hubner, 9 Butler's Island Road. Proposing construction of a fixed pier and ramp and float on the westerly shore of the property and to perform related site activities within regulated areas.

Mr. Spain made a motion to waive the reading aloud of any draft resolutions. That motion was seconded by Mr. Hutchison and approved unanimously.

Relative to the Hubner application, there were no comments or concerns by Commission members as they reviewed the draft resolution supplied by staff. Mr. Hutchison then made a motion to adopt the draft resolution as written. That motion was seconded by Ms. Cameron and was approved by a vote of 6-0. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
July 20, 2010**

Application Number: Coastal Site Plan Review #256
Flood Damage Prevention Application #287

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Street Address: 9 Butlers Island Road
Assessor's Map #67 Lot #69

Name and Address of Applicant &: Jeff McDougal
Applicant's Representative: William W. Seymour & Associates
170 Noroton Avenue
Darien, CT 06820

Name and Address of: Melissa Hubner
Property Owner: 9 Butlers Island Road
Darien, CT 06820

Activity Being Applied For: Proposing construction of a fixed pier and ramp and float on the westerly shore of the property and to perform related site activities within regulated areas.

Property Location: The subject property is located on the north side of Butler's Island Road at the northwest corner formed by its intersection with North Road.

Zone: R-1 Zone

Date of Public Hearing: July 6, 2010

Time and Place: 8:00 P.M. Auditorium Town Hall

Publication of Hearing Notices
Dates: June 25 & July 2, 2010 Newspaper: Darien News

Date of Action: July 20, 2010 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: Newspaper: Darien News
July 30, 2010

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

- the proposed use and activities must comply with all provisions of Sections 400, 810 and 820 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plans, and the statements of the 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:

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1. The owner proposes to install an access 4' x 16' fixed pier which will have a 3' x 25' long aluminum ramp leading to a 10' x 10' float and perform related site activities within regulated areas. The submitted narrative notes that 53.5 square feet of the pier is within the jurisdiction of this application (lies above Mean High Water). The applicant noted that there was a dock in generally this same location from about 1957 to the late 1970s.
2. As noted at the public hearing, the applicant received approval from the State of Connecticut Department of Environmental Protection (DEP) in Permit #201000365-KF for this work. The DEP Office of Long Island Sound Programs sent an e-mail dated June 9, 2010, noting that "... the applicant has received the OLISP authorization for the proposed activities. Therefore we find no inconsistencies with the proposal". The applicant has also received the required approval from the Army Corps of Engineers. A February 24, 2010 approval letter from the Department of the Army was submitted for the record.
3. The potential adverse impacts of the proposed activity upon coastal resources, as designed are minimal and are therefore acceptable.
4. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
5. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.
6. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 (the Connecticut Coastal Area Management Act) of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would minimize any adverse impacts by the proposed activity on coastal resources.
7. The proposed activities, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #256 and Flood Damage Prevention Application #287 are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Work shall be in accordance with the plans entitled:
 - Proposed Conditions Map 9 Butlers Island Road prepared for Melissa B. Hubner, by William W. Seymour & Associates, dated November 18, 2009, Sheet 4 of 5.
 - Proposed Cross Section Map 9 Butlers Island Road prepared for Melissa B. Hubner, by William W. Seymour & Associates, dated November 18, 2009, Sheet 5 of 5.
- B. The proposed activity is consistent with the goals and policies in Section 22a-92 (the Connecticut Coastal Area Management Act) of the Connecticut General Statutes. The

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conditions as outlined herein include all reasonable measures which would mitigate any adverse impacts by the proposed activity on coastal resources.

- C. Due to the location of the subject property and the scope, nature and amount of work proposed within the application, the Commission hereby waives the requirement for stormwater management per Sections 888a(1) and 888a(3) of the Darien Zoning Regulations.
- D. During construction, the applicant shall utilize any sediment and erosion control 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 any 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.
- E. Prior to July 20, 2011, as-built maps, surveys and/or other documentation shall be submitted to the Commission to verify that the dock has been installed and completed in accordance with the approved plans. No deviation or alterations from the approved plans shall be permitted except with the prior written permission of the Commission.
- F. 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.
- G. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- H. This permit shall be subject to the provisions of Section 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (July 20, 2011). This may be extended as per Section 829f.

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.

Mr. Conze then read the next agenda item:

Special Permit Application #262, Darien Land Management LLC, (tenant: Trorient), 76 Tokeneke Road (formerly known as 70 Tokeneke Road). Proposing a commodity trading office use in a portion of the existing first floor space.

Mr. Conze noted that it would be good to see a tenant within this first floor space, which has been vacant since the building was constructed a few years ago. Mr. Spain then mentioned that a new finding #4 should be included in the resolution. Ms. Cameron then made a motion to adopt the

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resolution as amended by Mr. Spain. That motion was seconded by Mr. Spain and approved by a vote of 6-0. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
July 20, 2010**

Application Number: Special Permit Application #262
Darien Land Management LLC, (tenant: Trorient)

Street Address: 76 Tokeneke Road (formerly known as 70 Tokeneke Road)
Assessor's Map #38 Lot #2

Name and Address of Property Owner: Darien Land Management, LLC
281 Tresser Blvd, Suite 1505
Stamford, CT 06901

Name and Address of Applicant and Applicant's Representative: Michael Murray, Esq.
Ivey, Barnum & O'Mara
65 Locust Street
New Canaan, CT 06840

Activity Being Applied For: Proposing a commodity trading office use in a portion of the existing first floor space.

Property Location: The subject property is located on the northeast side of Tokeneke Road, directly across from the I-95 Exit 12 on-ramp (southbound).

Zone: DC

Date of Public Hearing: July 13, 2010

Time and Place: 8:00 P.M. Auditorium Town Hall

Publication of Hearing Notices

Dates: July 2 & 9, 2010

Newspaper: Darien News

Date of Action: July 20, 2010

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: July 30, 2010

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 630, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.

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- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted interior floor 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. This application seeks a Special Permit to establish a commodity trading office use in a portion of the existing first floor space at 76 Tokeneke Road. This office use, Triorient, has already been approved as a 2nd floor use by the Commission on May 11, 2010, as Amendment of Business Site Plan #244, but they have not yet occupied any part of the building. The existing vacant building is now connected to public water and sewer.
2. The Commission specifically notes that Business Site Plan #244 was approved by the Commission, and the building has been constructed and parking lot installed. The interior of the building is not yet complete.
3. The building, as constructed, has 25 on-site parking spaces. The office use for this tenant, previously approved on the 2,250 square foot second floor, requires nine parking spaces. The proposed office use within the first floor is shown on the submitted floor plan. That shows that the proposed office use will take about ½ of the first floor (approximately 1,000 square feet). This will require four parking spaces per the Darien Zoning Regulations. Thus, the remaining 1,000+/- first floor space will have available 12 parking spaces per the Regulations, which is sufficient for either retail or office use per the Zoning Regulations.
4. The Commission notes that the building has sufficient parking on-premises. This is important because the nearby area is limited in its capacity to provide any related parking needs.
5. The submitted floor plans show that the first floor will contain a conference room, bathroom, kitchen area and board room, all in conjunction with the previously approved second floor office use. Thus, no additional parking demand is being created by these new ground floor activities.
6. The first floor space to be used as Business and Professional Offices is a Special Permit Use within the Designed Commercial (DC) Zone, as specifically stated in Section 634e of the Darien Zoning Regulations. Section 634e reads as follows: "*Certain Business and Professional Offices on the first floor provided they are limited to those service types of uses such as real estate, insurance, and securities brokerages; leasing; mortgage banking; banking; travel services and the like, and further provided that the parking ratio for those uses shall be equivalent to that for Commercial Sales and Services.*" The Commission hereby finds that the nature of the business complies with subsection 634e,
7. The building has approximately a 2,500 square foot first floor, and a 2,250 square foot second floor. The total space to be used by Triorient consists of 1,250+/- on the first floor and 2,250 on the

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second floor, a total of about 3,500+/- square feet. This requires 14 parking spaces per the Zoning Regulations Section 904m (1 space per 250 square feet—5 for the 1st floor; 9 for the second floor). Thus, the remaining 1,250 square feet on the first floor would have 11 parking spaces available to it (per the Regulations).

8. The location and size of the use, the nature and intensity of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that the application is in harmony with the orderly development of the district in which it is located.
9. The location and nature of the proposed use, the size and height of the building are such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
10. 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.
11. The elements of the Site Plan, submitted as part of the Special Permit application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.
12. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

NOW THEREFORE BE IT RESOLVED that Special Permit Application #262 is hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. The first floor fit-out and proposed tenant shall be in conformance with the submitted application materials and the plan entitled:
 - Proposed First Floor Plan, Trorient, 70 Tokeneke Road, by Peter Cummings, Inc., Sheet A-3
- B. In this case, the Commission finds that sufficient parking has been provided for the proposed use of storage in the basement, offices on the second floor, and offices for the same company on about ½ of the first floor.
- C. Because of the fact that all of the proposed work is interior work, and because of a prior application (Business Site Plan #244) has been approved by the Commission and fully implemented relative to stormwater management, the Commission hereby waives the requirement for stormwater management under Sections 888a(3) and 888a(4).
- D. 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,

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incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.

- E. The granting of this Special Permit approval 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. All conditions of the prior approval (Business Site Plan #244) are still in full force and effect.
- F. This permit shall be subject to the provisions of Section 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (July 20, 2011). This may be extended as per Section 1009.

All provisions and details of the plans shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. A Special Permit shall be filed in the Darien Land Records within 60 days of this approval.

Mr. Conze then read the next agenda item:

Special Permit Application #263, Janet Resino, 80 West Avenue. Proposing to establish a home occupation within a portion of the existing residence.

Ms. Riccardo had some minor comments on the draft resolution. Mr. Voigt also had a comment on the draft resolution regarding parking. Mr. Spain then made a motion to adopt the resolution as amended tonight. That motion was seconded by Mr. Voigt and approved by a vote of 5-1, with Mr. Hutchison voting against the application. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
July 20, 2010**

Application Number: Special Permit Application #263

Assessor's Map #18 Lot #5

Name and Address of Applicant: Janet Resino
and Property Owner: 80 West Avenue
Darien, CT 06820

Activity Being Applied For: Proposing to establish a home occupation within a portion of the existing residence.

Property Location: The subject property is located on the north side of West Avenue approximately 700 feet west of its intersection with Leroy Avenue.

Zone: R-1/2

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Date of Public Hearing: July 13, 2010

Time and Place: 8:00 P.M. Auditorium Town Hall

Publication of Hearing Notices

Dates: July 2 & 9, 2010

Newspaper: Darien News

Date of Action: July 20, 2010

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of
Action: July 30, 2010

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 405a and 1005 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 and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. The proposal is for the establishment of a home occupation in the Resino residence at 80 West Avenue. This business will be as a consultant (business manager) for seniors and families of seniors. Ms. Resino will have no employees coming to the site. This is in accordance with the limitation of Section 405 a 1 of the Darien Zoning Regulations. At the public hearing, Ms. Resino explained that she often visits clients at their houses and/or at her other office locations.
2. There are proposed to be no noticeable changes to the exterior of the residence or the surrounding grounds. There are no changes proposed to the existing building. This is in accordance with the requirements of Section 405 a 2 and 405 a 9.
3. Mr. Resino confirmed within the submitted application materials and at the public hearing that she will have only occasional client visits, nearly all of which will be by appointment. This is in full accordance with the limitations of Section 405 a 3.
4. The area of the residence to be used for the home occupation is a room about 11' x 15' (165 square feet), which is less than 10% of the area of the living space of the residence. This is accordance with Sections 405 a 4 and 405 a 5.

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5. Very little additional traffic or need for on-site parking will be generated by this specialized professional office use. There is sufficient on-site parking to accommodate the use of the property with the limited in-home office use. There are no plans to modify the existing driveway, which is over 150 feet long, and has a loop at the end of it. The Commission finds that the home occupation complies with Section 405 a 6.
6. The proposed office use conforms to all requirements and limitations of Section 405 a 1-11, inclusive.
7. The home occupation use, as proposed, complies with the provisions of Section 1005i of the Regulations. In particular, the Commission finds that the use will not constitute a fire or safety hazard to the neighborhood and will not adversely affect neighboring property values and will not constitute a nuisance or otherwise be detrimental to the neighbors because of excessive traffic, excessive noise, odor or other circumstance.
8. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.

NOW THEREFORE BE IT RESOLVED that Special Permit # 263 is hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. This Special Permit is to establish a consulting home occupation. The use will conform with all of the restrictions and provisions of Section 405a of the Regulations. The number of visits by clients associates and others shall be six or less every day with no more than three client vehicles in the driveway at any one time. There shall be no changes to the exterior of the building or the residential character of the site.
- B. Use of a portion of this residential property for business purposes is subject to continued compliance with all restrictions and provisions of Section 405a 1-11, inclusive. If the use intensifies or is altered in any way contrary to the Regulations, the business must be relocated to an appropriate commercial zone.
- C. The Commission hereby waives the requirement for stormwater management under Section 888a(3) of the Darien Zoning Regulations because of the fact that there is no construction or grading work proposed as part of this application.
- D. This Special Permit is for the specific use as described in the application materials and as approved herein. Although the Special Permit is to be filed in the Darien Land Records and the Special Permit "runs with the land," the only way that someone else could utilize this Special Permit is if their use of the site exactly matches what has been specifically proposed and approved herein.
- E. 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.

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- F. This permit shall be subject to the provisions of Sections 1008 and 1009 of the Darien Zoning Regulations.

All provisions and details of the application and related materials shall be binding conditions of this action and such approval shall become final upon filing of a Special Permit in the Darien Land Records, which shall occur on or before September 20, 2010 AND prior to the establishment of the home occupation.

Mr. Conze then read the following agenda item:

Land Filling & Regrading Application #243, Robert & Natalie MacDonald, 3 Lakeside Avenue.
Proposing to fill and regrade and to install an associated curb along a portion of Lakeside Avenue and to perform related site activities.

Mr. Spain had a change to Condition C of the draft resolution. Mr. Voigt had a question on Paragraph 1 regarding a proposed curb. Ms. Cameron then made a motion to adopt the resolution as amended tonight. Mr. Spain seconded that motion, and it was approved by a vote of 6-0. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
July 20, 2010**

Application Number: Land Filling & Regrading Application #243

Street Address: 3 Lakeside Avenue
Assessor's Map #17 Lot #102

Name and Address of Applicant & Robert MacDonald
Property Owner: 3 Lakeside Avenue
Darien, CT 06820

Activity Being Applied For: Proposing to fill and regrade and to install an associated curb along a portion of Lakeside Avenue and to perform related site activities.

Property Location: The subject property is located on the northwest corner formed by the intersection of West Avenue and Lakeside Avenue.

Zone: R-1/5

Date of Public Hearing: July 13, 2010

Time and Place: 8:00 P.M. Auditorium Town Hall

Publication of Hearing Notices

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Dates: July 2 & 9, 2010

Newspaper: Darien News

Date of Action: July 20, 2010

Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
July 30, 2010

Newspaper: Darien News

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'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 subject application is to fill and regrade and to install an associated curb along a portion of Lakeside Avenue and to perform related site activities. As noted at the public hearing, the purpose of the application is to reduce the amount of water which flows onto the applicant's property. At the public hearing, the applicant's engineer, Steve McAlister of McChord Engineering, explained that 80 cubic yards of fill will be needed for this project. He added that no trees will be removed as part of this application.
2. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
3. 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 #243 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

- A. Land filling and regrading work shall be in accordance with the following plan submitted to and reviewed by the Commission:
 - Plan prepared for Robert and Natalie MacDonald, Site Grading Plan 3 Lakeside Avenue, by McChord Engineering Associates, Inc., dated May 12, 2010, Drawing No. SE-1.

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- B. Because of the scope, nature and amount of work proposed within the application, the Commission hereby waives the requirement for stormwater management per Section 888a(3) of the Darien Zoning Regulations.
- C. A final “as-built” survey is hereby required to be submitted by July 20, 2011, certifying that all of the regrading and other site improvements are in compliance with the approved plans. In addition, a Professional Engineer shall certify in writing that the proposed grading has been properly completed.
- D. During the site work, the property owner shall utilize the sediment and erosion controls illustrated on the submitted 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.
- E. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- F. The granting of this approval does not relieve the property owner of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This would include, but not be limited to, a Street Opening Permit for any work on Town property.
- G. 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 (July 20, 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 shall be filed in the Darien Land Records within 60 days of this action and prior to any filling or regrading work, or this approval shall become null and void.

At about 8:23 p.m., Mr. Conze then read the next agenda item:

Discussion and deliberation only on the following item:

Continuation of Public Hearing regarding Special Permit Application #66-L, Coastal Site Plan Review #234-A, Site Plan Application #259-A, Darien YMCA, 2420 Boston Post Road. Proposal to a) reconstruct westerly portion of existing building which houses Holly Pond School; b) construct a youth gymnastics addition to the building; and c) renovate and enlarge the existing

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parking lot with new sidewalk, associated landscaping, and drainage; and perform related site development activities within a regulated area. *PUBLIC HEARING CLOSED 7/6/2010. DECISION DEADLINE: 9/9/2010.*

Mr. Spain asked Mr. Ginsberg to include the prior YMCA decision in the next P&Z Commission packets for those Commission members who might not have it. He also asked Mr. Ginsberg the size of the existing YMCA building based on the submitted application materials. Mr. Ginsberg will follow up with the Commission members in an e-mail. Mr. Spain also asked about the existing parking lot size, and how it might be different from what existed in 2007.

Mr. Hutchison started the deliberations by noting that the square footage that is being proposed could be built as a single-family home on the existing 7.2 acres that the YMCA now sits on. Therefore, he believes this is more of a use issue and not necessarily a building size issue. He said there is a careful balancing of the need of the community versus the existing residential uses. He explained that the nature of the neighborhood had changed through the years, and that was one issue. He believed that the YMCA's biggest problem is a scheduling issue. Their community outreach has been poor. Mr. Hutchison said that the YMCA should not incorporate the newly purchased Atkinson house into the site as they have given an extra buffer. Basically, it comes back to how the YMCA manages the site. Mr. Hutchison said that they need to police the site to a higher degree, and need to manage bus parking. One option would be to have buses, after offloading, park across the street at the church. He said that the YMCA needs to have closer monitoring, and frequent reports need to be received from the YMCA. He noted that the Senior Men's meetings and camp uses are no longer at the YMCA.

Mr. Voigt agreed that this is a management issue, and that illegal parking is also an issue. On-site parking is now used by employees. Off-site parking and the proposed parking lot increase in size will help relieve the strain on the parking lot. Moving the dumpsters may help the neighbors as well. He said that parking during Special Events needs to be managed.

Ms. Cameron said that she would like to see gymnastics come back, and that on-site parking is an ongoing issue. She is not sure about having the employees park at the church, as that would be a concern in bad weather, and that does not seem to be a workable solution to her.

Mr. Conze noted that the Planning and Zoning Commission now annually reviews the YMCA's Special Events Schedule.

Ms. Riccardo echoed the concerns of the other Commission members about monitoring the existing parking lot better. She was also concerned about the High School's Title IX compliance, and believed that the Title IX complaint has not yet been dismissed. She agreed that the YMCA needs to better manage its property.

Mr. Spain said to keep in mind that this is a Special Permit use within a residential zone, and he asked rhetorically, "When do we reach the point of saturation—that is, when do we cross the line of unreasonably impacting the residential neighbors". He said that the Planning and Zoning Commission made a decision a few years ago that denied an application that would have put the YMCA property "over the limit". Part of that application, which was denied, was the proposed gymnastic center. He said that this time, the YMCA has made a poorer case on the parking and

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traffic issue. He said that the YMCA now exceeds its parking capacity with current operations. Will the proposed parking lot expansion be able to handle the additional proposed uses? He said that he has serious questions about that. How is the situation different from two years ago? – the Commission must look long and hard at this application.

Mr. Conze said that about 20 years ago, he was on the Board of the YMCA. At that time, the Board was always discussing how the YMCA could make itself more relevant. They are an important part of the community. However, he is not persuaded by the Seagate Road neighbors and their argument. Mr. Conze said that all the traffic now is on the State road—the Boston Post Road. He has concerns with respect to traffic, but he has not been persuaded. He said that it is important to realize that the YMCA must change over time to be relevant. The YMCA has tried to mend its old wounds. There is no doubt that this is an intense use of the site, and there are ways to structure their operations to place the burden of compliance on the YMCA. He again confirmed that special events are now reviewed by the Planning and Zoning Commission. Mr. Conze offered the possibility of a six-month reporting mechanism on issues such as traffic and parking. He believes that there is a way to control this. Mr. Conze said that overall he tends to be in favor of granting the application with strong restrictions. He does have concern about future conversion of the Atkinson property. He also noted that it is not easy to police the current parking lot. He mentioned that the Senior Men's meetings caused parking issues during the day.

Mr. Spain said that the impact on the residential zone is the key here. He said that the needs of the community to satisfy Title IX or some other reason doesn't by itself justify changing our standards. Mr. Conze added that there is no evidence of any impact to Seagate Road neighbors. And, in this case the YMCA is on a state highway. Mr. Voigt said that he was satisfied on the parking explanation based on Mr. Maslan's presentation. The discussion concluded by Mr. Ginsberg confirming he will get the Commission members the information they have requested from within the application materials submitted as part of this application.

At about 8:55 P.M., Mr. Conze then read the next agenda item:

Proposed amendment of Business Site Plan #223, 1089 Boston Post Road, CBD Zone.

Proposal to establish new use—personal service business use.

Mr. Richard Ashikari of Kennedy's All-American Barber Club was present along with Attorney Wilder Gleason to discuss the proposed new use. Attorney Gleason submitted a Letter of Authorization and a proposed floor plan. He noted that there are now six parking spaces on site. The proposal is to convert the use from a retail consignment shop to a personal service business (Kennedy's All-American Barber Club, which is something more than a barber shop). The existing building has a 1,350 square foot footprint. They have no intention of putting private use labeling on the parking spaces which are now on site without any signage. Mr. Gleason then distributed a copy of the prior ZBA approval in Calendar 89-2004. He then explained the two stipulations of that ZBA approval and how they are complying with them. Mr. Gleason also submitted a copy of the Planning & Zoning Commission approval for the earlier tenant, Roundabout clothing store. He said that he believes that this application fits within the proposed limitations. Mr. Gleason said that they are targeting gentlemen to come to this business with an enhanced waiting room. Services offered will include haircuts, pedicures, manicures and a straight razor shave. There will therefore be a broader range of services than a typical barber shop. Mr. Hutchison asked that the existing parking

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spaces not be restricted in any way. Mr. Gleason then submitted a copy of the floor plans dated 7-7 showing the proposed layout for both the first and second floor. They will be moving slightly some interior, non-structural partitions. Mr. Gleason was agreeable to a stipulation that all employees park off-site. The proposed hours of operation would be 9:00 A.M. to 6:00 P.M. Monday, Tuesday and Wednesday; 9:00 A.M. to 8:00 P.M. Thursday and Friday; 8:00 A.M. to 6:00 P.M. Saturday; and 10:00 A.M. to 4:00 P.M. Sunday. Mr. Conze noted his concern about “Parking For This Business Only” signs in downtown. He strongly prefers that there be no signage limiting or restricting parking to the on-site businesses. Mr. Gleason agreed, and also confirmed that the barber shop, besides offering personal services, would also be selling incidental hair products.

Mr. Spain asked whether there was also a “Club” atmosphere to this business, given the proposal to serve refreshments to “members”. He asked for more details. Mr. Richard Ashikari explained that folks who use the membership are usually getting their hair cut. He said that based on their experience in Ridgefield, Connecticut, they have found it rare for patrons to come and just “hang out” in the waiting room. They do serve beer in the Ridgefield facility, but they do not propose to serve beer here. Mr. Gleason then submitted a copy of a letter from the Police Lieutenant in Ridgefield who spoke highly of the barber shop. There were no further questions or comments from Commission members.

Mr. Hutchison made a motion to approve the new use for the 1089 Boston Post Road property with the following conditions: 1) that all employees must park off-site; 2) that no alcohol be sold or served on premises; 3) that there be no signage limiting or restricting the six existing parking spaces for on-site customers only; 4) that all interior tenant fit-out be per the plans dated 7-7 shown to the Commission this evening; and 6) that the hours of operation be as represented to the Commission this evening – 9:00 A.M. to 6:00 P.M. Monday, Tuesday and Wednesday; 9:00 A.M. to 8:00 P.M. Thursday and Friday; 8:00 A.M. to 6:00 P.M. Saturday; and 10:00 A.M. to 4:00 P.M. Sunday. That motion was seconded by Ms. Cameron and was approved by a vote of 6 to 0.

Mr. Conze then read the next agenda item:

Amendment of Business Site Plan #68-E, Walgreen’s, 138 Heights Road, DC Zone.

Request to sell propane tanks to be stored outside of the existing building.

Mr. Ginsberg explained that a permit from the Fire Marshal will be needed to install these propane tanks with associated cage. He noted that the Police Department has no issues or concerns with this site plan amendment. Ms. Cameron made a motion to approve the site plan amendment per the submitted plans. That motion was seconded by Ms. Riccardo, and approved by a vote of 6 to 0.

Mr. Conze then read the next agenda item:

Amendment of Business Site Plan #24-G, Stop and Shop, 25 Old King’s Highway North (Goodwives Shopping Center), DC Zone.

Request to sell propane tanks to be stored outside of the existing building.

Mr. Ginsberg again explained that a permit from the Fire Marshal will be needed for this propane tank installation. He again noted that the Police Department did not have any issues or concerns with this installation. Mr. Spain confirmed and the application shows that the prior tenant, Shaw’s,

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did also sell propane as the proposed tanks will be in the same location as they were when Shaw's was a tenant within Goodwives Shopping Center. Ms. Cameron made a motion to approve the location of the propane tanks and cage as submitted. That motion was seconded by Mr. Spain and approved by a vote of 6 to 0.

Mr. Conze then read the next agenda item:

Approval of Minutes

June 29, 2010 Public Hearing

Mr. Ginsberg noted that he had distributed a redlined version of the draft minutes earlier this evening. Commission members then took a moment to quickly review that redlined version. Mr. Voigt made a motion to approve the minutes as modified within the redlined version. Mr. Spain seconded that motion, which was approved by a vote of 5 to 0, with Mr. Conze abstaining as he was not present at that meeting.

July 6, 2010 General Meeting/Public Hearing

Mr. Voigt, Ms. Riccardo and Mr. Spain all had changes to the draft minutes. These included changes to pages 1, 11, 15, 24, 26, 31 and 33. Mr. Hutchison made a motion to approve the Minutes as amended. That motion was seconded by Ms. Cameron and approved by a vote of 6 to 0.

There being no further business, the meeting was then adjourned at 9:22 P.M.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director

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