

**PLANNING AND ZONING COMMISSION  
MINUTES  
PUBLIC HEARING/GENERAL MEETING  
October 26, 2010**

Place: Room 206, Town Hall

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:  
Conze, Spain, Cameron, Hutchison, Voigt, and Riccardo

STAFF ATTENDING: Ginsberg, Keating  
RECORDER: Syat  
Channel 79

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**PUBLIC HEARING**

Chairman Conze read the first agenda item:

**Continuation of Public Hearing regarding Coastal Site Plan Review #257, Flood Damage Prevention Application #289, Land Filling & Regrading Application #245, Dale & Hillary Miller, 5 Tokeneke Beach Drive.** Proposing to raze the existing residence and demolish the existing pool, and to construct a new single-family residence and pool and to perform related site development activities within regulated areas. The subject property is located on the east side of Tokeneke Beach Drive approximately 500 feet south of its intersection with Contentment Island Road, and is shown on Assessor's Map #67 as Lot #67, and is in the R-1 Zone. *PUBLIC HEARING OPENED ON JULY 27, 2010, AND WAS IMMEDIATELY CONTINUED TO SEPTEMBER 7, 2010. APPLICANT GRANTED AN EXTENSION OF TIME UNTIL OCTOBER 26, 2010 TO CONTINUE THE PUBLIC HEARING. PUBLIC HEARING MUST CLOSE ON OCTOBER 26, 2010, UNLESS A FURTHER EXTENION IS GRANTED BY THE APPLICANT.*

After that, Mr. Conze announced that the application had been withdrawn. He then read the following agenda item:

**Coastal Site Plan Review #170-B, Flood Damage Prevention Application #291, Land Filling & Regrading Application #77-B, A.C. & Mandi Morgan, 4 Salem Straits (aka 4 Hawthorne Road).** Proposing to abandon the existing septic system, connect to the sanitary sewer system; construct a pool and patio with associated pool house; construct a fixed pier and fixed platform; and perform related site development activities within regulated areas. The subject property is located on the south side of Salem Straits/Hawthorne Road approximately 400 feet east of its intersection with Goodwives River Road, and is shown on Assessor's Map #62 as Lot #84, in the R-1 Zone.

Jeff McDougal of William W. Seymour Associates Land Surveyors said that the current application is very similar to the previously submitted and approved plan. Only part of that approved plan could be implemented because the sanitary sewer had not yet been installed. Those sewers are being installed at this time and, once the sewer is complete, the applicant will be able to hook up to the sanitary sewer and abandon the existing septic system. The swimming pool could then be built in the location close to the existing septic system. Mr. McDougal said that the portions of the old plan that had been implemented included the driveway reconstruction and the installation of the rain

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garden. He said that he is very pleased with how the rain garden looks and functions to manage the storm water runoff before it enters the waters of Scott's Cove. He said that the applicant needs a re-approval by the Commission regarding the old boathouse to be removed and the installation of the swimming pool and patio. The new aspect of the application includes a dock that will be built in accordance with the permits that have already been obtained from the Department of Environmental Protection. Mr. McDougal said that the existing septic tank will be kept so that it will be used as a storage tank for the new ejector pump which will connect the house to the new sanitary sewer system in the street. A new safety fence will be added on top of the existing retaining wall to provide the enclosure for the swimming pool.

Mr. Ginsberg said that it would be best to incorporate the previously approved files that included Coastal Site Plan Review #170-A that was acted on in October of 2007.

Mr. McDougal noted that another minor change is the use of the new Federal Emergency Management Flood Insurance Rate Map and the new reference point for Elevation 0.0. He said that the datum referred to as sea level by NGVD 1929 is now outdated. It has been replaced by a new Elevation 0 that is a fixed point datum established as a North American vertical datum as established in 1988 (NAVD88). He said there is a 1.09 ft. difference in Darien between the old Elevation 0 and the new Elevation 0.

Mr. McDougal said that instead of using a standard backwash and discharge for the swimming pool, they were using a chemical system that will neutralize any potential discharge toward the waters at Scott's Cove. He said that it is anticipated that the sanitary sewers will be completed in the near future and that the work on the Morgan property will take place in the Spring of 2011. There were no questions or comments from the public.

The following motion was made: that the Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mrs. Cameron, seconded by Mr. Spain and unanimously approved.

Chairman Conze read the following agenda item:

**Business Site Plan #228-B/Special Permit, Gillen Bryan, 21 Tokeneke Road.** Proposing to establish a café/restaurant on the first floor of the existing building at 21 Tokeneke Road, place garbage containers and recycling containers in the rear of the building, and perform related site activities. The subject property is on the southwest side of Tokeneke Road approximately 175 feet southeast of its intersection with Boston Post Road, and is shown on Assessor's Map #72 as Lot #46, in the CBD Zone.

Gillen Bryan explained that the proposal is to establish a retail store and café that is an extension of the concept of the café at the Equinox Fitness Center on Heights Road. Food and beverage to be offered include healthy salads and wraps and juicing. There were questions regarding the proper management of trash and recyclable materials and how deliveries would be managed and how odors would be controlled. Mr. Bryan said that trash would be picked up three to four times per week during the early morning hours. He said that deliveries would also be made during the early morning time to avoid conflicts with customer traffic. He said that he would coordinate with the property owner the trash enclosure area and dumpsters. Walk-in coolers would be placed in the

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basement. They would be used only for storage. There would be no customer access and no working areas down in the basement. The retail activities and food preparation would take place only on the first floor. Other tenants will occupy the second floor.

There was discussion about the venting system that would have to go out the side wall of the building that is closest to the Boston Post Road. No details were available. Commission members expressed concern because this is a Protected Town Landmark, and the historic appearance of the structure needs to be preserved. Mr. Ginsberg said that the Architectural Review Board will need to look at any proposed venting system and any new signage as well as the trash enclosures. Mr. Bryan explained that the trash enclosures would be on the Center Street side of the building and would be located on either side of the back entrance door.

Charles Thomas, owner of the property, said that they will need to move the air conditioning unit and reduce the size of that unit in order to install a larger trash dumpster on the left side of the back door. He said they also will need a grease holding tank because of the food preparation. He said that the second floor use, a hairdresser, creates very little refuse.

Mr. Spain said that more details of the trash dumpster area must be provided to the Commission and the applicant needs to have details of the venting system and signage reviewed by the Architectural Review Board. Then they can come back to the Planning & Zoning Commission. Mrs. Cameron said that there seems to be an incomplete application until that additional application is provided. Mr. Conze suggested that the applicant provide more specific information and go to the Architectural Review Board. Mr. Ginsberg said that it would be possible to go to the Architectural Review Board on November 16<sup>th</sup> and then come to the Planning & Zoning Commission later that same evening. The following motion was made: that the Commission continue this public hearing at 8:00 P.M. on November 16, 2010. The motion was made by Mr. Hutchison, seconded by Mr. Spain and unanimously approved.

Chairman Conze then read the following agenda item:

**Coastal Site Plan Review #237-B, Flood Damage Prevention Application #263-B, Abigail Knott, 70 Five Mile River Road.** Proposing to install an access walkway, dock, ramp and float, and perform related site activities within regulated areas. The subject property is on the north side of Five Mile River Road approximately 150 feet east of its intersection with Berry Lane, and is shown on Assessor's Map #66 as Lot #9, in the R-1/2 Zone.

Attorney Wilder Gleason represented the applicant and explained that a previous proposed dock permit had been denied by the Planning & Zoning Commission. The Commission had questions about the use of the dock by a property owner that is slightly removed from the subject property and about the validity of the DEP Permit and the ZBA Variance. He had submitted a copy of a portion of Assessor's Map No. 66 and noted that it is a very short walk from the existing house located at 70 Five Mile River Road to the separate strip of land which is around the corner and on the water side of Five Mile River Road. It is the separate strip of land that will contain the proposed dock. Mr. Gleason submitted a copy of the Zoning Board of Appeals extension and a copy of the State Department of Environmental Protection (DEP) extension. He said that he has also reviewed draft restrictive covenants with the Town Attorney to provide assurances to the Planning & Zoning Commission that the dock proposed on the narrow strip of land will not be conveyed to anyone

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other than the owners at 70 Five Mile River Road with the exception that the dock might be conveyed to some other property that is also within a short walking distance of the site. This is necessary to avoid any potential parking problem because no on-site parking is available on the site of the proposed dock. Mr. Spain asked if the Town has any property right or property interest in this narrow strip of land. Mr. Gleason said that this time the Town does not have any property right or an easement, but the proposal is to file a document in the Land Records that would tie the two parcels (the house lot at No. 70 and the vacant strip of land down to the water that would eventually contain the dock (to tie these two parcels together by a restrictive covenant) as may be required by the resolution of the Planning & Zoning Commission. The dock parcel could only be conveyed to someone else in the neighborhood that is within easy walking distance or it would be conveyed along with the house lot at No. 70. Mr. Gleason said that in discussions with the Town Attorney, it needs to be a Regulatory Restriction rather than a Property Deed Restriction. He suggested using language that would require that the ownership be limited to anyone who is within the same or less distance from the dock site to No. 70. He said that using a Regulatory Restriction would not be a conveyance of property rights to the Town, and therefore would not need approval by the RTM or Board of Selectmen.

Mr. Gleason noted that the applicant would maintain the fence alongside the two side property lines and that there is no parking on the street or on the site. There would be no public access to or use by the public or anyone else to the strip of land or to the dock. The dock use would be limited to the owners of No. 70 and their guests.

Mr. Ginsberg read aloud the comments from the South Western Regional Planning Agency indicating that they found no inter-municipal impact. He also noted that the DEP had commented that they had previously issued a Permit for the site and therefore had no comments for the Commission at this time.

Mr. Ginsberg said that the language to restrict the use and ownership of the dock parcel needs to worked out. It was suggested that the public hearing be continued so that the language could be submitted to the Commission for review. The following motion was made: that the Commission continue the public hearing regarding this matter at 8:00 P.M. on November 16, 2010. The motion was made by Mr. Voigt, seconded by Mr. Hutchison and unanimously approved.

Chairman Conze read the following agenda item:

**Coastal Site Plan Review #229-A, Flood Damage Prevention Application #293, Foster Kaali-Nagy, 125 Five Mile River Road.** Proposing to install a pier, ramp and float, and perform related site activities within regulated areas. The subject property is on the east side of Five Mile River Road approximately 800 feet south of its intersection with Davis Lane, and is shown on Assessor's Map #67 as Lot #3B, in the R-1/2 Zone.

Attorney Wilder Gleason represented the applicant and explained that there is an existing walk from the house down to the area where the proposed pier and ramp and float would be located. Connecticut Department of Environmental Protection (DEP) approval had been obtained in the summer of 2010 along with an approval from the Army Corps of Engineers. The pier would be approximately 4 ft. wide and 38 ft. long and the float would be a 5'x17' float connected to two pilings. The pier would be located 50 to 60 feet apart from and at a slightly different angle from

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any adjacent pier. He said that approval from the Town is now needed to implement the plan that has been approved by the DEP and Corps of Engineers.

Mr. Ginsberg read aloud the South Western Regional Planning Agency comments that indicated that they found no inter town impacts. Ms. Riccardo mentioned the possibility of a shared dock.

Mr. Spain asked if it was possible for the property at 125 and the property at 129 to share a single dock rather than each of those owners having their own dock. Mr. Gleason said that each waterfront property owner has the right to walk out to the navigable portion of the river and that each of the two lots is separately owned and will eventually be sold to other owners (even though they are currently in the same family). Mr. Spain said that one fewer dock would be an improvement.

Mr. Gleason said that each float will have float stops to prevent the floats from resting on the ground during low tide conditions and that a small vessel will still be able to dock even during low tides without resting on the ground.

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

Mr. Conze read the following agenda item:

**Coastal Site Plan Review #230-A, Flood Damage Prevention Application #294, KRK, LLC, 129 Five Mile River Road.** Proposing to install a pier, ramp and float, and perform related site activities within regulated areas. The subject property is on the east side of Five Mile River Road approximately 950 feet south of its intersection with Davis Lane, and is shown on Assessor's Map #67 as Lot #3-A, in the R-1/2 Zone.

Attorney Wilder Gleason represented the property owner and explained that Connecticut Department of Environmental Protection and the U.S. Army Corps of Engineers' approvals had been obtained for the installation of the dock at 129 Five Mile River Road. He asked that the Commission take notice of the Public Hearing that was just concluded regarding 125 Five Mile River Road.

Mr. Ginsberg read the South Western Regional Planning Agency comments indicating that they found no inter-municipal impact. DEP comments include the fact that they had issued a permit and had no further comments for the Commission at this time.

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

## **GENERAL MEETING**

The General Meeting was opened and Mr. Conze read the following agenda item:

**Special Permit Application #66-L/Site Plan, Darien YMCA, 2420 Boston Post Road.**  
Request to modify previous approval regarding architectural changes to the building.

Architect Chris McCagg reviewed his letter explaining why he felt the architectural changes required by the Planning & Zoning Commission were not appropriate. The Commission's Resolution requiring the changes was reviewed. Mr. McCagg noted that the arbor in the front of the building had been modified and that the amount of glass on the front lobby area had been reduced to control light spillage. The amount of glass on the gymnastics addition has been reduced and they have raised the windows at the base of the gymnastics addition wall. They also propose to modify the nursery school façade. Mr. Conze said that these modifications seem to be an improvement compared to the previous plan, but he still had some concerns that they had not abided by all of the Commission's requirements. Mr. McCagg said that skylights in the proposed structure will allow light in and they will be able to control any light spillage that might impact the neighbors. Mr. Ginsberg said that there are other minor site changes, along with interior changes that the Commission needs to review and act upon. Mr. Conze said that the Commission should not act on this while the changes to the exterior architecture until the Architectural Review Board has had an opportunity to review and comment on the proposal. The ARB will meet on November 16<sup>th</sup>.

He suggested that the architect explain the proposed changes to the Architectural Review Board and that the Planning & Zoning Commission receive a report from the ARB before the Commission takes any formal action on the modifications. Mr. Ginsberg explained that the Architectural Review Board meeting will be at the same time as the Planning & Zoning Commission meeting and if this matter is on the agenda of the ARB, then it might be possible for the Planning & Zoning Commission to receive comments from the ARB on that same evening. The matter will be placed on the Planning & Zoning Commission agenda for November 16<sup>th</sup>.

Chairman Conze read the following agenda item:

**Amendment of Business Site Plan #90-K, Jos A. Bank, 1077 Boston Post Road, CBD Zone.**  
Request to construct vestibule/entryway addition to the front of the building, underneath the existing marquee.

Mr. Collins reviewed the plans for the proposed vestibule addition underneath the marquee. He submitted a revised and updated Photo Shop version and indicated that he had met with the Architectural Review Board and had received further direction and instruction from the ARB. They have reduced the projecting addition from 7 ft. down to 5 ft. out from the existing wall. As per ARB comments, they are using more clear glass. They are also proposing that the awning signs for the movie information be removed. When asked about the extra Scena Restaurant signs, Mr. Collins indicated that they were removed earlier in the day. Mr. Collins said that if the new Jos A. Bank signs are allowed to be on the sides of the marquee, then the movie theater will need to have another place to post its movie information. Perhaps that could be on a detached sign. He showed the Planning & Zoning Commission a "photoshopped" version of a possible movie information

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sign that could be located on the low stone wall located between the Verizon Wireless storefront and the Panera Bread Restaurant.

Mrs. Cameron believed that if Jos A. Bank signs are allowed on the sides of the marquee, then they would not need to create a bump-out addition under the marquee because the store entrance would have considerable recognition. Mr. Collins said that the bump-out is a very important aspect to the successful retail operation because it will allow for considerable display area. Mr. Voigt questioned whether the business use would be successful even with the bump-out addition and more signage. Mr. Conze said that whether the current tenant is there or a different tenant is in the building, they have insufficient window display area to properly conduct a retail business. Mrs. Cameron said that the marquee is the grand entrance to the movie theater and has been converted as the entrance to the store. She did not feel that having the marquee is a deterrent to the retail use. Mr. Voigt noted that maybe a smaller box bay window or something less substantial than the proposed big vestibule would be appropriate. He said the vestibule takes away from the purpose and the aesthetics of the marquee and reduces the wide sidewalk area that is accessible to the public. Mrs. Cameron agreed with Mr. Voigt's concerns and said that if you are walking along the sidewalk, you certainly notice the existing windows and the existing windows could be modified to provide a better display area. They need to make better use of what window space they already have, rather than creating a bump-out vestibule under the marquee. Mr. Voigt said that if the marquee causes a shadow problem, then they can provide additional lighting under the marquee to solve that problem. Mr. Collins said that the existing doors under the marquee need to be replaced and using clear glass would be an appropriate way to create more beneficial display area.

Mr. Spain said that the marquee was part of the preservation that included the retail uses and the expansion of the building to subsidize the preservation of the theater use within the theater building. He said that this proposed vestibule is a small adjustment that will facilitate the continuation of the movie theater use. Mrs. Cameron said that removing the theater information from the marquee would be appropriate, but the bump-out addition would not be appropriate, but the bump-out addition would not be appropriate. Mr. Hutchison said that he was not comfortable with the bump-out vestibule and said that it might be a problem that this is not the right tenant to draw people to the site. He said one of the problems is that the access to the parking area has been eliminated by the creation of pedestrian walkways. This means that people on the Boston Post Road who notice the shop and store do not know where to go to park in order to get to the front door. He said that the bump-out won't solve these other issues. Commission members did not render a decision on this matter and decided that it would be appropriate to place it on the agenda for the November 16<sup>th</sup> meeting.

Chairman Conze read the following agenda item:

*Deliberations and possible decision regarding the following item:*

**Business Site Plan #276/Special Permit, Callari Auto Group d/b/a Mini of Fairfield County, 154 Boston Post Road.** Proposing to raze the existing building formerly occupied by the Cookhouse and construct a new building for automobile dealership with associated service bays and to perform related site development activities. *PUBLIC HEARING CLOSED: 10/5/2010.*

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Mrs. Riccardo questioned whether the Planning & Zoning Commission should require the installation of the sidewalk. Mr. Ginsberg said that the Regulations require it, but does it make sense in this particular location because it would not connect to any existing sidewalks. Mr. Conze said that it would be appropriate to require that the sidewalks be shown on the plan, but that the Commission would not require the installation at this time unless it is specifically required by the Connecticut Department of Transportation (which owns the adjacent Boston Post Road). If the DOT does not require the installation of sidewalks at this time, then the installation of the required sidewalk would be postponed until a later date. At a later date, if sidewalks are required to be installed by the DOT or the Town, the owner of the property would then be required to install the sidewalk at their expense. Commission members discussed various alternatives regarding the sidewalk installation. Eventually it was concluded that the Commission should require the installation of the sidewalks at this time. This would aid in provision of pedestrian safety and would make it more likely that in the future, adjacent property use would be redeveloped and sidewalks would be installed to provide a continuous pedestrian safe area.

The Commission members also discussed hours of delivery and the fact that vehicles would not be allowed to park on the Boston Post Road for deliveries or for any other purposes.

The following motion was made: that the Commission waive the process of reading the draft Resolution aloud because each member of the Commission has had an opportunity to review the Draft Resolution prior to the meeting. The motion was made by Mrs. Cameron, seconded by Mrs. Riccardo and unanimously approved.

The following motion was made: that the Commission adopt the following Resolution to approve the Mini of Fairfield project subject to the conditions and stipulations as noted. The motion was made by Mr. Hutchison, seconded by Mr. Spain and unanimously approved.

**PLANNING AND ZONING COMMISSION  
ADOPTED RESOLUTION  
October 26, 2010**

Application Number: Business Site Plan #276/Special Permit  
Mini of Fairfield County

Street Address: 154 Boston Post Road  
Assessor's Map #32 Lot #8

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

Name and Address of Proposed Tenant: Marclaire, LLC  
c/o BMW of Darien  
140 Ledge Road

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Darien, CT 06820

Name and Address of  
Property Owner: AGF Associates  
c/o Gerald Nielsen  
3 Thorndal Circle  
Darien, CT 06820

Activity Being Applied For: Proposing to raze the existing building formerly occupied by the Cookhouse restaurant and construct a new building for automobile dealership with associated nine service bays and to perform related site development activities.

Property Location: The subject property is located on the southeast side of Boston Post Road across the street and approximately 400 feet east of its intersection with Richmond Drive.

Zone: SB-E

Date of Public Hearing: September 28, 2010 continued to October 5, 2010

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

Publication of Hearing Notices  
Dates: September 17 & 24, 2010

Newspaper: Darien News

Date of Action: October 26, 2010

Action: APPROVED WITH CONDITIONS  
AND MODIFICATIONS

Scheduled Date of Publication of Action:  
November 5, 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 670, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted development plans, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. The proposal is to raze the existing building formerly occupied by the Cookhouse restaurant and construct a new building for automobile dealership with associated nine service bays

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and associated car wash and to perform related site development activities. The subject property is 1.7149 acres, served by public water and sewer and Yankee gas, and located within the Service Business East (SB-E) Zone. The site was formerly occupied by the Cookhouse Restaurant (and previously Red Lobster and Chi-Chi's). The proposed automobile services use (sales and repair of vehicles) is allowed by Special Permit per Section 674c of the Darien Zoning Regulations.

2. The Zoning Board of Appeals (ZBA) and Architectural Review Board (ARB) have approved the requested signage for this redevelopment. Those approvals are hereby incorporated by reference. The ZBA approved signage variances in Calendar #56-2010 on September 21, 2010. The ARB met on September 21, 2010 to discuss this application (ARB #39-2010) and submitted a September 22, 2010 letter for the record in this matter.
3. The subject application proposes a total of 61 full-sized on-site parking spaces including two handicapped spaces. The proposed parking complies with Section 904 of the Zoning Regulations. Additional parking/storage space for new automobiles will be on this site. These spaces will not be used by customers and do not have the usual 24 foot back up area for each space because the dealer controls the movement of all of these vehicles.
4. During the public hearing process, the applicant noted that the plans result in a decrease of impervious surface (developed site area) compared to existing conditions. These details are specifically noted on the Grading & Drainage Plan. The current developed site area on the property is 84.6%, which is above the 80% maximum allowed in the SB-E Zone. The subject application proposes to redevelop to the 80.0% maximum allowed, thereby complying with the applicable regulation. The proposed building is 10,000+/- square feet in size, with a 1,000+/- square foot canopy.
5. The existing drainage system will be enhanced with new facilities to detain and clean the storm water runoff before it is discharged from the site toward the Five Mile River. The Commission notes the need for the applicant to file a document regarding maintenance of the proposed and installed drainage system in the Darien Land Records. This will alert future property owners and/or tenants of the existing on-site drainage facilities and the need to maintain said facilities to minimize any potential stormwater impacts.
6. The applicant submitted a Traffic and Parking Impact Study by Adler Consulting dated August 17, 2010. That was reviewed by Michael Galante of Frederick P. Clark Associates Inc., who sent in two letters—one dated September 27, 2010, and one dated October 5, 2010. Lieutenant Don Anderson of the Darien Police Department also sent comments on traffic, in a two-page memo dated 9-21-2010.
7. There are now two existing curb cuts into the parking lot, and those curb cuts will be maintained. The westerly curb cut (closest to the I-95 off ramp) is only accessible from traffic traveling northbound (east) on Route 1/Boston Post Road. The easterly curb cut is accessible from both north and southbound (west) directions of Route 1/Boston Post Road.
8. There was concern voiced during the public hearing regarding delivery of vehicles to the site by tractor trailer, or other similar large vehicle ("car-carriers"), and how vehicles would be

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unloaded safely from such car-carriers. The application materials note that most new vehicle deliveries (about 90%) will be from the east via Exit 13 off of I-95. At the September 28<sup>th</sup> public hearing, it was agreed to by Mr. Charles Napolitano, on behalf of the Applicant, that they will not take deliveries on Saturdays. An essential design element of the site plan is that car-carriers can enter the site, circulate and exit without having to park on the street or to back into the site or back into the street or otherwise maneuver on Route 1/Boston Post Road.

9. The Applicant proposes to re-use the light poles already on-site and install new energy efficient light fixtures. The applicant intends to keep lighting on all night for security reasons. Light fixtures will be redirected to point down toward the vehicles, and not toward the new building, to avoid glare caused by reflection off of the proposed glass building. The source of illumination at the lights will be enclosed with shields or shadow boxes. Any future change will require review and action by the Commission.
10. Comments were received from the Darien Fire Marshal and the Darien Health Department regarding this application.
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 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.
13. 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.
14. 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.
15. The design, location, and specific details of the proposed use and site development will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.

NOW THEREFORE BE IT RESOLVED that Business Site Plan #276/Special Permit is hereby modified and approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The Commission hereby approves the following plans received in the Planning and Zoning Department, as required to be modified herein, entitled:

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- Site Development Plan depicting 154 Boston Post Road prepared for Mini of Fairfield County, by Redniss & Mead, dated 8/20/10, Drawing No. SE-1.
- Sediment and Erosion Control Plan depicting 154 Boston Post Road prepared for Mini of Fairfield County, by Redniss & Mead, dated 8/20/10, Drawing No. SE-2.
- Details & Soil Data depicting 154 Boston Post Road prepared for Mini of Fairfield County, by Redniss & Mead, dated 8/20/10, Drawing No. SE-3.
- Landscape Plan Mini of Fairfield County, by Environmental Land Solutions, LLC, dated 8/20/10 and LAST REVISED 9/28/10 (relocating streetscape sign), Drawing No. SP-1.
- Zoning Location Survey depicting 154 Boston Post Road prepared for Mini of Fairfield County, by Redniss & Mead, dated 8/20/2010.
- Stormwater Management Exhibit depicting 154 Boston Post Road prepared for Mini of Fairfield County, by Redniss & Mead, dated 9/28/10, Drawing No. EX-1.
- Architectural plans prepared by AWA Design Group, dated 07-29-10, Sheet A-1, Floor Plans and drawing A-2, Elevations, which need to be revised to comply with the Architectural Review Board comments and final action.

Per the Darien Fire Marshal, the plans shall be revised to provide a fire lane and to provide a fire hydrant at the west entry.

B. Mr. Galante's report of September 28, 2010 noted four conditions:

- a) restrict the westerly site access drive as an entrance only for right turning vehicles from Boston Post Road;
- b) all car-carriers and all trucks are required to use the easterly driveway only;
- c) no backing into or from the site, or parking on Boston Post Road is permitted.
- d) install a NO U-TURN and NO LEFT TURN sign for the westbound movements at the Richmond Drive center median. These shall comply with MUTCD signage.

The Town supports the Applicant applying to the State DOT, and installing said signage installed at the Richmond Drive crossover at the Applicant's expense.

C. As noted by the Applicant's traffic engineer in his September 28, 2010 letter, the Site Plan shall be modified to place DO NOT EXIT signs on both sides of the westerly driveway facing the parking lot. The Town supports the applicant applying to the State DOT and installing said signage installed at the Richmond Drive crossover at the Applicant's expense. The September 28, 2010 five-page letter from Adler Consulting notes that the applicant is willing to abide by these conditions. No off-loading of vehicles shall occur from Boston Post Road, nor shall there be any backing of vehicles into the street.

D. The photographs of the subject property and nearby properties submitted by the Applicant do not show a sidewalk in front of the subject property frontage. Section 676f of the Zoning Regulations requires pedestrian sidewalks along the Boston Post Road. Revised plans shall be submitted showing a sidewalk along this frontage, and a new sidewalk shall be constructed along the property frontage to comply with this Regulation requirement. Such sidewalk shall travel continuously through the driveways to assure pedestrian safety. This requirement to construct a new sidewalk will be waived by the Commission if the Connecticut Department of Transportation specifically prohibits the installation at this location. The applicant shall assure that the sidewalk does not affect the turning radius for trucks.

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- E. The subject application does not show any fences or gates for security. Any desire for such changes in the future will require review and action of the Planning and Zoning Commission as an amendment of this Special Permit/Site Plan.
- F. It was noted that the existing Dumpster/trash area shown in the rear of the property will be re-used by the new tenant. That area shall be upgraded as necessary to have a fully operating fence/gate surrounding the dumpster(s). That Dumpster/trash area shall be maintained in a neat and orderly fashion by this tenant. Prior to the issuance of a Certificate of Occupancy for the building, the existing outdoor trash facility area shall be improved as required herein. This shall include the installation of a new enclosure fence, and the placement of new Dumpster(s). The Dumpster/trash area enclosure area shall be neatly maintained, and the doors shall remain shut at all times that someone is not loading or unloading garbage. The tenant is responsible for maintaining this trash area, including ensuring that it is emptied frequently enough to minimize odors.
- G. 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 and/or the Darien Land Records. The Drainage Maintenance Plan shall require the property owner and/or tenant and all subsequent property owners and/or tenants of 154 Boston Post Road to maintain the on-site drainage facilities, and 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. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records by the owner, within the next 60 days and prior to the start of any work.
- H. As part of the subject application, the Applicant requested a waiver of stormwater management requirements within Section 883a of the Darien Zoning Regulations because they are substantially improving the drainage system for an already developed property. The proposed drainage improvements were shown on the submitted exhibit entitled, "Stormwater Management Exhibit". The Commission hereby finds that due to the location of the subject property immediately adjacent to I-95 and Boston Post Road, and the fact that the proposal is to decrease the amount of developed site area on the property and install a new on-site stormwater management system, the Commission can and hereby waives the provisions of Section 880.
- I. The Applicant requested waiver of loading area per Section 909 of the Darien Zoning Regulations. The Commission hereby approves such a waiver due to the nature of the proposed use.
- J. Hours: No deliveries of new or used vehicles shall be taken on Saturdays or Sundays. Sales hours: shall be limited to a maximum of 6 a.m. to 9 p.m. seven days a week. Service hours: shall be a maximum of 5 a.m. to 9 p.m. five days a week--closed on Saturdays and Sundays. It was noted during the public hearing that some parts deliveries will occur "after hours", and such "after hours" parts deliveries are hereby approved. Any requested modification of these hours will require subsequent review and action by the Commission. In such future review, the Commission will be sensitive to potential increased hours for service on Saturdays, due to the traffic volume on Boston Post Road/Route 1 on that day of the week.

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- K. There shall be no loading or unloading of vehicles from Boston Post Road (Route 1). There shall be no vehicles, including car carriers, parked on Boston Post Road. No vehicles, including car carriers, shall back into Boston Post Road. Due to traffic on Route 1 in this area on weekends, no deliveries are permitted on Saturdays or Sundays. All of these conditions of approval regarding loading and unloading of vehicles are essential for safety.
- L. No vehicles for sale are allowed to be stored within the 30 foot front yard setback. The submitted plan specifically shows all inventory/storage/display parking beyond that required front yard. Thus, the plan complies with Sections 676d and 373 of the Darien Zoning Regulations.
- M. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans in Condition A, above, and any additional measures as may be necessary due to site conditions. These sediment and erosion controls shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been vegetated or stabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.
- N. As noted on the submitted Site Plan, all lighting shall comply fully with Section 232 of the Darien Zoning Regulations. Due to its location on the south side of Boston Post Road away from residences, the exterior lighting is hereby allowed to be on all night for security reasons. Shadowboxes/shields shall be installed on the lights to minimize glare. If glare problems are noticeable on the street or on other properties, the Applicant shall adjust the lighting to eliminate the problem.
- O. 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 new building.
- P. 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, 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 site or of the proposed building.
- Q. 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.
- R. The granting of this Site Plan and 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 agencies. This includes, but is not limited to, final approval from the

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State of Connecticut Department of Transportation (DOT) for a new use of the subject property, a Darien Department of Public Works permit for sanitary sewer work outside of the building envelope, a vehicle service floor drain permit from DEP, and a Demolition Permit from the Building Department. A permit will be needed from the Darien Health Department to properly abandon the existing restaurant's grease trap.

- S. 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 (October 25, 2011). This may be extended as per Sections 1009 and 1028

All provisions and details of the 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, the signing of the final approved plans by the Chairman. All completed requirements and materials, including, but not limited to: revised plans and the filing of the Special Permit form and Notice of Drainage Maintenance Plan in the Darien Land Records, shall be submitted to the Planning and Zoning Department within 60 days of this action.

Chairman Conze read the following agenda item:

**Amendment of Subdivision Application #164-B, Karczewski, 40 Noroton Avenue.**

Request to allow existing circular driveway on Noroton Avenue to remain.

Ray Karczewski explained that they had renovated the existing house and are now requesting that the Planning & Zoning Commission amend the original Subdivision application so that they could keep the 40 Noroton Avenue curb cut and to make modifications within the front landscape easement area. The plan is to keep the existing curb cut on the southerly portion of the site so that it leads toward the front door. The driveway would then continue in a northerly direction and connect up with the new street being constructed, Eddy Lane. A small retaining wall would be built to accommodate the regrading necessary for this new driveway connection to Eddy Lane. Mr. Karczewski said that the garage is being built on the rear portion of the property in accordance with the previously approved plan. There is no lighting in the rear area and they wish to keep the front driveway area because it will be safer. Shaileen Karczewski submitted letters of support from neighboring property owners. She said that the gray stone driveway will be a pervious material so that there will be very little additional runoff. She said that the back entrance driveway, from the turnaround area of Eddy Lane to the new garage being constructed, will be for family and routine use. The preservation of the curb cut from Noroton Avenue will be for safety and for deliveries. This will make it easier and better for people to use the front driveway because the access from Noroton Avenue to the front door will be preserved.

Mr. Hutchison said that keeping the driveway from Noroton Avenue would be an amendment of the subdivision as originally approved by the Planning & Zoning Commission. He also noted that the wall within the front landscape area would need express approval from the Commission because otherwise it would not be permitted within the front landscape easement area. Mr. & Mrs. Karczewski explained that the retaining wall was needed because the front entrance driveway is

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approximately two feet higher than the newly constructed Eddy Lane. The retaining wall will minimize the amount of regrading needed.

After further review and discussion, the following motion was made: that the Planning & Zoning Commission amend Subdivision #164-B to allow the existing southerly curb cut from Noroton Avenue into the site to remain and to allow the modifications of the front landscape area, including the retaining walls and landscaping as shown on the submitted plans. The motion was made by Mrs. Cameron, seconded by Mr. Hutchison and unanimously approved.

Chairman Conze read the following agenda item:

**Amendment of Business Site Plan #164-A, 320-330 Boston Post Road.**

Request to install generator and associated pad.

Mr. Ginsberg explained that the applicant is seeking approval for the installation of generator in order to provide emergency power for the Information Technology Division of the business. The location of the emergency generator is shown on the highlighted plan. It would not be visible from the Boston Post Road, but would be visible from the parking lot of the Duchess Restaurant. Commission members reviewed the proposal. The following motion was made: that the Commission authorize the installation of the emergency generator as shown on the submitted plan. The motion was made by Mr. Hutchison, seconded by Mr. Spain and unanimously approved.

Chairman Conze read the next agenda item.

**Approval of Minutes**

*September 28, 2010 Public Hearing/General Meeting*

The draft Minutes for September 28<sup>th</sup> were discussed. There were minor changes discussed and agreed upon on page 5. The following motion was made: that the Commission adopt the revised Minutes. The motion was made by Mr. Voigt, seconded by Mr. Hutchison and unanimously approved.

*October 5, 2010 Public Hearing/General Meeting*

The draft minutes of October 5<sup>th</sup> were discussed. Changes were discussed on pages 1, 2 and 9 and the modifications were agreed to. The following motion was made: that the Commission adopt the revised Minutes of October 5<sup>th</sup>. The motion was made by Mr. Voigt, seconded by Mr. Hutchison and unanimously approved.

*October 20, 2010 Special Meeting*

The draft minutes of October 20<sup>th</sup> were discussed. Minor changes were made on pages 3 and 5. The following motion was made: that the Commission adopt the revised Minutes of October 20<sup>th</sup>. The motion was made by Mrs. Cameron, seconded by Mr. Hutchison and unanimously approved.

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

The following motion was made: that the Commission discuss the proposed modifications at 1077 Boston Post Road. The motion was made by Mrs. Riccardo, seconded by Mrs. Cameron and unanimously approved.

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Mr. Conze said that the Commission members should go take a look at the building at 1077 Boston Post Road and think about the proposed modifications in preparation for the meeting of November 16<sup>th</sup>. No action was taken at the time.

There being no further business, the meeting was adjourned at 11:00 P.M.

Respectfully submitted,

David J. Keating  
Assistant Planning & Zoning Director

*10262010min*