

**PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING
December 1, 2009**

Place: Room 119
Town Hall

TIME: 8:00 P.M.

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

STAFF ATTENDING: Ginsberg
RECORDER: Syat
FILMED: Channel 79

GENERAL MEETING

Mr. Conze read the first agenda item:

Amendment of Business Site Plan #265, Baywater 17 OKHS, LLC, 17 Old King's Highway South. Proposal to raze the existing office building, and construct a new two story building, reconfigure parking lot; and perform related site development activities. The subject property is located on the east side of Old King's Highway South, directly across from its intersection with Center Street, and is shown on Assessor's Map #38 as Lots #12 & #13 in the OB Zone.

Attorney Robert F. Maslan, Jr. was present on behalf of Baywater 17 OKHS (David Genovese, Rocco Genovese, et. al.). Mr. Maslan reminded the Commission that this project was approved as a Business Site Plan and Zoning Regulation text amendment in 2008. This request is a modification to the previously approved site plan. He then referred to the submitted full-sized plans, and showed the existing building and the parking, and the previously approved building and parking. He said that this proposal leaves the parking spaces near the access drive "as-is". It changes the building and reconfigures other parking. Mr. Maslan said that the ARB approved the building changes on November 17, 2009. He then showed the proposed elevations and the previously approved elevations, and noted that the height of the building is the same. There are two feet of modulations in the side elevations. The footprint is close in size to the existing building. The floor area has been reduced to 17,856 on two floors.

Mr. Maslan then showed the parking spaces and the parking aisles per the Darien Zoning Regulations. He pointed out the proposed handicap van parking space in front of the building, which is 16 feet wide (per the Building Code). He noted that parking is not permitted here in front of the building under the Darien Zoning Regulations, and therefore, they will change the plans to show this area as lawn and bushes. This handicap van parking space will be moved, and two parking spaces lost. Mr. Maslan noted that they had on the approved plans 58 parking spaces on-site, (11 along the access and 47 others). They will now have 46 spaces (17 along the access and 29 others), which will now be reduced by two, down to 44 parking spaces. In all, there are 87 parking spaces total on this lot, with other parking spaces available on two adjacent lots covered by the shared parking agreement.

Mr. Spain asked whether the shared parking agreement had been submitted for the record, and whether within that agreement, there was an allocation of spots for any one building. Mr. Maslan responded that

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there is some allocation, but it has existed for a long time. On weekends, the church gets to use basically everything. Mr. Hutchison then asked Mr. Ginsberg about the parking which now exists in the Center Street North municipal parking lot. Mr. Ginsberg responded that this lot contains some permit parking and some hourly parking. He also noted the presence of on-street parking along Old King's Highway South, and the fact that the site is walkable from the train station and the Post Road bus line. Mr. Ginsberg was not aware of any commuter parking within the Center Street North parking lot.

Mr. Maslan reminded the Commission that this building has been designed so that it may be converted to a first floor retail use in the future if the Regulations are changed to allow such. Mr. Ginsberg noted that the parking needs to work for both first floor office use now, and for possible first floor retail use in the future if that is sought and approved. Mr. Maslan said that drainage plans have been submitted for the record. Mr. Conze then asked about the building access. Mr. Genovese then showed the location of the doors and noted that the elevator is in the back of the building, which will have both a front and rear access. Mr. Genovese noted how future changes could occur, making the first floor appropriate for retail use, such as changes in the front windows. He explained that this structural opportunity is still considered within this proposal. There were no further questions or comments from Commission members, and Mr. Conze then read the next agenda item:

Amendment of Business Site Plan #240, Ruth Clark, 95 Noroton Avenue, NB & R-1/5 Zones.

Request to have retail sales of baked goods in a portion of the first floor of the existing building in a space now occupied by a drop-off dry cleaner.

Ms. Ruth Clark, the potential tenant, was present to describe the proposal. She said that the idea is a small confectionary bakery store. It will be located directly adjacent to Darien Flowers at 95-97 Noroton Avenue, at the corner of Maple Street. It will be similar to McKenzie's/Connecticut Muffin, now in New Canaan. The main product sold will be baked goods, which will be purchased from a commercial bakery. Cookies, muffins, and scones will be sold individually and packaged. Chocolates will also be sold. In response to a question, Ms. Clark said that drinks will be sold, including juices, coffee, tea, and hot chocolate. She added that certain retail items such as balloons, ribbons and gift wrap will also be sold on premises.

Ms. Clark said that the business will be open seven days a week, and staffed by her and her husband. There will be no cooking on premises. She said that they do want some seats near the existing window in the front, but most orders will be "to-go".

Commission members then asked about trash collection. Ms. Clark responded that the existing Dumpster is shared with the Darien Flowers florist, and is now emptied once a week. Deliveries will occur between 7 am and 8 am, and will be on the left side of the building.

Mr. Ginsberg then read aloud the definition of Food Service, Convenience from Section 210 of the Darien Zoning Regulations. He said that based upon Ms. Clark's description, that this is a Convenience Food Service requiring a Special Permit in the NB Zone. Commission members agreed.

Mr. Spain asked whether Ms. Clark can arrange more frequent trash pickup if necessary. Mr. Clark confirmed that she can get more frequent pickup and/or a larger Dumpster. Mr. Hutchison then made a motion to approve the Special Permit Application. That motion was seconded by Mr. Conze, and was approved by a vote of 5-0.

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Mr. Conze then read the next agenda item:

Discussion, deliberation and possible decision on the following application:

Special Permit Application #258, Cava Wine Bar & Restaurant, LLC, d/b/a Cuvee, 1077 Boston Post Road. Proposing to establish a new restaurant in a portion of the first floor space formerly occupied by Ann Taylor Loft. *HEARING CLOSED: 11/17/2009. DECISION DEADLINE: 1/21/2010.*

Mr. Spain made a motion to waive the reading of the resolution aloud. That motion was seconded by Mr. Hutchison, and unanimously approved. Mr. Conze asked Mr. Ginsberg to briefly summarize the findings and conditions contained in the draft resolution. Mr. Ginsberg noted that the Commission is not approving any specific interior floor plans. They are also not approving the outdoor dining herein, but the applicant needs to work with the ARB on the details of that (such as outdoor tables and chairs, heaters, umbrellas, etc), and then return to the Commission. He confirmed that the Commission is limiting the amount of indoor seating, and that employees will need to park off-site on Saturdays during certain parts of the year. There are no limits on the hours of operation. He also mentioned the requirement for a kitchen venting system to address fumes and odors. In response to a question, Mr. Ginsberg said that the restaurant hopes to be open in March 2010.

Ms. Riccardo had one minor suggested change to Condition G of the resolution. Ms. Riccardo then made a motion to adopt the resolution with that one change. That motion was seconded by Mr. Hutchison, and was approved by a vote of 4-0-1, with Mr. Voigt abstaining, since he was not on the Commission in October, when the public hearing was held. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
December 1, 2009**

Application Number: Special Permit Application #258
Cava Wine Bar & Restaurant, LLC

Street Address: 1077 Boston Post Road
Assessor's Map #73 Lots #7 & #42 with shared parking on Lots #40 and #41

Name and Address of Applicant Cava Wine Bar & Restaurant, LLC
2 Forest Street
New Canaan, CT 06840

Name and Address of
Applicant's Representative: D. Bruce Hill, Esq.
Law Office of Bruce Hill, LLC
23 Old King's Highway South
Darien, CT 06820

Name and Address of Pear Partners, LLC

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Property Owner: 528 Boston Post Road
Darien, CT 06820

Activity Being Applied For: Proposing to establish a new restaurant in a portion of the first floor space formerly occupied by Ann Taylor Loft.

Property Location: The subject properties are on the northwest side of Boston Post Road, approximately 550 feet northeast of its intersection with Leroy Avenue.

Zone: CBD & PR (portion of shared parking lot) Zones.

Date of Public Hearing: October 27, 2009 continued to November 17, 2009

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

Publication of Hearing Notices

Dates: October 15 & 22, 2009

Newspaper: Darien News-Review

Date of Action: December 1, 2009

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of
Action: December 10, 2009

Newspaper: Darien News-Review

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

- the proposed use and activities must comply with all provisions of Sections 650, 900, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plan, and the statements of the applicant whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- Each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. The applicant proposes to establish a new restaurant in a portion of the first floor space formerly occupied by Ann Taylor Loft. The property is served by public water and sewer, and is located within the CBD Zone in downtown Darien. In the CBD Zone, restaurants are a Principal Use Requiring a Special Permit per Section 654b. It was noted during the public hearing that Cuvee is a "working title" of the restaurant, and is subject to change.
2. The applicant's representative noted at the hearing that outdoor seating/dining is proposed as part of this application. The restaurant proposes to be open for both lunch and dinner.

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3. The outdoor dining areas are specifically shown on the submitted plans. The submitted Concept Design 10 Plan shows four tables in front of the building and six tables to the side of the building. Further details regarding this outdoor dining area are needed prior to the Commission's formal approval.
4. The Commission's policy regarding restaurants is to have all fumes and odors minimized. In this case, office tenants upstairs, and other retail and theater tenants within the first floor of this building also need to be considered.
5. Comments from the Darien Fire Marshal, Health Department, Public Works Department, and Traffic Authority were received regarding this application. The Health Department noted that further details on the final floor plans will be needed. The Traffic Authority noted in an October 22 e-mail that the second row of outdoor dining in front of the building was a concern, and that second row of dining was deleted by the applicant in response to that comment.

6. The applicant proposes to utilize the existing Joint Parking arrangement as expressly permitted by Section 905 of the Darien Zoning Regulations. Section 905 reads as follows:

905. Joint Parking

Where two or more different uses occur on a single lot, the total amount of parking facilities to be provided shall be the sum of the requirements for each individual use on the lot, except that the Commission may approve the joint use of parking space by two or more establishments on the same or on contiguous lots, the total capacity of which space shall be less than the sum of the spaces required for each, provided:

- a. *The Commission finds that the proposed capacity shall meet the intent of the requirements;*
- b. *Approval of such joint use shall be automatically terminated upon the termination of the operation of any of such establishments;*
- c. *Legal documentation shall be furnished establishing such rights for the duration of such joint use.*

Such shared parking arrangements shall be limited to use and shall not include shared parking by time.

7. A Parking Evaluation dated November 10, 2009 was submitted on behalf of the applicant by Milone & MacBroom. This evaluation focused on available space within the shared parking lot. The Commission notes that the subject property has a Joint Parking arrangement, and takes specific cognizance of the other tenants within this building and in the other buildings which are part of the Joint Parking agreement. The Commission also notes the presence of on-street parking and municipal parking lots nearby.
13. The Architectural Review Board (ARB) has not yet reviewed this application. Review and action from that Board will be needed prior to the opening of the restaurant. This approval by the Planning and Zoning Commission will allow the applicant to proceed with the interior work,

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while pursuing the required approval from the Architectural Review Board and subsequent review and action by the Planning and Zoning Commission.

14. The location and size of the use, the nature of the proposed operations involved in or conducted in connection with it, the size of the site in relation thereto, and the location of the site with respect to streets giving access to it, are such that the application is in harmony with the orderly development of the district in which it is located.
15. 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.
16. 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.
17. 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.
18. The elements of the Site Plan, submitted as part of the application accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Special Permit Application #258 is hereby granted subject to the foregoing and following conditions, modifications and understandings:

- A. All construction and related activity shall be in accordance with the plan submitted to and reviewed by the Commission:
 - Restaurant Concept, Concept Design 10, by Frederick William Hoag, 1077 Post Road, dated 11/18/2009, Sheet SD-10.

It is noted that the floor plans may need to be modified to meet any requirements of the Building Official, Fire Marshal and/or the Darien Health Department. In no case shall the amount of customer seating inside the building exceed 65 restaurant seats and 10 seats at the wine bar without prior review and action by the Planning & Zoning Commission. .
- B. The requested 40 outdoor seats to be used on a seasonal basis for outdoor dining is not approved herein. The Commission cannot formally approve the outdoor dining within this decision, as more details are needed as well as review and approval from the Architectural Review Board. However, the Commission notes that it is generally favorable to the concept presented by the applicant, and the location of outdoor dining as shown on the submitted plan.
- C. The Commission requires the applicant to finalize the exterior details of the new doorways as well as the details of the outdoor dining area (tables, chairs, umbrellas, fencing or other barriers, trash cans, and any portable heaters) and treatment of the walkway within that area with the Architectural Review Board (ARB), then return to the Planning & Zoning Commission. No outdoor dining can be established until these approvals are granted. Revised plans to scale will

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need to be submitted showing the exact location of the property lines, existing sidewalks, existing and proposed landscaping, and other features, prior to review and action by the ARB and the Planning & Zoning Commission.

- D. In response to the comments received from the Darien Traffic Authority, the Commission requires that there be adequate pedestrian access both in front of, and on the side of the building when the tables and chairs are placed. When the applicant returns to the Commission with those details of the outdoor dining area, the tables and chairs shall be shown on a survey of the property. The survey will assist in determining whether the outdoor dining and any associated activity is on private property, Town property and/or State property.
- E. Because of this property's location in downtown, and because of the fact that little or no new impervious surface is created as part of this project, the Commission hereby waives the requirement for stormwater management as part of this application.
- F. The Commission believes that the success of this restaurant will depend in part on having patron parking close by and easily accessible. Thus, during the busiest times of year from November 1-December 31 on Saturdays, employees will need to find pre-arranged parking elsewhere. This may be at the Darien Train Station or via parking in municipal lots nearby. This will allow the joint parking lot to be available for shoppers and restaurant patrons.
- G. Because the applicant is applying for Joint Parking under Section 905 of the Zoning Regulations, the property owner shall re-apply to the Planning and Zoning Commission if there are any tenant changes within this building. This will allow the Commission to determine and address potential parking and other issues related to those tenants and ensure that adequate parking is still being provided for the various uses within the 1077 Boston Post Road building and in the shared parking lot.
- H. Because of the nature and location of the proposed use, and because of the existing site conditions of this previously developed property, the Commission hereby waives the requirement for a loading zone as authorized by Section 909 of the Darien Zoning Regulations. No unloading or deliveries to the business shall occur from any vehicles on the Boston Post Road.
- I. Because of the restaurant's specific location within downtown Darien, there is no limit or restriction on the hours of operation of the restaurant. The applicant has noted that they will only be open for lunch and dinner.
- J. To avoid early morning or late night trash pick up that could unreasonably disturb others, garbage pickup shall be done on an "as-needed" basis, and shall occur only between the hours of 8:30am-12 noon, or from 1:30pm to 5pm. Because of the restaurant use, trash may be needed to be collected more often than it is currently.
- K. The Dumpster enclosure area shall contain all trash, garbage and recycling bins and containers. It shall be neatly maintained, and it shall continue to be screened with new stockade (or similar) doors around it. Those new doors shall remain shut at all times that someone is not loading or unloading garbage. The property owner is responsible for maintaining this trash area including

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ensuring that it is emptied frequently enough to minimize odors. It is imperative that the doors remain shut when not in use.

- L. Prior to the issuance of a Zoning or Building Permit for the restaurant, final revised plans/elevations shall be submitted reflecting the installation of a venting system to control kitchen emission of odors and particulates. The system shall include a water wash, charcoal filter and high voltage precipitator. These plans/elevations shall be reviewed by the Fire Marshal, Health Director, Planning & Zoning Director, and Building Official. This is imperative to minimize any potential odors to other adjacent businesses, and existing upper floor uses above the restaurant. The applicant shall design the vent(s) so that it does not obscure any of the second floor windows. All equipment to be installed shall be maintained by the applicant. All hood and venting systems shall be fully installed and operational prior to the issuance of a Certificate of Occupancy for the restaurant.
- M. All site work, including but not limited to site improvements as shown on the approved plans and as noted herein shall be properly installed and completed prior to the use of this space and/or the issuance of a Certificate of Occupancy for the restaurant.
- N. 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.
- O. The granting of this Special Permit does not relieve the applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. This includes, but is not limited to, final approval from the Darien Fire Marshal for venting and emergency lighting; and final kitchen review by the Darien Health Department. If the applicant's grease trap will be outside the building envelope, a permit from Darien Public Works Department is required.
- P. 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 (December 1, 2010). This may be extended as per Sections 1009 and 1028.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. All completed requirements and materials, including, but not limited to any modified plans regarding kitchen venting shall be submitted to the Planning and Zoning Department within 90 days of this action or this approval shall become null and void. A Special Permit form shall be filed in the Darien Land Records within sixty days of this approval or this permit shall become null and void.

At about 8:35 p.m., Mr. Conze then read the next agenda item:

Discussion and deliberations only on the following three applications:

Proposed Amendment to Zoning Regulations #5-2009, Affordable Housing Application under CGS 8-30g, Special Permit Application #256, Garden Homes, 397 Post Road apartments, 397

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Boston Post Road. Proposing to modify the zoning regulations to allow conversion of certain buildings within the DB-2 zone as a Special Permit use; and application for a Special Permit to convert an existing office building at 397 Boston Post Road to 35 multi-family rental units; and perform related site development activities. *NOTE: THIS HEARING WAS CLOSED ON 11/24/2009. DECISION DEADLINE: 1/28/2010.*

Mr. Ginsberg started by distributing a three-page chart/handout to Commission members, which was a response to a request by Mr. Spain and Ms. Riccardo to lay out the sections of the Zoning Regulations which are not met through this proposed development, and what the requirements of the regulations are, and also a list of potential issues to be discussed/resolved. He believes that this handout would assist Commission members in organizing their thoughts and deliberating on the proposal.

Mr. Spain started by reviewing the first issue, which was parking. He said that there is no parking space width problem, but rather it is a parking space depth problem. He mentioned that the Commission would be losing about four feet total between the parking space and the parking aisle (one and a half to two feet for the space and one and a half to two feet for the aisle). One issue that Mr. Spain brought up was snow removal. He noted that the more parking area there is, the more room there is for stockpiling snow. He noted that this may be more difficult to plow with the residential use rather than the existing office use, as office users are usually not on-premises late at night and overnight. He said that he is not sure whether this would be a safety issue in this particular case. He suggested a condition(s) to get this issue on the snow resolved and to get the snow removed from the property, if needed. Mr. Spain said that a further issue on the parking is the size of the parking space near the dumpster area and the handicapped parking area. He said that his main concern is the number of handicapped spaces. Mr. Ginsberg said that while the applicant is providing four handicapped accessible apartments, the Building Code only requires three handicapped parking spaces. The Code requires one space for every 25 parking spaces, and in this case there are 53 parking spaces proposed. Mr. Spain noted that the Commission needs to fashion wording on the handicapped parking issue. Mr. Hutchison noted that the more handicapped spots there are specifically designated, those will limit the non-handicapped parking spots which exist for others to use. Mr. Spain noted that in his opinion, there should be one or two handicapped parking spaces vacant at all times for both tenants and guests.

Mr. Ginsberg then referred to the site plan, which had been presented during the Public Hearing. He showed a potential overflow parking area that could be on the west part of the site immediately adjacent to the building. This area may allow a car to park on a temporary basis. Mr. Spain suggested that if the building operates for six months and the handicapped parking spaces are always filled, and there are no handicapped parking spaces for visitors, he would want that resolved. He wants to see experience flexibility. Mr. Ginsberg noted that the one handicapped parking space per 25 spaces is being provided per the Building Code, with one of those being a van space.

Mr. Voigt asked about the possibility of reserving some parking for compact vehicles, especially in some of the parking spaces which may not meet current regulations. Mr. Spain said that this might be a possibility. Mr. Hutchison suggested that this might self-regulate itself. Mr. Spain noted that items like this can be worked into the conditions of approval.

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In response to a question, Mr. Ginsberg then explained the landscape buffer requirement of the Darien Zoning Regulations and showed photographs that had been submitted for the record in this matter, showing the areas in question. Mr. Conze noted that a hedge along the front yard would be a good thing, and it should be no greater than two-three feet high to avoid sight line impairments. Mr. Hutchison noted that these hedges could be included on both the north and south sides of the property. Mr. Spain said that the landscaping in the back of the property now exists, but the applicant must be required to have a landscaped buffer in the back of the property. He noted that fencing has been proposed to be added along the western property line. Ms. Riccardo said that at the last Public Hearing, the exact location of the fence was subject to an agreement with the adjacent property owner. Mr. Hutchison mentioned that if there is not an agreement, the fence must go on the subject's property. Mr. Spain cautioned that any required landscaping, as well as existing landscaping must be maintained on a continuous basis, and should not interfere with the sight lines. The height of these landscaping features must be enforced. Mr. Hutchison noted that it is important to do so along the Boston Post Road frontage.

The next item to be discussed was the Zoning Text Regulation Amendment. Mr. Hutchison said that he did not believe there is a problem which would necessitate a Zoning Text Change Amendment. Mr. Spain responded that he is not sure that this has been analyzed enough, and particularly as to its potential impacts upon other areas within the DB-2 Zone. He is reluctant to change the Regulations without more input concerning other properties. Mr. Conze said that the problem presented is to avoid potential unintended consequences. He asked how one would change the regulation text to allow this project, but not have some unintended consequences elsewhere. Mr. Conze suggested that Mr. Ginsberg speak with Town Counsel about the issue. Mr. Hutchison pointed out that Counsel has said that the Planning and Zoning Commission technically does not have to approve a Zone Change Amendment as long as it makes a proper decision under CGS 8-30g. Mr. Conze explained that there is a healthy tension with 8-30g applications, and the applicant could always return to the Commission on the Zoning Text Amendment if it cannot get financing for its project. Mr. Spain agreed with that suggestion although Mr. Hutchison pointed out that zoning commissions have no duty under the statutes to facilitate an applicant's financing.

Relative to parking, Mr. Spain said that there is no margin for error on the number of parking spots based upon the number of units. He said that experts both for the applicant and specifically hired by the Commission gave their opinions on this. He said that this is a tough call as there is no overflow nearby. Mr. Conze asked whether there are any areas on site that could be used in the future for parking. Mr. Hutchison believed that the maximum demand for parking will be on Saturdays when most of the tenants would not be at work. Mr. Conze cautioned that monitoring is important. If the parking is inadequate, the developer must handle the situation. Mr. Hutchison suggested a combination of using stickers for tenant vehicles, signage on the property, and provision within the leases signed by the tenants. Mr. Spain confirmed that the Commission should not require assigning of spaces to apartments. He believed that stickers for tenant vehicles have positives to identify any people who may be parking off site. Mr. Conze suggested that the developer institute a parking management program to insure that there will be no off-site overflow, and to identify tenants who may be parking off site. He suggested that the landlord submit a report and return to the Planning and Zoning Commission in January 2011 to explain how this management program is working. Mr. Hutchison emphasized that the landlord has the responsibility to solve any parking problems.

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Mr. Spain then asked about potential drainage enhancement to the site. Mr. Hutchison mentioned that he went to the site during the Public Hearing process in a rainstorm. He believes that the existing parking lot functioned well. Mr. Spain suggested the installation of an oil separator near the catch basin. Mr. Hutchison said that one needs to look into whether this is even feasible. Mr. Conze suggested wording that would require the applicant to install such an oil separator unless he could prove that there is justification for not having one (if it won't work, for example). This could be reviewed by Planning and Zoning Department Staff.

Mr. Spain believes that the Fire Marshal issues are proper issues to be considered. He noted that most of these were addressed by the applicant. The ones that were not addressed were rescue windows and the need for a standpipe.

Ms. Riccardo then read aloud the November 20th email memo from Bob Buch, the Fire Marshal. Mr. Spain believed that the project was safer with the proposed standpipe(s). Mr. Conze suggested including the requirement for a standpipe and all of the Fire Marshal's requests in the conditions of approval. Mr. Spain asked to look at the issue of lateral standpipes. Ms. Riccardo then referred to the November 18th memorandum submitted by Attorney Hollister on behalf of the applicant. Relative to the issue of storm water management, Mr. Ginsberg noted that the Darien Public Works Department had no comments on this application. Mr. Spain said that relative to the issue of CL&P and transformers, there was certainly some uncertainty in the area on how this would be addressed. He suggested that the Planning and Zoning Director work with the applicant on finalizing this issue. Mr. Spain noted that relative to the issue of the dumpster area, he is inclined to approve it, but if it proves inadequate, the Planning and Zoning Director should be authorized to require an increase in the frequency of trash pick-up and/or the size of the dumpster area. He noted that the dumpster area must be large enough to accommodate recycling for the tenants.

Mr. Spain then referred to the issue of fencing and said that the last four issues in Mr. Ginsberg's December 1, 2009 three-page list should all be conditions of approval. Mr. Voigt then asked whether the school bus would stop on Boston Post Road to pick up any school children who may live within this development. Mr. Ginsberg confirmed that it likely would, as there are other school bus stops now on the Boston Post Road. Mr. Conze then asked Mr. Ginsberg to draft a resolution reflecting the Commission's comments this evening, and have it ready for their review and action at one of their January 2010 meetings.

At about 9:25 p.m., Mr. Conze then read the next agenda item:

Land Filling & Regrading Application #231, VR Associates, LLC, 305-309 Middlesex Road.

Proposing to raze the existing structures and construct a new single-family residence with associated filling, regrading, stormwater management and wetlands mitigation and perform related site development activities. *NOTE: THIS HEARING WAS CLOSED ON 11/24/2009. DECISION DEADLINE: 1/28/2010.*

Mr. Ginsberg reminded Commission members of the materials reviewed during the public hearing, including an e-mail from Ms. Russell, a letter from the adjacent neighbor Mr. Jordan, and Darren Oustafine's comments. He noted that the Commission can consider the issue of a supervising engineer. Mr. Spain said that an independent engineer should be hired at the applicant's expense to review the project during the construction. He added that the engineer should visit the site at random days and

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times. Any such requirement by the Planning and Zoning Commission should dovetail with the EPC's approval, and should be complementary. Mr. Ginsberg will draft a resolution for the Commission's review in January.

Mr. Conze then read the next agenda item:

Coastal Site Plan Review #245, Flood Damage Prevention Application #278, Baywatch Partners, LLC, 4 Plymouth Road. Proposing to raze the existing residence and construct a new single-family residence and perform related site development activities within regulated areas.

NOTE: THIS HEARING WAS CLOSED ON 11/24/2009. DECISION DEADLINE: 1/28/2010.

Mr. Ginsberg reminded the Commission that the main issue discussed at the public hearing was the required second parking space, which is proposed to be behind the house, and accessed via grass pavers. Mr. Ginsberg also noted the proposed hammerhead area off of the driveway, which is likely where vehicles will park. Mr. Spain suggested moving that hammerhead further back closer to the garage, and requiring shrubbery or a hedge to shield any vehicle parked there. Commission members acknowledged that the property owner would likely have a second vehicle, which will need to be parked on-site. Mr. Ginsberg will draft a resolution for the Commission's review in January.

Mr. Conze then read the next agenda item:

Special Permit Application #255/Site Plan Application #270, Land Filling & Regrading Application #227, 333 West Avenue Associates, LLC, 329-333-339 West Avenue. Request for additional extension of time until January 29, 2010 to complete and submit certain documents and information required by Adopted Resolution.

Mr. Ginsberg noted that a one-page letter dated November 25, 2009 was received from Craig Flaherty of Redniss & Mead, requesting additional time to file all of the necessary paperwork to finalize this approval. Mr. Spain made a motion to approve the extension of time to January 29, 2010. That motion was seconded by Mr. Hutchison, and was approved by a vote of 5-0.

Land Filling & Regrading Application #200, Jeff Scofield, 65 Goodwives River Road.

Request for extension of time to commence project.

Mr. Ginsberg explained that Mr. Scofield had submitted a one-page e-mail dated November 23, 2009, which requested additional time to commence his project. This will allow him to coordinate his project with the sewer lines which will be installed along Goodwives River Road sometime in the next few months. Mr. Hutchison made a motion to approve the request for extension of time. That motion was seconded by Mr. Spain, and was approved by a vote of 5-0.

Mr. Conze then read the next agenda item:

Approval of Minutes

October 27, 2009 Public Hearing/General Meeting

Ms. Riccardo said that she had a correction to pages 1 and 3 of the draft minutes. Mr. Spain also had some typographical corrections which he would give to Mr. Ginsberg to incorporate. Mr. Spain then made a motion to approve the October 27, 2009 meeting minutes as amended. That motion was

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seconded by Ms. Riccardo, and was approved by a vote of 4-0-1, with Mr. Voigt abstaining, since he was not on the Planning and Zoning Commission at the time.

November 10, 2009 General Meeting

Mr. Spain had some corrections on the draft minutes. He then made a motion to approve the minutes with those corrections. That motion was seconded by Ms. Riccardo, and was approved by a vote of 5-0.

November 17, 2009 Special Meeting

Ms. Riccardo had a correction on page 2 of the draft minutes. Mr. Spain made a motion to approve the minutes as amended. That motion was seconded by Ms. Riccardo, and was approved by a vote of 5-0.

There being no other business, the meeting was adjourned at 9:35 P.M.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director

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