PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING / PUBLIC HEARING
FEBRUARY 2, 2016

Place: Room 206 TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Cameron, Cunningham, DiDonna, Olvany, Sini, Jr.

STAFF ATTENDING: Ginsberg
RECORDER: Syat
Channel 79

Chairman Cameron opened the meeting at 8 P.M. and read the first agenda item:

GENERAL MEETING

Amendment of Special Permit #89-G, Public Works Department, Ledge Road.
Request to allow for processing of material at the transfer station for a one year period.

Public Works Director Ed Gentile was present to discuss the proposal and answer any questions. Mr. Ginsberg explained that this type of screening and processing activity is only allowed in the SB zone, by Special Permit, and not allowed in any residential zones. It was noted that this proposal is for a one year time period only. Mr. Sini then made a motion to approve the request. That motion was seconded by Mr. Olvany and unanimously approved.

Mrs. Cameron then read the next agenda item, and noted that it will be opened tonight and immediately continued to February 23 at 8pm in room 206 of Town Hall.

Flood Damage Prevention Application #351, Land Filling & Regrading Application #374, Blas Hernandez, 15 Waverly Road. Proposal to raze the existing residence and construct a replacement single-family residence and perform related site development activities within a regulated area. The subject property is located on the east side of Waverly Road approximately 450 feet south of its intersection with Shipway Road, and is shown on Assessor's Map #55 as Lot #32-33 in the R-NBD Zone. *TO BE OPENED AND IMMEDIATELY CONTINUED TO 2/23/2016. REVISED PLANS AVAILABLE FOR REVIEW IN THE PLANNING & ZONING OFFICE.*

Chairman Cameron then read the next agenda item:

Continuation of Public Hearing regarding: Coastal Site Plan Review #83-B, Flood Damage Prevention Application #71-B, Land Filling & Regrading Application #371, Justin Scott, 47 Pear Tree Point Road. Proposing to lift the existing residence; lift the garage slab and modify the internal circulation; regrade the driveway, garage access and new entrance stair; and perform related site development activities within regulated areas. The subject property is situated on the west side of Pear Tree Point Road, approximately 900 feet south of its northernmost intersection with Long Neck Point Road, and is shown on Assessor's Map #60 as Lot #51, in the R-1 Zone. *DEADLINE TO CLOSE PUBLIC HEARING IS 2/2, UNLESS EXTENSION OF TIME IS GRANTED BY APPLICANT.*

Mr. Ginsberg mentioned that this application was recently approved by the Zoning Board of Appeals (ZBA). Attorney Wilder Gleason was present on behalf of the applicants, the Scotts. He said that the boathouse/pool house is no longer part of the application. Mr. Olvany inquired if the public hearing must close this evening, since it has been opened and continued previously. Mr. Gleason said that an extension will be granted, if needed. Mr. Gleason explained that the Scotts have the option to buy the subject property. They propose to lift the house in place. The house is now non-conforming relative to setbacks. It also pre-dates zoning regulations, portions of the house were constructed in the 1800s. They propose to lift it so that the first floor is at elevation 16.0. They are asking for Coastal Site Plan Review; Flood Damage Prevention Application; and Land Filling & Regrading Application. The lifted house will conform with flood regulations. Some filling and driveway regrading will be needed. Stormwater management will be installed to address water quality. As part of this proposal, Mr. Gleason said that they are withdrawing all changes to the shed/poolhouse/boathouse. Mr. Sini noted that this would mean that paragraphs F and G are not to be considered. Mr. Gleason emphasized that they will not be removing the connecting roof--they will keep that in place. They will keep the connector.

Mr. Olvany asked whether the lifting of the residence is similar to that which has occurred in recent years in Noroton Bay. Mr. Ginsberg confirmed that this proposal is similar. Mr. Gleason said that they are lifting five to six feet. He agreed that this is comparable to Noroton Bay house lifting. Mrs. Cameron asked whether deep test holes were dug. Professional Engineer Doug DiVesta said that no deep test holes were dug, and showed on the plans where the fill will be brought in.

Attorney Gleason then distributed a letter from structural engineer David Seymour and a letter of support from the adjacent property owner, the Collins. Mr. Ginsberg then read aloud the comments from Darren Oustafine dated 11-13-2015. Mr. DiVesta responded to the last Oustafine comment. They will be putting a lip on the driveway to keep water within the gutter line. Attorney Gleason said that they need coastal site plan review, and their report notes that there will be no coastal impact as part of this project. The area behind the house is all lawn now, and all regrading will occur near Pear Tree Point Road. Sediment and erosion controls will be installed. Flood vents will be part of the house, and will be certified by an architect. They are requesting a finding that stormwater be waived due to the location of the property, and they will treat the first inch of water.

Mr. Justin Scott, the prospective purchaser, said that he will be lifting the house to comply with FEMA requirements. They will likely return to the Commission for future work on the boathouse, which will probably be a joint application with the Collins. They may add on to the house in the future. He then showed these potential future projects on the plan. Any new house addition would comply with the Regulations.

There being no questions or comments from the Commission or the general public, Mr. Sini made a motion to close the public hearing on this matter. That motion was seconded by Mr. Olvany, and unanimously approved.

At about 8:30 p.m., Chairman Cameron then read the next agenda item:

Land Filling & Regrading Application #373, Robert & Debra Riley, 64 DuBois Street. Proposal to regrade and construct an associated retaining wall in the back yard of the property and perform

related site development activities. The subject property is located on the east side of DuBois Street approximately 400 feet south of its intersection with Relihan Road, and is shown on Assessor's Map #43 as Lot #56 in the R-1/3 Zone.

Mr. Ginsberg said that the proposed retaining wall is essentially railroad ties, similar to those on adjacent properties. Professional engineer Doug DiVesta said that they will be placing about 15-18 inches of fill on the property, a total of about 30 cubic yards. He said that the EPC approved this project on December 2, 2015. Mr. Ginsberg said that there would be no tree cutting and the area in question is now lawn.

There being no further questions or comments from the Commission or the general public, Mr. Olvany made a motion to close the public hearing on this matter. That motion was seconded by Mr. Sini, and unanimously approved.

At about 8:35 p.m., Chairman Cameron then read the next agenda item:

The following motion was made: That the Planning & Zoning Commission waive the process of reading all the draft resolutions aloud because each member has had an opportunity to review the drafts prior to the meeting. The motion was made by Mr. Sini, seconded by Mr. Olvany and unanimously approved.

Discussion, deliberation and possible decisions on the following:
Special Permit Application #153-D/Site Plan, Land Filling & Regrading Application #366, Atria Darien, 50 Ledge Road.
Proposing to construct additions and alterations to the existing structure, modify the driveway, add on-site parking, and perform related site development activities. *DECISION DEADLINE FOR THE APPLICATION IS 2/3/2016, UNLESS FURTHER EXTENSION IS GRANTED BY APPLICANT.*

Mr. Cunningham had a question regarding page 6 of the draft. Mr. Sini had a question regarding paragraph F. Mr. Sini then made a motion to adopt the resolution as amended with typographical corrections. That motion was seconded by Mr. DiDonna, and approved by a vote of 5-0. The Adopted Resolution read as follows:

PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
February 2, 2016

Application Number: Proposed Amendments to the Darien Zoning Regulations (COZR #5-2015)
Special Permit Application #153-D/Site Plan
Land Filling & Regrading Application #366

Street Address: 50 Ledge Road
Assessor's Map #40 Lot #43

Name and Address of Applicant & Applicant's Representative: Wilder G. Gleason, Esq.
Gleason & Associates, LLC
455 Post Road, Suite 201

Darien, CT 06820

Name and Address of Property Owner:

Jacqueline W. Whitridge, Trustee
PO Box 847
Mandan, ND 58554

VTR Darien, LLC
ASL Development Company, LLC
200 East Market Street, Suite 100
Louisville, KY 40202

Activity Being Applied For: Proposed zoning regulation amendments to Sections 664, 667 and 668 to: correct existing references; eliminate the distinction between ILF and ALF units; provide minimum and maximum size units; modify parking standards; and allow the Commission to waive or reduce setback or buffering requirements. Proposing to construct additions and alterations to the existing structure, modify the driveway, add on-site parking, and perform related site development activities.

Property Location: The subject property is located on the north side of Ledge Road, approximately 2,700 feet west of its intersection with Boston Post Road.

Zone: Service Business (SB) Zone

Date of Public Hearing: October 27, 2015 continued to November 24, 2015

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

Publication of Hearing Notices
Dates: October 16 & 23, 2015
Newspaper: Darien News

Zoning Regulation Amendments
Date of Action: January 26, 2016

Action: ADOPTED WITH MODIFICATIONS WITH AN EFFECTIVE DATE OF SUNDAY, FEBRUARY 28, 2016 AT 12 NOON

Special Permit Application #153-D/Site Plan
Land Filling & Regrading Application #366
Date of Action: February 2, 2016

Action: GRANTED WITH STIPULATIONS WITH AN EFFECTIVE DATE OF SUNDAY, FEBRUARY 28, 2016 AT 12:01 P.M.

Scheduled Date of Publication of Action: February 12, 2016

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 660, 850, 900, 940, 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 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:

The subject applications consist of two parts:

A. **Zoning Regulation amendments**. Proposed zoning regulation amendments to Sections 664, 667 and 668 to: correct existing references; eliminate the distinction between ILF and ALF units; provide minimum and maximum size units; modify parking standards; and allow the Commission to waive or reduce setback or buffering requirements.

B. **Special Permit Application #153-D/Site Plan, Land Filling & Regrading Application #366** Proposing to construct additions and alterations to the existing structure at 50 Ledge Road, modify the driveway, add on-site parking, and perform related site development activities.

The Zoning Regulation amendments were the subject of a separate, but related aspect of this application. That aspect was decided on January 26, 2016. This Resolution addresses only the Special Permit Application /Site Plan and Land Filling & Regrading Application.

SPECIAL PERMIT APPLICATION #153-D/SITE PLAN, LAND FILLING & REGRADING APPLICATION #366

BACKGROUND AND HISTORY

1. The Darien Zoning Regulations were amended in 1996 to allow the Independent Living Facility (ILF) / Asssisted Living Facility (ALF) use. The Commission's subsequent site plan & special permit approval allowed for a maximum of 86 units in the building—19 Independent Living Facility units (ILF) units and 67 Asssisted Living Facility (ALF) units. Over time, some units have been combined, resulting in the existing facility containing less than the maximum number approved by the Commission. This combination Independent/Assisted Living Facility will be expanded as part of this application, and additional parking created. The applicant has noted that distinguishing between ILF units and ALF units is no longer appropriate, since residents are encouraged to "age in place". The subject application also includes provisions for larger units, and a relocated driveway and additional parking.

2. The Architectural Review Board (ARB) has approved the building addition façade changes on October 21, 2015. That approval is hereby incorporated by reference.

3. Atria came before the Planning and Zoning Commission informally regarding the subject application in February 2015. At that time, it was explained that residents sometimes move into the facility as independent living and age in place. The existing building is approximately 80,000 square feet within two stories. They propose to increase the structure from 80 units to 86 units. This will result in an increase in Building Coverage from 18% to 19%.

PARKING

4. This property now has 89 on-site parking spaces (note that the submitted application narrative dated September 15, 2015 states 88, and the October 13, 2015 Parking Adequacy Evaluation states 89), and as part of this application, Atria proposes to increase on-site parking to 91 on-site parking spaces. Both sources agree that there will be an increase of two on-site parking spaces.

5. At the public hearing, the applicant's parking and traffic expert, David Sullivan of Milone and MacBroom reviewed his October 13, 2015 Parking Adequacy Evaluation. He said that there are now sixty employees in three separate shifts. Mr. Sullivan noted that any reserved spaces are only for the residents, not the workers or visitors. During the public hearing process, some reserved signs for the residents have been removed, thereby freeing up more on-site parking on a day-to-day basis.

6. This Atria facility is a combination of ILF and ALF both as defined in the Zoning Regulations and as licensed by the State of Connecticut. Thus, arriving at an appropriate combined parking standard is essential. It was acknowledged that any revised parking standard be sensitive to the presence of private aides and the possible occasional use by outside groups. There are now some residents with private aides—about 20 of the 80 units have part-time aides. The facility is now 60% ILF and 40% ALF. It is usually 30-45% assisted living (ALF). It was noted that there is a high vehicle occupancy rate at this location relative to other such facilities.

7. The related zoning regulation amendment adopted on January 26, 2016 establishes a new parking standard for ILF/ALF units of 0.9 parking spaces per unit. In this case, the applicant proposes 86 units and 91 parking spaces, which would comply with this new regulation.

USE OF FACILITY BY OUTSIDE GROUPS

8. The original Planning & Zoning Commission approval for this facility did <u>not</u> allow use of the facility by outside groups. As part of this application, the applicant is again asking permission for outside groups to be able to meet at Atria. During the public hearing process, the Commission became aware of the fact that outside groups have been meeting at Atria contrary to the original approval. Atria has, on occasion, allowed small non-profit communnity groups to meet on-site. In addition, on occasion, pop up retailers would come in to sell to residents. The Commission finds that even with groups meeting there on occasion over the past few years, there were no documented parking problems. The Commission believes that small group meetings can be allowed, since past history shows that such meetings do not present a parking problem, and the new parking standard of 0.9 parking spaces per unit will allow for sufficient on-site parking to allow such outside groups in the future.

STORMWATER MANAGEMENT

9. In response to a question at the public hearing, Michael Waleryszіak said that he had the sumps pumped out in October 2015. Mr. Ted Hart, a professional engineer from Milone and MacBroom explained that the existing stormwater pipe needs to get relocated due to the proposed east addition. They must move the sanitary manhole about five or six feet due to the west addition. At the October 27, 2015 public hearing, Mr. Hart said that after consulting with Darren Oustafine from DPW, they will be installing 28 parking spaces with permeable pavers. Mr. Hart confirmed that maintenance of the permeable pavers will need to be ongoing in the future.

BUFFERING

10. The Zoning Regulation amendment to Section 668h allows the Planning and Zoning Commission to reduce the 25 foot landscape buffer and parking setback for a Special Permit use under certain circumstances. The Commission finds that in this specific instance, the landscape buffering requirement and parking setback can be reduced, since the property is located next to Stony Brook Park, and will have no adverse impact on abutting residential properties. Proposed buffering and planting is shown on the submitted Site Plan-Landscaping dated September 10, 2015.

EMERGENCY GENERATOR

11. At the public hearing, Attorney Gleason explained that there is now an on-site generator, and if the project is approved, they will upgrade the generator to power all of the essentials, including some outlets in every unit. The generator will be propane powered. The generator will have at least 48 hours of power, possibly longer. Attorney Gleason stated that they will not become a burden to emergency services, and the new generator will be a big improvement over the existing conditions.

12. The objective of the Atria generator upgrade as part of this expansion is to allow the facility to function for a minimum of 48-72 hours with all residents staying in place. While not every outlet will be live, essential operations will continue during the time the generator has fuel and no resident would need to vacate the building due to lack of electric power. Assuming Atria can obtain a refill of its generator fuel (probably propane) the period for residents to continue to occupy the building with all essential services available, could be extended beyond 48-72 hours.

GENERAL FINDINGS

13. The site plan has been reviewed by the Commission and is in general compliance with the intent, purposes and objectives of Section 1020.

14. 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.

15. 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.

16. 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.

17. 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.

NOW THEREFORE BE IT RESOLVED that Special Permit Application #153-D/Site Plan and Land Filling & Regrading Application #366 are hereby modified and granted WITH AN EFFECTIVE DATE OF SUNDAY, FEBRUARY 28, 2016 AT 12:01 P.M., subject to the foregoing and following stipulations and understandings:

A. Construction shall be in accordance with plans entitled:
   - Site Plan-Landscaping, Additions at Atria Darien, by Milone & MacBroom, dated September 10, 2015 revised 10/02/2015, and received October 28, 2015, Sheet #LS.
   - Additions at Atria Darien, by Stein | Troost LLC architecture, dated 9.10.15, and received September 11, 2015, Sheets A-1.0, A-2.0, A-4.0.
   - Additions at Atria Darien 50 Ledge Road, by Milone & MacBroom, dated September 10, 2015, Sheets LA, GU, SD-1, SD-2, SD-3, CS.

   Revised plans showing the details and location of the proposed 28 permeable paver parking spaces shall be submitted prior to the issuance of a Zoning or Building Permit. The final detailed construction plans shall incorporate the two comments of the Fire Marshal: 1) provide fire department standpipes in stairways; and 2) new units must be sprinklered.

B. The Planning and Zoning Commission is not requiring a bond for the proposed improvements since a Certificate of Occupancy cannot be obtained until the improvements (including the required buffer landscaping) are properly constructed pursuant to the plans in Condition A, above.

C. All utilities serving this property shall be underground. These include, but are not limited to, electrical, telephone, cable TV, and all other wiring.

D. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the Milone & MacBroom plans in Condition A, above, and any additional measures as may be necessary due to site conditions. These sediment and erosion controls, plus any additional measures as may be needed due to site conditions, shall be installed and maintained to minimize any adverse impacts during the construction and until the area has been revegetated or restablilized. 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.

E. The Commission hereby allows up to fifteen “reserved” parking spaces for residents. There shall be no reserved parking spaces for staff or visitors.

F. The Commission hereby approves a maximum of 86 units, which shall be a mix of ILF and ALF units. There are now 80 on-site units. If in the future, the tenant wishes to combine units or create new units, the Planning & Zoning Department shall be notified. Zoning and Building Permits may be needed for such work.

USE BY OUTSIDE GROUPS

G. The Commission's 1995 approval for this building required that "an amendment of this Special Permit will be necessary to allow the use of any common rooms by any outside groups." Based upon experience of the facility and the newly applicable parking standard of 0.9 parking spaces per unit, the Commission modifies its prior approval, and hereby allows outside groups of no more than 35 people to meet at Atria on an occasional basis.

STORMWATER MANAGEMENT

H. The Commission hereby waives the requirement for stormwater management pursuant to Section 880 of the Darien Zoning Regulations. Provisions have been made to manage stormwater, and permeable pavers are being proposed for a portion of the parking lot. The Commission believes that these provisions are satisfactory to address stormwater management.

I. As part of this application, an October 28, 2015 Operation & Maintenance Storm Drainage Facilities and Best Management Practice document was submitted for the record. This Plan requires the property owner and all subsequent property owners of 50 Ledge Road to maintain the on-site drainage facilities, and will alert future property owners of the on-site drainage facilities and the need to maintain said facilities to minimize any potential downhill impacts. It includes provisions for maintenance of the permeable paver portion of the parking lot. A Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records prior to the issuance of a Zoning or Building Permit and within 60 days of this approval.

J. The applicant shall install the drainage system (including the use of permeable pavers) as shown on the submitted plans. The applicant/property owner shall have the continuing obligation to make sure that stormwater runoff and drainage from the site will not have any negative impacts upon the adjacent properties. If such problems do become evident in the future, the owner of the property shall be responsible of remedying the situation at their expense and as quickly as possible.

K. Rough site work for the project may commence once the sediment and erosion controls and other environmental protection measures are in place. Around the work area, the storm water runoff must be addressed on a temporary, during construction, basis. This includes limiting the potential for erosion, capturing sediment that does get created, and providing for the flow of storm water in a manner that will not create any problems for adjacent or downstream properties.

L. Blasting shall be used only where necessary. All blasting that is necessary for the project shall be done in short spurts and shall be in compliance with the Darien Noise Regulations. Prior approval from the Darien Fire Marshal is required for any blasting. No hoe-ramming has been requested, nor is permitted.

AS-BUILTS AND CERTIFICATIONS REQUIRED

M. As part of this addition, the applicant has stated that use of a generator(s) will be expanded to allow more of the building to be used during a power outage. Testing of the emergency generator for approximately one hour per week shall occur only during workday hours (8:30 AM to 5:00 PM) on Monday through Friday. This testing and the use of the generator shall be in compliance with the Darien Noise Regulations. Evidence of this generator service expansion shall be provided to the Planning and Zoning office prior to the issuance of a Certificate of Occupancy (CO).

N. Once the construction work is complete and prior to the issuance of a Certificate of Occupancy, the applicant shall submit verification from the project engineer that all aspects of the site grading, building construction and the storm water management (drainage) system have been completed in compliance with the approved plans and the flood damage prevention regulations.

O. Also prior to the issuance of a Certificate of Occupancy, an as-built survey is required to ensure that the property is developed according to the approved plans.

P. All aspects of the construction, including, but not limited to: stormwater management, site improvements, including, but not limited to buffering, fencing and landscaping must be completed prior to any use or occupancy of the new units.

Q. The granting of this Permit does not relieve the applicant of responsibility of complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. This includes, but is not limited to, the requirement for Zoning and Building Permit applications, a Sewer Connection Permit from Darien Sewer Services for the new building. Approval from the Fire Marshal will be required for any blasting to be done. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records after the Zoning regulation amendments take effect and prior to the issuance of Zoning and Building Permits for the addition and associated parking lot expansion.

R. 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.

S. This permit shall be subject to the provisions of Sections 858, 1009 and 1025 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (February 2, 2017). This approval may be extended as per Sections 858, 1009 and 1025.

All provisions and details of the plans, as required to be revised herein, shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations and the signing of the final documents by the Chairman. All completed requirements and materials, (including the filing of a Notice of Drainage Maintenance Plan and Special Permit form in the Darien Land Records) shall be submitted to the Planning and Zoning Department within 60 days of this action or this approval shall become null and void.

Chairman Cameron then read the next agenda item:

Land Filling & Regrading Application #369, Luciano Lombardi, Jr., 8 West Elm Street. Proposing to regrade back yard, construct associated retaining wall, and to perform related site development activities. *DECISION DEADLINE: 3/9/2016.*

Mr. DiDonna had a comment on page 2 of the Resolution. Mr. Sini made a motion to adopt the resolution as amended. That motion was seconded by Mr. Olvany and approved by a vote of 5-0. The Adopted Resolution read as follows:

PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
February 2, 2016

Application Number: Land Filling & Regrading Application #369

Street Address: 8 West Elm Street
Assessor's Map #21 as Lot #167 & #168

Name and Address of Applicant's Representative:	Mario Lombardi 995 Shippan Avenue Stamford, CT
Name and Address of Applicant & Property Owner:	Luciano Lombardi, Jr. 7 Hackett Circle Stamford, CT 06902

Activity Being Applied For: Proposing to regrade back yard, construct associated retaining wall, and to perform related site development activities.

Property Location: The subject property is located on the south side of West Elm Street approximately 200 feet west of its intersection with Noroton Avenue.

Zone: R-1/3

Date of Public Hearing: November 24, 2015 continued to January 5, 2016

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

Publication of Hearing Notices
Dates: November 13 & 20, 2015
Newspaper: Darien News

Date of Action: February 2, 2016 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action: February 12, 2016 Newspaper: Darien News

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

- the proposed use and activities must comply with all provisions of Sections 400, 850, and 1000 of the Darien Zoning Regulations for the Commission to approve this project.

- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted 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 proposal is to construct a replacement single-family residence and associated stormwater management, and perform related site development activities. The proposed residence will be served by public water and sewer. Mr. Mario Lombardi said that he is hoping to bring up the level of the back yard by about five feet, and construct a retaining wall a maximum of five feet high. At that November public hearing, Mrs. Cameron said that supplemental information is needed for this application, and should be prepared for the January public hearing, including the location of any weepholes in the proposed retaining wall, the proposed thickness of the wall, as well as any proposed fence or railing on top.

2. Also at the public hearing, Mr. DiDonna noted the e-mail which was sent from Pam Gery of the Park and Recreation Department. He asked Mr. Lombardi if he could live with the conditions included in that e-mail, including the requirements for no vehicles or parking or site work on Town property. Mr. Lombardi responded affirmatively and stated that the proposed retaining wall will be set in one foot from the property line.

3. Regarding stormwater management, the applicant proposes that there will be infiltrators in the back yard. The on-site drainage patterns will be the same. At the public hearing on this matter, neighbors noted their concerns regarding stormwater management and the need to include drainage maintenance.

4. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

5. 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 & Regrading Application #369 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

A. Filling, excavation, and regrading work, and the installation of associated stormwater management shall be in accordance with the plans submitted to and reviewed by the Commission entitled:
   - Drainage and Erosion & Sedimentation Plan, Proposed House Construction 8 West Elm Street, by H.K. Associates, dated April 3, 2015 and last revised 12-27-15, Sheet 1.

   The only change to these plans is the deletion of any weepholes in the proposed retaining wall.

B. Prior to the issuance of a Zoning or Building Permit for the residence, the applicant shall have a licensed land surveyor or architect sign or seal a Zoning Chart, and submit a copy for the file in this matter.

C. As agreed to by the applicant at the public hearing, there shall be:
   - No construction vehicles on Town property
   - No tree removal on Town property
   - No parking on Town property
   - No construction work to be done on Town property

   These conditions are an integral part of this approval.

D. Because of the minor nature of the site work involved in this project, the Commission hereby waives the requirement for a performance bond.

E. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the "Drainage and Erosion & Sedimentation Plan" 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 revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans. All erosion control measures must be maintained until the disturbed areas are stabilized.

F. A drainage maintenance plan for the proposed Cultec units 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 Darien Land Records or with the Planning and Zoning Commission file on this matter. The maintenance plan shall require the property owner and all subsequent property owners of 8 West Elm Street to maintain the drainage facilities pursuant to the maintenance plan.

G. A related "Notice of Drainage Maintenance Plan" shall be filed in the Darien Land Records within the next 60 days of this approval <u>and</u> prior to any on-site filling or regrading work requested herein <u>and</u> prior to the issuance of a Zoning and Building Permit for the residence.

H. A detailed regrading design and storm water drainage system design have been incorporated into the plans to avoid potential impacts of runoff on the adjacent properties. It is critical that commencing throughout the redevelopment of the site, even before the final drainage system is installed, the applicant must properly manage storm water runoff to avoid negative impacts to the neighbors and/or the street.

I. Prior to the request for the Certificate of Occupancy for the residence, the applicant shall submit verification in writing and/or photographs from the professional designer of the drainage system that all aspects of the stormwater management and grading in the yard have been completed in compliance with the approved plans referred to in Condition A, above.

J. 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. The construction of the replacement residence will require a Sewer Connection Permit and Street Opening Permit from the Darien Public Works Department.

K. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.

L. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (February 2, 2017). This may be extended as per Sections 858 and 1009.

All provisions and details of the plan, as required to be revised, shall be binding conditions of this action and such approval shall become final upon compliance with these conditions and the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan shall be filed in the Darien Land Records within the next sixty days AND prior to the issuance of the Zoning and Building Permit for the new replacement residence in order to finalize this approval.

Chairman Cameron then read the next agenda item:

Business Site Plan Application #186-D/Special Permit, Bar Nala, LLC, 800 Boston Post Road. Proposal to establish a personal service use in the first floor space formerly occupied by Patriot Bank. *DECISION DEADLINE: 3/9/2016.*

A change to one word in paragraph 1 was agreed upon. Mr. Sini then made a motion to adopt the resolution as amended. That motion was seconded by Mr. Olvany and unanimously approved. The Adopted Resolution read as follows:

PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
February 2, 2016

Application Number: Business Site Plan #186-D/Special Permit
Bar Nala, 800 Boston Post Road

Street Address: 800 Boston Post Road
Assessor's Map #71 as Lots #1, #2, and #17

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

Name of Property Owner(s): Darien Fire Dept. Inc.
Name of Building Owner: Hawthorne Realty, LLC

Name and Address of Proposed Tenant: Bar Nala d/b/a Bar Method

Activity Being Applied For: Proposal to establish a personal service use in the first floor space formerly occupied by Patriot Bank.

Property Location: The subject property is located on the southeast corner formed by the intersection of Boston Post Road and Sedgwick Avenue.

Zone: CBD

Date of Public Hearing: January 5, 2016

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

Publication of Hearing Notices
Dates: December 25, 2015 and January 1, 2016 Newspaper: Darien News

Date of Action: February 2, 2016 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action: Newspaper: Darien News
February 12, 2016

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, 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 narrative and floor plan sketch, and the statements of the applicant and the proposed operators 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 establish a personal service use in the first floor space at 800 Boston Post Road. There is now a shared parking lot for the 800 Boston Post Road building, a three story building which includes several tenants. There is now 2,850 square feet vacant on the third floor and the building is a total of 25,000 square feet with 100 parking spaces.

2. At the January 5, 2016 public hearing, attorney Wilder Gleason was present on behalf of Bar Nala, LLC. They propose to take a 2,500 square foot space in the first floor of the building at 800 Boston Post Road, which was formerly occupied by Patriot Bank. They will also have accessory retail sales of clothing items in this first floor space. The windows on Boston Post Road will not be blocked.

3. They will have some storage space and shelving for inventory and office supplies in the unfinished basement which will contain a washer and dryer.

4. Attorney Gleason explained that the maximum class size will be 28, including teachers. So as not to impact the parking lot during lunch, thereby possibly impacting the adjacent restaurant, Attorney Gleason said that they propose a maximum class size of 20 including the teachers during lunch time, which is from 12:15-2:30 pm, Monday – Friday. He then referred to his submitted December 23, 2015 letter which is part of the record. Attorney Gleason noted that it would be important to have a 15 minute break between classes Monday – Friday to minimize the number of cars in the parking lot all at once. It would not be as important to have the 15 minute break between classes on weekends. This fifteen minute break between classes is essential to minimize potential on-site parking conflicts.

5. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.

6. 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 Business Site Plan #186-D/Special Permit is hereby approved subject to the foregoing and following conditions, modifications and understandings:

A. The proposed use shall be in accordance with the December 16, 2015 and December 23, 2015 narratives prepared by the applicant and the information provided at the public hearing, including the limits on maximum class size of twenty-eight (a maximum of 20 during the hours of 12:15 pm to 2:30 pm weekdays, as noted in the December 23, 2015 narrative), and the minimum of fifteen minutes between classes (as noted in the December 16, 2015 narrative). This fifteen minute break between classes is essential to minimize parking conflict. Because there are no issues with on-site parking, and all activity is indoors, the Commission does not put limits or restrictions on the overall hours or days of use. In the application narratives, it is noted that the studio may open as early as 5:30 a.m., seven days a week.

B. Due to the fact that there is no new impervious surface proposed as part of this application, the Commission hereby waives the requirement for stormwater management.

C. The Commission hereby allows storage space and shelving for inventory and office supplies in the unfinished basement which will contain a washer and dryer. This space cannot become finished space since the Darien Zoning Regulations only allow a maximum of three stories in the CBD Zone. Any finished space in the basement would exceed that maximum.

D. The granting of this Permit does not relieve the applicant of responsibility for complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies. Any desired signage and/or replacement awning requires review and action by the Architectural Review Board prior to the issuance of Zoning and Building Permits and subsequent installation.

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 this permit as it deems appropriate.

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 year of this action (February 2, 2017). This may be extended as per Section 1009.

All provisions and details of the application 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 form shall be filed in the Darien Land Records prior to February 26, 2016 and prior to the issuance of a tenant fit-up Zoning and Building Permit for the opening of the business.

At about 8:40 p.m., Chairman Cameron then read the next agenda item:

PUBLIC HEARING

Special Permit Application #35-C/Site Plan, Coastal Site Plan Review #79-B, Flood Damage Prevention Application #68-B, Noroton Yacht Club, 23 Baywater Drive. Proposal to construct a launch shed, improve the existing docks, and construct a replacement clubhouse, and to perform related site development activities within regulated areas. The property is situated on the south/southeast side of Baywater Drive approximately 100 feet east of the intersection with Plymouth Road and is shown on Assessor's Map #55 as Lots #80, #81, #82, #84, #91, #92-95, and #96, located in the Noroton Bay District (R-NBD) Zone.

Mr. Ginsberg noted that approvals had already been received from the Architectural Review Board and the Zoning Board of Appeals for this project. Attorney Bill Hennessey was present on behalf of the Yacht Club. He described the history and location of the Club. He then distributed photographs. Mr. Hennessey explained that the neighborhood is in a flood zone, and the property specifically is in both an AE zone and a V Zone, and it consists of six lots. He noted the recent storms which have affected the area and the Club specifically. After Storm Sandy, consideration was given to replacing the main Clubhouse. Tonight, he is requesting Coastal Site Plan Review, Site Plan review, a Flood Damage Prevention Application, and a Special Permit. As a result of this project, the property will be more conforming. ZBA variances were approved to get entirely out of the VE zone and above the

FEMA flood elevation, except for the seasonal restrooms on the first floor. The new Club will be ADA compliant and modern. The original Club was built in 1928.

Mr. Hennessey explained that the current "BYOB" policy is in effect, and they are seeking to change that to a "Club Permit", They now have up to twelve temporary permits a year (of 24 hours duration each), which are usually event oriented. Under the new desired policy, they will have a permittee. There is now a membership cap of 278, which is not being changed as part of this proposal. Operationally, they will remain the same. There are different types of membership. Mr. Olvany said that the Commission will need a breakdown of membership by type. Mrs. Cameron confirmed that there will not be a new class of membership created. Mr. Hennessey said that he will submit a written breakdown of membership for the Commission.

At about 9:00 p.m., Professional Engineer Craig Flaherty from Redniss & Mead explained the application. He said that they have looked at how to make the Club more resilient. He then reviewed tide data with the Commission especially as it related to Storm Sandy. Mr. Sini noted that the building may not have withstood Storm Sandy if the surge had coincided with the high tide. Mr. Flaherty said that Storm Sandy was a "wake up call." Mr. Flaherty mentioned that the FEMA maps were recently changed in 2013 for this area. He then showed the V Zone and the backwater zone on a map. He said that the existing Clubhouse is at elevation 9, which is below the flood elevation. The first goal is to get out of the V Zone, and they are putting the building further from the water. The first floor will now be at elevation 19 (the kitchen and the office, dining area, etc.). Mr. Olvany then asked if this would be a three story building. Mr. Flaherty responded that the existing building is three stories, and the new building will be smaller. He added that they received a variance from the Zoning Board of Appeals to have a finished bathroom below the flood elevation. A new grass terrace will be created. They are also creating some LID (low impact development) features, such as porous pavers and a rock garden. Regarding Section 880 of the Regulations, they will be improving water quality. They will also be making the building more ADA accessible. There are now two catch basins in the parking lot, and those will remain. All in-water improvements will be subject to review and action by the State of CT DEEP. There will be more dock space and a swimming platform. They will also have a new proposed launch shed. Mr. Olvany asked whether any of that work would be within the Commission's jurisdiction. Mr. Ginsberg responded since all of those improvements are below the CJL and below elevation 0.0, they are solely within the State's jurisdiction.

Mr. Flaherty then showed the setbacks and location of the proposed building on a plan. He also noted the various ZBA variance areas. Mr. Olvany then asked about the proposed building height. Mr. Flaherty responded that it is about 27.3 feet high, although they need to tweak the number. The amount of floor area is down, and the new profile will be smaller and stouter.

Mr. Flaherty then reviewed the parking. He said that there are now 72+/- parking spaces across the street, and 22+/- spaces to Baywater Drive. According to Mr. Adler, there are 25 spaces in this location. There will be no changes across the street. Special events will have off-site parking elsewhere. They have an agreement with Hindley School and Pear Tree Beach and Weed Beach can also possibly be used if needed. This type of off-site overflow parking has been occurring for years. In the winter, boats are stored across the street. They will now be stacking floats to take up less area. Mr. Olvany asked whether the new plan would have more boat storage. Mr. Flaherty responded that they would have the same amount of boat storage. Mrs. Cameron then asked about traffic.

Architect Rob Lambert then explained the architectural design. He said that there will be a V Zone foundation. It will be a concrete structure with wood above. He then reviewed the Ground Floor Plan and the Second Floor Plan. There will be mechanical equipment and a kitchen exhaust on the roof. Mr. Olvany asked about the location of any transformers. Mr. Lambert showed the proposed transformers behind the screening. Mr. Olvany said that a review of boat parking on land both today and in the future is needed.

Mr. Bernie Adler, Engineer of Adler Consulting, said that he had prepared the traffic study. He said that the issue is how things operate. He put out a traffic counter and collected data. He looked at the speeds of vehicles and the parking. There will be no change in the parking or traffic foreseen. Mr. Adler said that since there is no change to membership proposed, there will be no more intensity of use. Mrs. Cameron then asked for comments from the general public, noting that there will be another opportunity at an upcoming meeting.

At about 9:40 p.m., Attorney Bruce Hill, appearing on behalf of the Noroton Bay Association, commented upon the application. He said that he wanted to see the various Special Permit aspects. Mr. Hennessey responded that he hoped to cover all of the aspects tonight, except for the Special Permit aspects. Mr. Sini mentioned that he did not believe that the traffic had yet been fully vetted. It was agreed that the public hearing on this matter will need to be continued--to March 1, 2016 at 8pm in room 119 of Town Hall.

Mr. Fred Conze of Royle Road said that the Club fills a niche in the community. The Commission needs an operational protocol, and overall, the Club is an asset to Darien. Mr. Olvany asked how many Noroton Bay residents are members of the Club. Mr. Hennessey responded that there are 25 Noroton Bay families who are members of the Club. Mr. John Nelson of 190 Nearwater Lane said that the Noroton Bay membership is concerned about the intensity of use. They are afraid of the intensity of use and the bar. Mrs. Sheree Frank, of Baywater Drive, then submitted photographs in the winter, and during regatta days. Mr. Sini said that the Commission will need to look at the various Club events, and the management of them. Mrs. Cameron said that they will need to know about car parking during the winter, when there are boats on-site. Mr. Olvany asked how big the proposed bar is. Mr. Lambert responded that there is now no bar, and the new bar will be 17' x 8', and he pointed them out on the plans. Mr. Hennessey confirmed that he can get an accurate square foot count for the Commission.

There were no other comments from the general public or the Commission. It was agreed that the public hearing on this matter will need to be continued--to March 1, 2016 at 8pm in room 119 of Town Hall.

There was a five minute recess to allow the full meeting room to clear out, and the next applicant to set up. At about 10:00 p.m., Chairman Cameron then read the next agenda item:

Business Site Plan Application #290/Special Permit, Land Filling & Regrading Application #375, Shake Shack, 1340 Boston Post Road. Proposing to construct a restaurant with outdoor dining, associated parking, and associated stormwater management, and to perform related site development activities. The property is situated on the south side of Boston Post Road approximately 225 feet northeast from its southerly intersection with Thorndal Circle, and is shown on Assessor's Map #63 as Lot #7-9 & #24-26, in the Service Business (SB) & R-1/3 Zones.

Attorney Robert F. Maslan, Jr. was present on behalf of Shake Shack and introduced the team present this evening. He said that the application is now pending with both the Architectural Review Board and Zoning Board of Appeals. He said that they need the Zoning Board of Appeals to grant variances for signage, but all other aspects of the site plan and building comply with the Darien Zoning Regulations.

David Genovese of Baywater Properties explained the Shake Shack proposal and reviewed a Powerpoint showing other locations, and the proposed site. He said the existing Westport Connecticut Shake Shack was retrofit of an existing building. In response to comments received thus far, they have revised the parking near the entry on Boston Post Road and eliminated some parking spaces. Mr. Genovese said they have also eliminated the loading spaces in the back of the building, since their deliveries occur before the restaurant is open.

Overall, they have reduced the parking by one space. He then reviewed the site plan and the various elevations of the building. Professional engineer Jonathan Richer from Tighe and Bond explained that they have received the comments so far and have incorporated those into these revised plans. They will also be working on a response to the comments received. The plans show a total of 40 outdoor seats and 3,100 gross square feet of building. There will only be one driveway from Boston Post Road. In response to comments, they have eliminated 4 on-site parking spaces and added two spaces with no parking area. The entry drive will be 26 feet wide. Also as part of the revisions, sidewalk has been extended from Boston Post Road to the building. It was explained that the restaurant needs one parking space for each 100 square feet of building resulting in the need for 31 parking spaces for the building. In addition, they have 40 outdoor seats. The parking requirement for the first 16 seats are zero parking spaces and seats 17 to 40 require one parking space for every two seats, thus a total of twelve parking spaces are needed for the outdoor dining. A total of 43 parking spaces is required and those 43 on-site spaces have been provided. They will be designing and constructing the building on site to avoid possible flooding which now occurs on Boston Post Road. The existing grade is at Elevation 25 and the new first floor of the Shake Shack building would be at Elevation 27.5 at the building pad. Mr. DiDonna asked how big the former Chuck's Steak House was on the property. Mr. Olvany asked how many seats there were in Chuck's Steak House.

In response to concerns of storm water runoff, catch basins on the plan were showed to the Commission. They propose to connect to the same system. He then explained the system to treat the runoff and said that they will be reducing volume and peak rate of runoff. It was noted that Woodard & Curran did a peer review which compared this versus the previous plan. The fresh meadow approach was not used. It was explained that the reasons that the fresh meadow approach was not used is that Section 5.4 of the Drainage Manual says that this approach does not need to be used in the lower reaches of a water shed. In this case, they are in the bottom ten percent of the water shed. He then showed the watershed map. Mr. Ginsberg explained that it would be up to the Commission to determine whether a stormwater management waiver is justified. The second reason that stormwater was not provided is that there are documented flooding conditions in the area. It was explained that the DOT study proposed a detention system which would change the pipe. He would like to submit the plans to D.P.W. for a review.

Mr. Jonathan Richer of Tighe & Bond said that a traffic statement that he produced has been peer reviewed by Frederick P. Clark Associates. Additional counts were taken last week and a formal response is in the works. The volumes do seem similar to the previous traffic statement. Mr. Olvany asked whether the on-site seating affects the traffic. Mr. Yannes said that they did use the square footage here relative to traffic. In this case, there are 140 seats proposed, 40 of them will be outside and 100 of them will be inside. This location will have no drive-thru. Mr. Yannes explained that the Westport location has less traffic than the ITE standard. The Westport location is a similar size to the proposed area and location. Next meeting, he will get the Commission exact details. Mr. Olvany said that he would like exact details compared to Westport relative to acreage and parking.

Mr. Lou DeAngelis of Shake Shack confirmed that no drive-thru is proposed as part of this application. Ms. Mary Bamba said that she is the Design Manager of Shake Shack. She then showed the proposed elevations. They noted that in response to staff comments, a band of letters across the building has been eliminated and will be inside the building. She showed the proposed parapet and explained that it will help shield rooftop equipment. Mr. DeAngelis explained that no two Shake Shacks are alike in terms of style. In each case, Shake Shack must be sensitive to its specific location. Mrs. Cameron said that she did not like the height of the signage and preferred all the signage on the building to be together. She also did not like the angled parapet and preferred a more horizontal roof line. Mr. Cunningham said that he liked the proposed elevations as designed. Mr. Sini, Mr. Olvany, and Mr. DiDonna also said that they liked the existing design. Mr. Genovese mentioned that a water wash hood system will be installed and that needs to be screened by any parapet. Mr. Sini said that Shake Shack will be going before the Architectural Review Board prior to the next meeting and the Architectural Review Board will review the elevations. Mr. Olvany asked why the band of letters alongside the building were removed. Mr. Ginsberg said that such lettering counts toward signage and it was felt that would not be likely approved by the Zoning Board of Appeals. Mr. Maslan then explained the various sign variances being requested by the Zoning Board of Appeals and noted that they will be going before them in the next month or so. Mr. Maslan explained that the signage is part of the building design. Mr. DiDonna believed that this is “retro” look and style.

Mr. Matt Popp, Landscape Architect, then reviewed the landscaping plans with the Commission. He said that two large shade trees are proposed and then reviewed the landscaping plan in more detail. He then noted that 12 foot high light poles are proposed with 8 separate fixtures on the premises. All light poles will contain LED lights. Mr. Genovese noted that they will cleaning up the scrubby vegetation in the 25 foot buffer along Old King’s Highway South. Mr. Maslan said that they are asking a waiver of Section 909 of the Regulations. He specifically mentioned that a 30 foot truck can get in and out of the property through the engineer’s design. He said that one of the open issues appear to be whether the fresh meadow approach needs to be considered. Tighe & Bond will be responding to the peer review comments. Mr. Maslan also noted that specific data on the Westport location such as seats and acreage also need to be presented to the Commission.

Mr. Sini wondered whether during the opening first weekend or two, special traffic control should be considered. He suggested the possibility of employee off-site parking during these expected busy times. Mrs. Cameron then asked whether the parking design would change if 18 foot long spaces were used rather than the 20 foot long spaces which are proposed and comply with the Regulations.

Professional Engineer Todd Ritchie of Woodard & Curran explained that he was hired to peer review the application. He noted that whether a waiver of the Stormwater management Regulations is warranted, is ultimately up to the Planning & Zoning Commission. He did acknowledge that the subject property is in the lower third of the watershed. He agreed that adding on-site storage may not be advantageous in this specific location. Mr. Ritchie said that if the Commission thinks the fresh meadow approach could have some additional benefit, it may be worthwhile to require it. However, it still could be backed up onto the property. Mr. Ritchie said that he has worked on other projects in this area. Whatever the case, it needs to be better documented by the applicant. He said that the applicant should also determine whether it would also provide an additional benefit. Mrs. Cameron noted that it is important to add storage. Mr. Sini agreed that a better explanation and more detail is warranted. Mr. Ritchie added that they are looking to mimic the existing storm water patterns and asked whether there is a maintenance agreement on the existing pipe.

Mr. Michael Galante of F.P. Clark Associates noted that he was asked to peer review the traffic and parking aspects of the application. A range of 80 to 160 trips in the peak hour is the ITE standard, and this is higher than what has been seen at the Westport location. He said that the applicant needs a Saturday analysis with more background data. He again said that the ITE ratio is higher than what has been the actual counts in Westport. The actual Westport counts note trip generation of 60 to 80 per peak hour. His biggest concern was the sidewalk near the street which may have been resolved during the most recent revision of the plans. Mrs. Cameron asked about left turns coming out of the site. Mr. Galante acknowledged that there will be delays for those looking to make a left turn out of the site. He said that he did wish to see the State of Connecticut DOT's review letter and their thoughts on the issue. Mr. Cunningham then asked what the peak time is at the proposed Shake Shack. Mr. DeAngelis responded that lunch time is usually the busiest time of the day.

There being no further questions or comments from Commission members or the general public, it was agreed that it would be necessary to continue the public hearing on this matter to March 22, 2016 at 8:00 P.M. in Room 206 of Town Hall. Mr. Ginsberg asked Mr. Maslan if this date would be satisfactory to him. Mr. Maslan agreed to an extension of time to that date.

There being no further business, the following motion was made: That the Commission adjourn the meeting. The motion was made by Mr. Sini, seconded by Mr. Olvany and unanimously approved. The meeting was adjourned at 11:11 P.M.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director

02.02.2016min