

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING / GENERAL MEETING
APRIL 5, 2016**

Place: Auditorium

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Cameron, DiDonna, Sini, Jr., Voigt, Olvany (arrived at 8:09)

STAFF ATTENDING: Ginsberg, Keating
RECORDER: Syat
Channel 79

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

PUBLIC HEARING

Amendments to the Darien Zoning Regulations put forth by Noroton Heights Shopping Center, Inc., and FR Darien, LLC (COZR #6-2016). Proposal to amend Section 680 *et. seq.* and the inclusion of a new subsection 687 (Public Plazas). These proposed amendments address redevelopment in the Noroton Heights Redevelopment (NHR) Zone, and would allow for an increase in: number of stories of building height; building height in feet; Developed Site Area; and allow for larger dwelling units. Amendments are also proposed to Sections 905 (Joint Parking), by adding a new subsection 905.2 (Joint Parking in Mixed Use Developments). This will allow residential parking to be separated from non-residential parking. Amendments to subsection 907 (Parking Structures), would allow for subsurface parking without such being counted as stories, and will allow such subsurface parking structures to be located within minimum yard areas. The amendments to Sections 905 and 907 would apply to all zoning districts in Darien.

Attorney Bruce Hill represented FR Darien LLC (Federal Realty) and said that it was a joint application along with the Noroton Heights Shopping Center, Inc. more commonly known as the Palmers. He said that the Noroton Heights Redevelopment (NHR) Zone was created in 2010 as an attempt for a comprehensive look at the redevelopment of the Noroton Heights business area. The current application is a request to amend only the text within the Zoning Regulations.

Mr. Olvany arrived to the meeting at 8:09 P.M.

Attorney Hill said that if the zone change application is approved, then Business Site Plan and Special Permit applications will be submitted for the Commission to review and act upon. Attorney Hill said that in the 1950s, the construction of Interstate 95 was scheduled to go right through the center of the old Noroton Heights business area. The business area was relocated to the north side of Heights Road. It was noted that most of the retail uses in this area have to be accessible by car and were to serve local needs. The Designed Commercial (DC) Zone was created at that time. Attorney Hill said that the Town Plan of Conservation and Development (POCD) expresses an interest of the Town to transform the area into a more pedestrian friendly village-like area that would be a series of mixed uses that would be easily accessible by people walking within the neighborhood. The POCD wants the area to be a vibrant and dynamic business area with a “sense of place.” Fortunately, everyone seems to be taking a comprehensive approach to the

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redevelopment of the Noroton Heights area and FR Darien LLC has managed to assemble a number of properties. In order for redevelopment to happen, there needs to be a strong retail base and other attractive uses, such as restaurants, residential, as well as business and professional offices. In addition, it is important to protect and preserve the single-family residential uses that surround the west and north sides of the DC Zone. Stormwater drainage must also be addressed as this has been a problem expressed in the past. Attorney Hill said that the 2010 overlay zone created by the Commission was based on a conceptual redevelopment of the area and several portions of the Regulations indicate that no exact designs had been approved and the owners may request future amendments as more concrete designs are proposed.

Attorney Robert Maslan, representing the Palmer family and Noroton Heights Shopping Center Inc., said that several of the requested modifications are clarifications or typographical errors that they wish to have corrected so as to avoid any confusion. There are several situations where there needs to be a clarification as to which rule is applicable. Attorney Maslan said that other requested amendments of the Regulations would allow the buildings to be taller (going from 3 stories and 45 feet tall to 4 stories and 55 feet tall) based on a set aside of public access spaces. He said that the Noroton Heights business area is not like the Central Business Zone that has rear building lines already established for the creation of public parking areas. In this case, there is no land to be set aside for public parking and there is no expectation that there would be public parking in the Noroton Heights Redevelopment Regulations. Thus, the incentive to have a fourth story would be based on creating publicly accessed park-like spaces, or common areas that could include things like fountains and seating. The definitions within the NHR Zone of 'open space' needs to be changed to incorporate this. Attorney Maslan said that another change would be to separate residential parking from business-related parking. They also want a clarification regarding the setback requirements for underground parking structures.

Attorney Hill said that they know it is important to provide buffers to protect the residential neighbors and at the same time provide connections between the residential neighbors and the development.

Joe Schiffer, Project Architect, reviewed the plans for the Noroton Heights Shopping Center. He said that the Palmers Grocery Store is two floors and the rest of the site is primarily a one story building with the small section of second floor offices. The current application is only to amend the Regulations, but to give the Commission a better idea of the eventual development, he explained that they will propose to replace all but the Palmers building with new buildings that would be three stories tall and would have a mixture of business and residential uses. They will propose to establish a plaza for pedestrian access. The buildings would be three stories tall with pitched roofs and would be set back 16 feet from the street. On the Hollow Tree Ridge Road side of the development, adjacent to the single family residences, the buildings would be two stories plus an attic, which may or may not have dormers. From Heights Road there would be a 70 foot wide, 130 foot long plaza with a fountain. There would be an "arcade" where a two story portion of the building would be above the open ground floor. This would lead to a smaller park on the north side of the building.

Attorney Hill said that parts of the FR Darien LLC portion of the project are designed, and parts need to be worked on in greater detail. He said that one of the things discussed in previous

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meetings of the Commission has been the possible redevelopment of the Noroton Heights Train Station to create a central structure and/or plaza area due south of Edgerton Street.

Seelan Pather of Beinfield Architecture, architect for FR Darien LLC, reviewed the plans that include two structures on the West Avenue portion of the property. They would be separated from West Avenue by a courtyard. There would be colonial design elements and the first floor would be higher than the street. It would read as two full stories plus a finished attic from the West Avenue viewpoint. A plaza would be created. Other portions of the building would be more than two stories. The same buildings, when viewed from the central parking area that would be accessed from Heights Road, would look more like four story structures plus an attic. A plaza area would provide a pedestrian link from Noroton Avenue into the development. Another plaza area would have a covered walkway and a gazebo type structure.

Attorney Hill said that he recognized that this would be just the first public hearing regarding this matter and he would welcome any email or comments to be sent to him. Attorney Hill said that he has already received comments and will likely get more comments as a result of tonight's presentation. He said that they will gather the comments and will respond to all of them at a future meeting. He also said that they hope to have a meeting with many of the neighbors.

Mr. Sini said that he was very concerned about the building height and scale as it relates to the surrounding residential area. Attorney Hill said that the scale of the commercial buildings has been taken into consideration. They are taking away the perception of building height while still providing interior high ceiling space. They hope to effectively deal with the impact of the perception of the height. Mr. Sini said that he understood the NHR Zone specifies that the size of the new buildings would not exceed the height and bulk within the Central Business District (CBD) Zone, which limits buildings to two stories in height with an incentive for some third floor space if open space is provided on the ground floor level. He questioned why four story buildings are being proposed when they do not comply with the Regulations. Attorney Hill said that the building height limitations of the CBD Zone may change. Mr. Olvany said that any change that might occur within the CBD Zone is not material to the decision that was made years ago referencing the height in the CBD that was allowed at that time. Attorney Hill said that it is not immaterial because the Resolution adopted in 2010 to create the NHR Zone does note that in the future there may need to be adjustments. Mr. Sini said that he saw that as being the possibility of allowing a third floor if open space is provided. He asked if there is any justification for a fourth floor to be incorporated into the plans at this time. Attorney Hill said that the 2006 Plan of Conservation and Development noted that it was then time to reexamine building height and that such an attempt was considered in 2010 and was so noted when the Commission adopted the NHR Zone. Mr. Olvany asked that the architect point out which portions of which buildings would be two stories and three stories and four stories. Mr. Pather noted the proposed buildings that are four stories tall. Mr. Voigt asked about the other properties on Heights Road. The architect said that they could all be connected to the development with sidewalks but there is some difficulty doing that since some of the parking backs out directly on to the street, thus eliminating the possibility of a sidewalk. Attorney Hill said that the sidewalk is provided along Edgerton Street and that some properties in the NHR Zone are not part of this plan because they are not owned by the Palmers or FR Darien LLC.

Mr. DiDonna asked for clarification regarding the on-site public plazas. Attorney Hill said that the intent is to keep them as open areas, not used for commercial development or parking but subject to

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any changes that the Commission may allow or approve in the future. Attorney Maslan said that each development needs a single plaza of at least 1,000 square feet rather than having only small pieces that are not very accessible. He said that small areas that are too narrow or too small would not count towards satisfying the requirement. Mr. DiDonna asked that future plans be more specific about the open space areas that count or do not count and how those open space areas will be used or not used.

Mr. DiDonna noted that the 2010 original approval of the NHR Zone notes that protection of the neighbors on West Avenue is very important particularly due to impacts of the height of the proposed buildings. He said that he realizes that the topography of the property varies greatly but having 4 story proposed buildings as high as 55 feet tall would seem to have a negative impact on the 2 or 2 1/2 story or 30 foot tall buildings on the neighboring residential properties. Attorney Hill said that the plan is to have two and one half story buildings closest to West Avenue and then the buildings would step up to four stories high as they are farther away from the West Avenue neighbors. Ms. Cameron said that she does not want the buildings on the south side of West Avenue to be any higher than the houses on the north side of the street. She noted that the conceptual architectural plans have the first floor of the new residential units raised well above the street and therefore well above the neighbors to the north. She noted that you would need to walk up a flight of stairs to get from the street into the proposed first floor of the building(s). She said that she looked at the proposed amendments and it seems that two of the five proposed amendments are not needed because they are already within the Regulations. You can already have business and residential uses within the same building. She did question why parking for residential uses would be separated. She said that other things that are being requested could already happen within the current Regulations. She also noted the lack of office space proposed by the applicants.

It was decided that the public hearing regarding this matter would need to be continued. It was agreed to continue the public hearing at 8 P.M. on Tuesday, May 3, 2016 in the Auditorium.

At about 9:45 p.m., Chairman Cameron then read the following agenda item:

Amendments to the Darien Zoning Regulations put forth by Knobel Hill, LLC (COZR #4-2016). Proposal to amend various subsections of Section 430 of the Zoning Regulations, which address the below market rate (BMR) units required for Active Senior Residential developments. These changes would: reduce the minimum average size of off-site BMR units to 45% of the average of the on-site market-rate units; and would remove the age restriction from the off-site BMR units.

Mr. Ginsberg said that Penny Glassmeyer's Knobel Hill project is running into a problem because the off-site units that she acquired are smaller than she thought they would be. The size of the new units being created on Settler's Trail cannot be more than two times the average size of the affordable units being created off-site.

Attorney Robert F. Maslan, Jr. represented Knobel Hill LLC and said that the 67 and 69 Leroy Avenue two-family house has each unit is less than 50% of the new units being built on Settler's Trail. He asked if the Regulations could be amended to allow the affordable units to be no less than 45% of the average size on-site units and that the affordable units being created off site not be restricted to being only people 62 years or older. This is because the affordable units are on three

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levels with one of the bedrooms being in the attic. He did not think it would be appropriate to require elderly persons to walk up to the third floor to use one of their bedrooms.

Mr. Sini said that when it was drafted, this was a new concept in the Regulations and we are now finding out it is difficult to make the existing units into senior only units. Ms. Cameron suggested that it might be more appropriate to require the affordable units to be created on-site. Mr. Olvany said he had told the applicant to get the affordable units under contract first and then to design the proposed new units based on the actual square footage of the affordable units.

Mr. Ginsberg read the comments from WestCOG indicating that they saw no inter-municipal impacts. There were no comments from the public. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Sini, seconded by Mr. Olvany and unanimously approved.

At about 9:55 p.m., Chairman Cameron then read the following agenda item:

Amendments to the Darien Zoning Regulations put forth by Darien ALF Property, LLC/Maplewood Darien, 599 Boston Post Road (COZR #5-2016). Proposal to amend Section 627 of the Zoning Regulations to allow that Area and Bulk Requirements for an Assisted Living Facility (ALF), Memory Care Facility (MCF), or a combination thereof be determined on a case-by-case basis by the Commission. The proposal seeks to correct an internal inconsistency that exists within Section 620 (DB-2 Zone).

Attorney Amy Zabetakis represented Maplewood of Darien. Mr. Ginsberg said that the proposed amendments of the Regulations would allow Maplewood to expand on a property to the east (Norwalk side) of their existing facility. Attorney Zabetakis said that in 2011 the Commission adopted requested changes to the Zoning Regulations to accommodate the conversion of the existing building from a Nursing Home to an assisted living facility. That has been very successful and now Maplewood would like to expand to the adjacent properties. Due to the existing non-conformities of the existing building, some adjustments to the Regulations are needed. If the Commission amends the Regulations then a Special Permit and Business Site Plan application will be prepared and submitted to the Commission for review. Attorney Zabetakis said that one of the changes concerns Section 907 of the Regulations regarding the location of underground parking structures. It is clear in the Regulations that any new underground parking structures must meet the setback regulations, however, the existing underground parking structure at Maplewood of Darien is very close to the front property line. To facilitate the expansion and to create more underground parking spaces, they wish to continue the same distance from the front property line to the new underground spaces.

Ms. Cameron said that the existing on-site parking is insufficient for the staff and visitors. In addition, she has noticed that delivery vehicles park along the Boston Post Road in a very unsafe manner. This cannot be allowed to continue. Mr. Sini said that any changes to the site need to incorporate solutions to these problems. Attorney Zabetakis said that she understands that large delivery trucks are not supposed to be going the property because there is no room for them to park on the site.

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Ms. Cameron said that a letter has been received from Tom Geary, who owns the property across the street. Attorney Zabetakis said that she had received a copy of that letter. Mr. Olvany said that he understands some of the parking spaces in the church parking lot across the street are allowed to be used by the people at Maplewood. He said to be sure not to count those parking spaces as part of the assisted living facility parking.

Attorney Zabetakis discussed the proposed amendment to the building height limitation. She said that it is 31.5 to the flat roof of the existing building. This does not take into account the front façade or parapet walls. They are proposing a 35 foot high limitation. There is some question about whether this 35 foot high limitation would be to the flat roof or the peak of the parapet walls. Attorney Zabetakis said that the new roof would match the height of the existing roof. She will get a clarification about whether the 35 foot dimension is to the flat roof or the parapet walls.

There were no comments from the public regarding the application. Mr. Ginsberg read aloud the WestCOG comments and said that there were no other comments from other departments or from any department or agencies to which the application was referred. The following motion was made: That the Planning & Zoning Commission close the public hearing regarding this matter and will render a decision at a future meeting. The motion was made by Mr. Voigt, seconded by Mr. Olvany and unanimously approved.

At about 10:20 p.m., Chairman Cameron then read the following agenda item:

Continuation of Public Hearing regarding 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. *PUBLIC HEARING ORIGINALLY OPENED 2/2/2016 AND WAS CONTINUED TO 2/23/2016. DEADLINE TO CLOSE PUBLIC HEARING IS 4/5/2016 UNLESS EXTENSION OF TIME IS GRANTED BY APPLICANT.*

Attorney Wilder Gleason represented the property owners and explained that a revised plan has been submitted to reflect the previous comments and concerns that had been expressed. He said that drainage from the neighbor to the north will be allowed to flow in an encumbered manner. He said that the storm drainage design for the proposed development will not increase runoff in a 50 year design storm. Mr. Ginsberg said that the changes had been reviewed and signed off by the Public Works Department. Mr. Olvany said that one of the reasons for the original proposed filling was to create a flat play yard. He said that he revised plan does not create any flat yard and that reducing the amount of filling even more would allow the existing flat yard to be retained. He said that the new plan will not have any flat play area. Attorney Gleason said that the applicant has reviewed the plan with the neighbors and has compromised with the neighbors to reduce the amount of fill. He said it would be comparable to the house across and down the street at #8 Waverly Road.

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

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At about 10:25 p.m., Chairman Cameron then read the following agenda item:

Coastal Site Plan Review #225-A, Brian & Sheryl Ramsay, 229 Long Neck Point Road. Proposal to remove the existing structures from the property and construct a replacement single-family residence, pool, and spa, and perform related site development activities within a regulated area. The subject property is located on the east side of Long Neck Point Road, approximately 2,000 feet south of its southernmost intersection with Pear Tree Point Road, and is shown on Assessor's Map #61 as Lot #11 in the R-1 Zone.

Mr. Sini recused himself in order to avoid any potential conflict of interest. He departed the meeting table. **Ms. Cameron said that she is friends with one of the neighbors** but can hear the application and make a decision in a fair and unbiased manner. Attorney Wilder Gleason said he had no objections to Ms. Cameron participating in the matter.

Attorney Wilder Gleason represented the property owners and said that the plan is to remove the existing house and swimming pool that are within 100 feet of Mean High Water. The replacement house and other improvements are all more than 100 feet from Mean High Water. He said that the expected flood level is at Elevation 16, which is the top of the wall. No construction, filling or regrading or other activity is to take place within the Flood Hazard Zone. He said that the plans have been revised so that there is no filling or grading within 15 feet of any property line and therefore there is no need for a Special Permit from the Commission. Mr. Ginsberg confirmed that the Commissioners are reviewing the application under the Coastal Site Plan Review process only.

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

Mr. Sini returned to the meeting. At about 10:30 p.m., Chairman Cameron then read the following agenda item:

GENERAL MEETING

Discussion, deliberation and possible decisions regarding:

Proposed Amendments to the Darien Zoning Regulations put forth by John Hertz & Robert Wood (COZR #2-2016). Proposing to modify Section 210 (Definitions) and Sections 540 to 550 (3.7 Acre Hollow Tree Ridge Road Small Acreage Zone for Affordable Housing) of the Darien Zoning Regulations to define Self Storage Facility and to allow self-storage facilities with associated office, workforce housing, and commuter parking in that zone by Special Permit. **PUBLIC HEARING CLOSED: 2/23/2016. DECISION DEADLINE: 4/28/2016.**

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. Voigt, seconded by Mr. DiDonna and unanimously approved.

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Commission members reviewed the draft resolution. There were clarifications necessary regarding the maximum allowable square footage and whether the basement would be counted as a story if it is used by customers or as storage space. The Commission also discussed the fact that 4 parking spaces would be needed for the first 10,000 square feet of building and 1 parking space would be needed for each 10,000 square feet or portion thereof of additional building area. Other typographical and clarification changes were made. The following motion was made: That the Planning & Zoning Commission adopt the following revised resolution to approve the amendment to the Zoning Regulations in accordance with the following Resolution. The motion was made by Mr. DiDonna, seconded by Mr. Sini and unanimously approved. The amendment will become effective on April 17, 2016. The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
April 5, 2016**

Application Number: Proposed Amendments to the Darien Zoning Regulations
put forth by John Hertz & Robert Wood (COZR #2-2016)

Street Address: 131 Hollow Tree Ridge Road
Assessor's Map #48 Lot #3

Name and Address of
Applicants: John Hertz & Robert Wood
132 Heights Road
Darien, CT 06820

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

Names and Addresses of:
Property Owners: Nineteen separate owners as listed within
the submitted application materials

Activity Being Applied For: Proposing to modify Section 210 (Definitions) and Sections 540 to 550 (3.7 Acre Hollow Tree Ridge Road Small Acreage Zone for Affordable Housing) of the Darien Zoning Regulations to define Self Storage Facility and to allow self storage facilities with associated office, workforce housing, and commuter parking in that zone by Special Permit. In this Resolution, the Commission has not made changes to Section 550, and did make a change to Section 904.

Zone: 3.7AH Zone

Date of Public Hearing: January 26, 2016 continued to February 23, 2016
Deliberations held on: March 8, 2016

Time and Place: 8:00 P.M. Room 119 (1/26) and Room 206 (2/23) Town Hall

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Publication of Hearing Notices

Dates: January 15 & 22, 2016
February 13, 2016
February 19, 2016

Newspaper: Darien News
Stamford Advocate
Darien News

Date of Action: April 5, 2016

Actions: Zoning Regulation Amendment--

ADOPTED WITH MODIFICATIONS WITH
AN EFFECTIVE DATE OF SUNDAY, APRIL
17, 2016 AT 12:02 P.M.

Scheduled Date of Publication of Actions:
April 15, 2016

Newspaper: Darien News

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

- the proposed Zoning Regulation amendments must be consistent with the Town Plan of Conservation & Development for the Commission to adopt the amendments.

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

1. The subject applications consist of a proposed amendment to modify Section 210 (Definitions) and Sections 540 to 550 (3.7 Acre Hollow Tree Ridge Road Small Acreage Zone for Affordable Housing) of the Darien Zoning Regulations to define Self Storage Facility; and to allow self storage facilities with associated office, workforce housing, and commuter parking in that zone by Special Permit. The subject property is a 3.7 acre site.
2. The site plan submitted by the applicant in support of this application shows a number of proposed uses for the property. They are:
 - a) A self-storage building with a 34,000+/- square foot footprint, and possibly a basement for wine storage. The self-storage facility may have 670+/- units. There will be garages within the first floor of the building, and the building will have elevators.
 - b) outside storage for boats and trailers;
 - c) an office building with a resident manager; and
 - d) on-site commuter parking for those using the Noroton Heights Train Station. The commuter parking will likely have yearly reserved parking spaces for 14+/- vehicles. This would be separate from the parking required for the above uses.

PROPOSAL CONTINUES TO ALLOW AFFORDABLE HOUSING IN THIS ZONE

3. At the public hearing, Attorney Michael Murray explained that they are seeking to modify the zoning regulations to allow the proposed self-storage use. He emphasized that the current property owners believe in the current zoning, which was enacted in 1999, so they are not looking to preclude those permitted uses now or in the future. The Commission agrees that although the self-storage use is being considered as possible additional use within this zone, the alternate possible use for affordable housing should not be precluded now.

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EXISTING NEARBY SEWER LINES

4. Affordable housing of the density allowed within the zone would require connection to the public sanitary sewer system. Unfortunately such a connection is not feasible and practical at this time. Thus, the applicants propose to amend the Regulations to allow a use on the site that will not need connection to the public sanitary sewer system. At the public hearing, Attorney Murray presented a copy of an existing sewer lines map showing sewer lines in the vicinity. He submitted an e-mail dated January 26, 2016 from AvalonBay Communities stating “AvalonBay is not interested in allowing your client to access Avalon Darien’s private sewer system.” Thus, that is not an option.
5. The applicant also submitted a December 14, 2015 e-mail from Daniel Smachetti of ConnDOT, who noted that, “...the Department does NOT allow private entities (non-utilities) to tie into manholes that exist within the highway right of way. The service plazas are considered within the ROW.”
6. An engineer for the applicant, Doug DiVesta, PE, notes in his October 29, 2015 letter that after considering a tie-in to the Avalon property and the adjacent State DOT property, both of which were not allowed by those owners, the only option is to install an on-site subsurface sewage disposal system.
7. Attorney Murray then reviewed the proposed Area and Bulk Requirements. He noted that there is no change in the maximum building height allowed, or the number of stories from that currently in this zoning district’s Area and Bulk Requirements (Section 544). The maximum building size would be larger for this use.

TRAFFIC/PARKING

8. While this application is only regarding the Zoning Regulation amendments, the Commission requested that additional information regarding the proposed use, in order that they may better understand the type of parking demand to be generated by this type of use requested. At the public hearing, Attorney Murray said that the proposed use is a passive, low-impact use. Information was presented by Neil Olinski of Milone and MacBroom outlining the traffic generated by the proposed use.
9. The driveway access and egress for the Avalon residential development to the west of this site is through an easement on the northerly portion of this site. There is a traffic control signal at the intersection of the Hollow Tree Ridge Road and the driveway. As part of this application, the Local Traffic Authority (LTA) commented as follows, “This is a proposal to modify existing zoning regulations at this point. Applicant indicates that they will bear the cost of a traffic study. If this application goes forward it should be reviewed by a traffic engineer of the Town’s choice as well. All traffic appears to enter/exit through the Avalon driveway which would be necessary as it is traffic signal controlled. Any attempt to put a second curb cut adjacent to this driveway would be problematic.” A second curb cut to/from Hollow Tree Ridge Road is not needed for the low intensity use that is proposed nor would it be acceptable to the LTA.
10. During the deliberations on this matter, it was noted that the current zoning regulations do not have a parking standard for the proposed self-storage use. In its decision herein, the Commission has established such a provision. Also, the Commission noted the importance of

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ensuring that the outdoor storage of boats, trailers and other vehicles does not allow for active commercial business use, and is only “dead storage”. While the applicant has proposed amendments to subsection 547, the Commission is not approving that proposal as written. The existing parking requirements for the proposed residential and office uses now in Section 904 of the Regulations would apply, and a new provision within subsection 904 shall be created for the proposed self-storage facility use. It is appropriate that this parking standard be tied to the size of the building, and not the number of storage units, since the number of storage units is likely to change through time. Parking for the office space and workforce housing shall be in addition to the requirements for the parking for the self storage use.

11. The Commission again notes that the request is only for zoning regulation amendments. It is likely as part of any future proposal for self-storage use, that the traffic and parking related to the site plan will be peer reviewed.

CONCLUSIONS AND FINDINGS

12. The application was referred to the Western Connecticut Council of Governments (WestCOG). They responded on December 28, 2015 that the application is of local concern, but with minimal intermunicipal impact.
13. The Commission has made modifications to the proposed definition of Self-Storage Facility to be included in Section 210 of the Darien Zoning Regulations. These modifications clarify that the only outdoor storage allowed is for vehicles, boats, and trailers. All vehicles stored outdoors must be licensed and registered, and not part of an active business. No commercial vehicles (other than one for the subject property’s business) are allowed to be parked in the outdoor storage area.
14. In reviewing the proposed amendments to Section 550, the Commission determines that the proposed amendments are not needed, and thus, no changes are being incorporated to that section. As-is, the Section requires that the project proceed and be completed in a timely manner, whether for affordable housing or some other use.
15. The subject application consists of zoning regulation amendments. As part of this request, the applicant has not proposed a specific site plan for the Commission’s review or consideration. During the public hearing, various plans were shown to the Commission to enable them to better understand the implications of the map and regulation amendments, and to see how such changes could result in redevelopment of the subject property. A subsequent, formal application will need to be made to the Planning & Zoning Commission for site plan and special permit approval.
16. Significant documentation was provided during the public hearing confirming that the proposal complies with the Town Plan of Conservation & Development. The Commission believes that this is an appropriate use to be established in Darien, and is appropriate for this zoning district.

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NOW THEREFORE BE IT RESOLVED that Amendment to Darien Zoning Regulations (COZR #2-2016), is hereby adopted subject to the foregoing and following modifications and understandings:

NEW WORDING UNDERLINED, DELETIONS IN STRIKEOUT:

Section 210. Definitions. (this definition to be inserted into Section 210 in alphabetical order)

Self-storage facility: A facility consisting of individual, indoor self-storage units for the storage of business, personal or household goods as well as the indoor and/or outdoor storage of boats, cars, trailers, recreational vehicles and small trucks, rented or leased on an individual basis and related services. This use shall be for those who are to have access to such units for storing and removing personal property only, and not for residential purposes. Such a use does not allow for the rental of trailers or vehicles, or the outdoor storage of construction equipment. All outdoor vehicle storage shall be for licensed, registered vehicles.

SECTION 540. 3.7 ACRE HOLLOW TREE RIDGE ROAD SMALL ACREAGE ZONE FOR AFFORDABLE HOUSING OR SELF STORAGE

541. a. Background and Purposes – Affordable Housing

~~This district~~ This Affordable Housing ~~District-use~~ is created in response to an application to amend the Zoning Regulations to permit development of affordable housing on a 3.7 acre tract on the west side of Hollow Tree Ridge Road. Affordable housing which fully satisfies the intent, requirements and purposes of Section 8-30g of the Connecticut General Statutes must be part of any housing proposal submitted for approval within this Zone. If the property is not developed for affordable housing in accordance with the requirements of the stated statutes, the district shall continue to be subject to all requirements of the Designed Multi-family Residential Zone as set forth in Section 520 of the Regulations. The district requirements recognize the location of the property which is separated from single-family residential neighborhoods by the railroad tracks to the north, the John Davis Lodge Turnpike (Interstate 95) to the south, Hollow Tree Ridge Road and the commuter parking lot to the east, and to the west, a large undeveloped tract of land which is in the DMR Zone. The isolated location of the site limits density of development to preserve the health and safety aspects of the community. The district is close to the Noroton Heights Shopping Center, the Stop and Shop shopping center, the Noroton Heights Train Station and not far from the Middlesex Middle School. Development in accordance with these Regulations will provide a broader choice of housing types to address the needs for affordable housing while still preserving the predominant single family residential character of Darien. Such multi-family affordable housing under Section 8-30g of the Connecticut General Statutes may only be constructed here, where it will be in close proximity to commercial services and mass transportation facilities, and will not be adjacent to or adversely impact existing or potential single-family residences. These multi-family housing units will serve the needs of persons who desire this form of housing with its associated conveniences and advantages, and it is acknowledged that on-site open space and other amenities must be provided due to the somewhat isolated nature of this property. On-site parking must be sufficient to serve the

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needs of residents, service persons, and visitors because no on-street parking is likely to become available in the area.

b. Background and Purposes – Self Storage:

This Self-Storage use is created in response to an application to amend the Zoning Regulations to permit the development of a self-storage facility on the 3.7 acre tract on the west side of Hollow Tree Ridge Road. If the property is not developed for affordable housing per the above or self-storage, the district shall continue to be subject to all requirements of the Designed Multi-Family Residential Zone as set forth in Section 520 of the Regulations. The district requirements recognize the location of the property which is separated from single-family residential neighborhoods by the railroad tracks to the north, the John Davis Lodge Turnpike (Interstate 95) to the south, Hollow Tree Ridge Road and the commuter parking lot to the east, and to the west a large multi-family residential development (Avalon). The lack of access to public sewage facilities limits development options for the 3.7 acre tract. The district is close to the Noroton Heights Shopping Center, the Stop and Shop shopping center, the Noroton Heights train station, the Avalon residences and not far from Middlesex Middle School. Development in accordance with these regulations will provide storage options to residential homeowners in Darien. Such self storage facility may only be constructed here, where it will be in close proximity to other commercial uses and mass transportation facilities and will not adversely affect existing or potential single-family residences. This self-storage facility will serve the needs of residents who desire, or are in need of, additional storage for business, personal and household goods, as well as cars and boats, and parking must be provided because of the somewhat isolated nature of this property.

542. Site Requirements – Affordable Housing

-i. Utilities

The site is adjacent to existing water and public sewage facilities which appear to be of sufficient capacity to serve potential development of the property. Upgrading, improvement or extension of the facilities may be necessary due to the density. The costs associated with upgrading such facilities shall be borne by the applicant in connection with any proposed development activity. The applicant shall submit a statement from a licensed professional engineer and/or the utility companies certifying that the capacity of the utilities will suffice to accommodate the proposed development and/or will be upgraded to accommodate such development.

ii. Environmental Impacts

An environmental impact study and analysis shall be prepared and submitted to the Commission as part of any application and must clearly illustrate all effects of proposed development upon environmental factors, including but not limited to, inland wetlands and watercourses, aquifers, trees and vegetation, storm drainage systems, potential soil erosion, and other such elements. Such studies shall prescribe proposed measures to mitigate environmental damage while still accomplishing the

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basic objectives of the proposed development. The applicant shall also be responsible for certifying to the Commission that the air and noise conditions existing due to surrounding uses have been taken into consideration in the design of the project and that such conditions will not adversely affect or impact the health, safety and comfort of the residents of the premises.

iii. Vehicular Traffic

A current traffic impact study shall be prepared and submitted to the Commission so as to meet the requirements of Subsection 1005(d) and (e) of these Regulations with regard to the existing and proposed conditions and circumstances as well as reasonably anticipated traffic elements such as road and drive width, sight lines, current and projected volumes of vehicular and pedestrian traffic, a second means of vehicular access/egress to and from the property for emergency purposes, circulation patterns, curb cut locations, on site parking needs, service vehicle access and maneuvering, trip generation, traffic control devices, signals and signage, pedestrian walkways, sidewalks, handicapped access and convenience and safety requirements including impacts upon the surrounding street system. The costs associated with upgrading or installation of traffic management devices or designs in connection with the proposed development shall be borne by the applicant.

iv. Basic Services and Utility Connections

All structures and dwelling units within the site must be serviced by public water and public sewerage. All utility connections, including electrical, telephone, telecommunications and other connections must be underground. No overhead services or wires shall be permitted.

542 b. Site Requirements – Self Storage

i. Utilities

The site is adjacent to an existing water facility which appears to be of sufficient capacity to serve potential development of the property. Upgrading, improvement or extension of the facility may be necessary. The installation of a private septic system will also be necessary. The costs associated with upgrading such facility shall be borne by the applicant in connection with any proposed development activity. The applicant shall submit a statement from a licensed professional engineer and/or the utility companies certifying that the capacity of the utilities will suffice to accommodate the proposed development and/or will be upgraded or installed to accommodate such development.

ii. Environmental Impacts

An environmental impact study and analysis shall be prepared and submitted to the Commission as part of any application and must clearly illustrate all effects of proposed development upon environmental factors, including but not limited to,

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inland wetlands and watercourses, aquifers, trees and vegetation, storm drainage systems, potential soil erosion, and other such elements. Such studies shall prescribe proposed measures to mitigate environmental damage while still accomplishing the basic objectives of the proposed development. The applicant shall also be responsible for certifying to the Commission that the air and noise conditions existing due to surrounding uses have been taken into consideration in the design of the project and that such conditions will not adversely affect or impact the health, safety and comfort of the residents of the premises.

iii. Vehicular Traffic

A current traffic impact study shall be prepared and submitted to the Commission with regard to the existing and proposed conditions and circumstances as well as reasonably anticipated traffic elements such as road and drive width, sight lines, current and projected volumes of vehicular and pedestrian traffic, a second means of vehicular access/egress to and from the property for emergency purposes, circulation patterns, curb cut locations, onsite parking needs, service vehicle access and maneuvering, trip generation, traffic control devices, signals and signage, pedestrian walkways, sidewalks, handicapped access and convenience and safety requirements including impacts upon the surrounding street system. The costs associated with upgrading or installation of traffic management devices or designs in connection with the proposed development shall be borne by the applicant.

d.iv. Basic Services and Utility Connections

All structures and any dwelling units within the site must be serviced by public water and private septic system(s). All utility connections, including electrical, telephone, telecommunications and other connections must be underground. No overhead services or wires shall be permitted.

543. Principal Uses Permitted by Special Permit

The following uses shall be permitted subject to approval of a Special Permit in accordance with Section 1000 and the standards set forth below:

- a. Multi-family dwellings and/or a series of separate dwellings provided any such residential uses are developed in accordance with Section 8-30g of the Connecticut General Statutes.
- b. Related accessory buildings, structures and uses in conjunction with housing which is developed in accordance with Section 8-30g of the Connecticut General Statutes.
- c. Public and semi-public uses.
- d. A Self Storage facility

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- e. Related accessory buildings, structures and uses in conjunction with a self storage facility including but not limited to offices, work force housing and public parking.

544. Area and Bulk Requirements for Special Permit Uses

The following requirements shall be deemed to be the minimum or maximum requirements in every instance of their application. Dimensions are in feet unless otherwise indicated.

1. Minimum Lot Area	2.0 acres
2. Maximum Lot Area	5.0 acres
3. Minimum Lot Frontage	50' accessway required to a public street and a second accessway for emergency purposes.
4. Minimum Lot Width (Average)	100'
5. Minimum Lot Depth (Average)	100'
6. Maximum Average Gross Floor Area of all Dwelling Units	1875 sq. ft.
7. Minimum Floor Area of a Dwelling Unit	600 sq. ft.
8. Minimum Front Yard	25'
9. Minimum Distance Between Any Structure containing dwelling units and Interior Access Drive	15'
10. Minimum Side Yard	12.5'
11. Minimum Rear Yard	25'
12. Minimum Distance between any proposed structure and the nearest location of an existing or potential Single-family detached residential parcel which is in a different zone	50'
13. Maximum Height (See Note A)	3 stories or 35 feet
14. Maximum Building Coverage	25%
15. a. Maximum Floor Area Ratio (FAR) <u>for affordable housing use.</u>	0.20
b. for Self-storage use (See Note A)	0.70
16. a. Maximum Average Building Size for affordable housing use.	10,000 sq. ft.
b. for Self-storage use (See Note A)	120,000 sq. ft.
17. a. Maximum Density <u>for Affordable Housing</u>	9 units per net acre (as defined in Section 545c)
18. Open Space	At least 500 sq. ft. per dwelling unit minus any private terrace areas and balcony areas for the units
19. Building Separation:	
Wall with windows to another wall with windows	25'
Wall with windows to wall without windows	10'

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Note A: Basement space that is utilized only for mechanical equipment of the building shall not count as floor area. If any portion of the basement area is used for self-storage, or restrooms, or workshop, or rentable space, or is accessible to the public, then the entire basement shall be counted as a story and as floor space.

545. Maximum Density and Design Criteria – Affordable Housing Only

- a) The potential density of 9 units per net acre is to accommodate affordable housing in accordance with Section 8-30g of the Connecticut General Statutes. Any proposed development of the site shall be accompanied with a detailed and specific plan regarding the size, number, location, and other design features relating to all of the proposed dwelling units and specifically, the proposed affordable housing units. In addition, the applicant shall submit a detailed schedule regarding the timing or phasing of construction and occupancy of the affordable housing units and a detailed long-term management plan (including but not limited to draft documents such as deed restrictions, criteria for affordable housing ownership and occupancy, reporting and verification procedures, etc.) for continued compliance with the provisions of Section 8-30g. In no case shall the affordable housing units being created be delayed until the end of occupancy of the remaining units of the project. The first dwelling unit completed and occupied shall be an affordable housing unit and no more than three market-value housing units shall be completed or occupied for each affordable housing which is subsequently completed and occupied. In this way the completion and occupancy of affordable housing units, which is the goal and purpose of Section 8-30g, shall be accomplished in a timely manner.
- b) The size and type of affordable housing units created in accordance with Section 8-30g of the Connecticut General Statutes shall be dispersed throughout the proposed development and shall be comparable in size, design and construction to the market-value housing units.
- c) Net acres shall be the gross area of the site minus any portion of the site which is regulated wetlands, land under water, and/or land with a slope of more than 15%.
- d) No dwelling unit shall contain more than three (3) bedrooms.

546. Usable Open Space – Affordable Housing Only

- a. At least 500 square feet of usable open space shall be provided on the site for each dwelling unit. Terraces or balconies of the units shall be deducted from the open space requirement and open space areas shall be of such grade, size, location and character to be of useful and beneficial recreational purposes to the residents. Recreation and open space areas shall be designed and maintained to prevent the emission of objectionable noise and light onto abutting properties.
- b. Although a swimming pool and/or indoor recreational facilities are not mandatory, it is strongly advised that some form of structured recreational facilities be provided as part of the open space and outside recreation areas.

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547. a.) Parking, Garages and Drives – Affordable Housing

- a. i. Two (2) on-site parking spaces shall be required for each dwelling unit within the proposed development. It is recommended that one additional parking space per unit be provided on the site for visitors, service personnel and deliveries. All on site parking spaces shall be in accordance with Sections 226 and 900 of these Regulations with respect to minimal distances and design standards.
- b. ii. No on-site garages are required for a housing development proposed in accordance with Section 8-30g of the Connecticut General Statutes but, if a majority of the proposed housing units shall be serviced by garages, then the affordable housing units must also be serviced by garages.
- c. iii. Parking within a structure shall be permitted only within a one floor, on grade garage space or in the basement level of the structure. No structural parking deck or multi-level parking shall be permitted.
- d. iv. The minimum distance between on-site parking and the dwelling units shall be 10 feet, and the maximum distance from a parking space to the dwelling which will be serviced by that parking space will be 200 feet as a pedestrian would travel. No parking spaces shall be located within the required front yard area, but may be located within the required side or rear yard area.
- e. v. Roadways, driveways and accessways within any project shall be privately owned and maintained unless all construction standards and prevailing requirements for Town roads have been fully satisfied and sufficient rights-of-way have been dedicated to comply with all procedures and requirements for acceptance by the Town of any new street.

548. General Standards and Requirements

In addition to the specific standards and requirements provided herein, the Commission's approval of any application in this zone ~~the Affordable Housing Zone~~ shall be subject to the Commission making all findings under Section 1000 of these Regulations and the following additional findings:

- a. Residential development shall be consistent with the Town Plan of Conservation & Development and shall maintain the Town's predominantly single family residential character.
- b. The residential development shall not be detrimental to the health or safety of the residents of the proposed development and/or the neighborhood and shall not adversely affect any adjoining properties with respect to light, glare, vibration, noise, drainage, traffic, or other impacts.
- c. The necessary findings of Section 1000 and a. and b. above shall only be modified as necessary to conform to the requirements of Section 8-30g of the Connecticut General Statutes.

549. Application

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As part of the Special Permit approval process for any development activity within ~~the Affordable Housing Zone~~ this zone, the following additional requirements shall apply:

- a. Renderings and drawings of the proposed structures drawn from a perspective representing a view from street level and illustrating at least two facades of the building.
- b. Elevation drawings of each side of the building(s).
- c. Samples of the finishing materials to be used on the exterior.
- d. Color photographs of the existing site conditions and development within 200 feet to any side of the subject property and a locus map showing all buildings within a distance of 200 feet from the subject site.
- e. Presentation of an architectural style which shall enhance and contribute to the character of the site and the surrounding area.
- f. Buildings shall be designed to enhance and contribute to special design features of the area, including historic and public buildings and the natural environment.
- g. The applicant shall either obtain and submit with the application all necessary legal documents of rights such as easements, rights-of-way, articles of association, declarations and restrictions, etc., or shall otherwise provide sufficient evidence to show, to the satisfaction of the Commission, that the acquisition of all such legal documents or rights appear to have a reasonable probability of success.
- h. i. Affordable Housing Only: The applicant shall submit to the Commission the proposed phasing of development to clearly specify the sequence of construction of buildings, driveways, parking areas and other improvements related to health and safety, amenities, public facilities and utilities. Such work shall be installed according to a specific construction schedule and to insure against excess excavation and undue damage from erosion. No Certificates of Occupancy shall be permitted within any phase unless and until all work within the phase shall be complete. Each phase shall be designed to fulfill all health, safety and site development requirements with respect to affordable housing units as a minimum of 25% of units within the phase, sufficient off-street parking, sufficient open space, safe access and egress, provision of utilities, proper management of storm water and drainage, and other aspects of the development to assure that health and safety issues are addressed and that each phase would be in compliance with the Regulations if following phases are not completed. Each phase must be completed prior to a Certificate of Occupancy for any units within the phase, but, if specified in the approved schedule, numerous phases can be started and underway at the same time. Each phase must be completed in the appropriate time and pattern.

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ii. Self Storage Only: The applicant shall submit to the Commission the proposed schedule of development. Such work shall be performed to insure against excess excavation and undue damage from erosion. The development must be completed in an appropriate time and pattern.

- i. The applicant shall provide to the Commission such additional information and assurances as the Commission may deem necessary to make a reasonable decision on the application.

550. Limitation of Time

The Commission's approval shall become null and void unless construction of driveways, streets, traffic improvements and other site improvements shall be at least 50% completed within one year of the effective date of the Commission's approval. The approval shall also become null and void if site development of at least the first phase is not completed within two years of the approval and/or the entire project is not completed within three years from the date of approval. Requests for any extensions of any of the above time periods shall be submitted in writing by the applicant / developer and may be granted by the Commission for good cause and upon a finding that the extension(s) shall not be contrary to public health and safety concerns and/or the intent of these Regulations.

Modification to subsection 904, adding a new subsection 904w, to establish a parking standard for Self-Storage Facilities.

<u>w. Self-Storage Facility</u>	<u>4 outdoor parking spaces for the first 10,000 square feet of storage building, plus one additional parking space for each 10,000 square feet of storage building, or portion thereof. Required parking may be in front of storage units and/or parallel to the building to facilitate loading and unloading, and shall comply with all dimensional and layout requirements.</u>
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Chairman Cameron then read the following agenda item:

Proposed Amendments to the Darien Zoning Map (COZM #1-2016) and Proposed Amendments to the Darien Zoning Regulations (COZR #1-2016), put forth by Parklands Office Park, LLC. Proposal to modify the Darien Zoning Map. The subject properties proposed to be rezoned are:

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- Parklands Office Park (#1 and #3 Parklands Drive) - shown on Assessor's Map #35 as Lot #34 - which is proposed to be rezoned from DOR-5, R-1/2 and R-1 to be entirely DOR-1. Parklands Office Park is property 7.9+/- acres in size generally located between the I-95 northbound rest area and properties on the westerly side of Fairmead Road. It is located at the end of Parklands Drive approximately 400 feet south of its intersection with Old Kings Highway North; and
- A portion of State of CT DOT I-95 right-of-way and a portion of the adjacent northbound rest stop property (#1 CT Turnpike East) - shown on Assessor's Map #35 as Lot #36 - which is proposed to be rezoned from DOR-5 to DOR-1; and
- A portion of the Fairmead Road right of way south of #23 Fairmead Road which is proposed to be rezoned from DOR-5 to R-1. This portion of right-of-way is 0.13+/- acres in size and shares its northerly point with the southerly point of #23 Fairmead Road and is 26+/- feet wide and 281+/- long.

Proposal to modify the Darien Zoning Regulations to: modify the definition of Assisted Living Facility (ALF) and to permit senior living facilities in the DOR-1 and DOR-5 zones and make other regulation changes to allow the adaptive re-use and expansion of an office building to be used as an Assisted Living and Memory Care facility (Modifying Section 210 and Sections 701, 703, 705, and 706). *PUBLIC HEARING CLOSED: 2/23/2016. DECISION DEADLINE: 4/28/2016.*

Commission members reviewed the draft resolution and agreed upon clarifications and corrections. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve amendment to the Zoning Regulations. The motion was made by Mr. Voigt, seconded by Mr. Sini and unanimously approved. The amendment will become effective on April 17, 2016. The adopted resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
April 5, 2016**

Application Number: Proposed Amendments to the Darien Zoning Map (COZM #1-2016)
Proposed Amendments to the Darien Zoning Regulations (COZR #1-2016)
put forth by Parklands Office Park, LLC

Street Address: 1 & 3 Parklands Drive and #1 CT Turnpike East
Assessor's Map #35 Lot #34 (1 & 3 Parklands Drive) and Map #35 Lot #36 (#1 CT Turnpike East)

Name and Address of Property Owner: Parklands Office Park, LLC
3 Parklands Drive
Darien, CT 06820

Name and Address of Applicant & Applicant's Representative: Craig J. Flaherty, PE
Redniss & Mead
22 First Street
Stamford, CT 06905

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Activity Being Applied For:

- A) Proposal to modify the Darien Zoning Map. The subject properties proposed to be rezoned are:
- Parklands Office Park (#1 and #3 Parklands Drive) - shown on Assessor's Map #35 as Lot #34 - which is proposed to be rezoned from DOR-5, R-1/2 and R-1 to be entirely DOR-1. Parklands Office Park is property 7.9+/- acres in size generally located between the I-95 northbound rest area and properties on the westerly side of Fairmead Road. It is located at the end of Parklands Drive approximately 400 feet south of its intersection with Old Kings Highway North; and
 - A portion of State of CT DOT I-95 right-of-way and a portion of the adjacent northbound rest stop property (#1 CT Turnpike East) - shown on Assessor's Map #35 as Lot #36 - which is proposed to be rezoned from DOR-5 to DOR-1; and
 - A portion of the Fairmead Road right of way south of #23 Fairmead Road which is proposed to be rezoned from DOR-5 to R-1. This portion of right-of-way is 0.13+/- acres in size and shares its northerly point with the southerly point of #23 Fairmead Road and is 26+/- feet wide and 281+/- long.
- B) Proposal to modify the Darien Zoning Regulations to: modify the definition of Assisted Living Facility (ALF) and to permit senior living facilities in the DOR-1 and DOR-5 zones and make other regulation changes to allow the adaptive re-use and expansion of an office building to be used as an Assisted Living and Memory Care facility (Modifying Section 210 and Sections 701, 703, 705, and 706).

Date of Public Hearing: January 26, 2016 continued to February 23, 2016
Deliberations held on: March 8, 2016

Time and Place: 8:00 P.M. Room 119 (1/26) and 206 (2/23) Town Hall

Publication of Hearing Notices
Dates: January 15 & 22, 2016
February 13 & 19, 2016

Newspaper: Stamford Advocate (2/13)
Darien News (2/19)

Date of Actions: April 5, 2016

Actions:

Zoning Map Amendments--

ADOPTED WITH AN EFFECTIVE DATE OF
SUNDAY, APRIL 17, 2016 AT TWELVE NOON.

Zoning Regulation Amendments--

ADOPTED WITH AN EFFECTIVE DATE OF
SUNDAY, APRIL 17, 2016 AT TWELVE NOON.

Scheduled Date of Publication of
Actions: April 15, 2016

Newspaper: Darien News

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

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- the proposed Zoning Regulation and Zoning Map amendments must be consistent with the Town Plan of Conservation & Development for the Commission to adopt the amendments.

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

1. The subject applications consist of two aspects: zoning map amendments and zoning regulation amendments. As part of this request, the applicant has not proposed a specific site plan for the Commission's review or consideration. During the public hearing, various plans were shown to the Commission to enable them to better understand the implications of the map and regulation amendments, and to see how such changes could result in redevelopment of the Parklands Office Park property. A subsequent, formal application will need to be made to the Planning & Zoning Commission for site plan and special permit approval.

ZONING MAP AMENDMENTS

2. The proposal to modify the Darien Zoning Map consists of three separate but related parts. They are:
 - a) Parklands Office Park (#1 and #3 Parklands Drive) - shown on Assessor's Map #35 as Lot #34 - which is proposed to be rezoned from DOR-5, R-1/2 and R-1 to be entirely DOR-1. Parklands Office Park is property 7.9+/- acres in size generally located between the I-95 northbound rest area and properties on the westerly side of Fairmead Road. It is located at the end of Parklands Drive approximately 400 feet south of its intersection with Old Kings Highway North; and

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- b) A portion of State of CT DOT I-95 right-of-way and a portion of the adjacent northbound rest stop property (#1 CT Turnpike East) - shown on Assessor's Map #35 as Lot #36 - which is proposed to be rezoned from DOR-5 to DOR-1; and
 - c) A portion of the Fairmead Road right of way south of #23 Fairmead Road which is proposed to be rezoned from DOR-5 to R-1. This portion of right-of-way is 0.13+/- acres in size and shares its northerly point with the southerly point of #23 Fairmead Road and is 26+/- feet wide and 281+/- long.
3. As part of the record in this matter, the applicant submitted a map showing the existing zoning map for the vicinity ("500' Vicinity Map Parklands Assisted Living", Darien CT by Redniss & Mead, 11" x 17" color map); what changes are proposed ("Zone Changes Parklands Assisted Living", Darien CT by Redniss & Mead, 8-1/2" x 11" color map); and a map showing what the zoning map would result in if the proposal is approved as submitted ("Proposed Zones, Parklands Assisted Living", Darien CT by Redniss & Mead, 8-1/2" x 11" color map). While an additional survey was also submitted for the record entitled, "Property Survey Depicting Zone Change 1 & 3 Parklands Drive Prepared for Parklands Office Park, LLC" by William W. Seymour & Associates, dated December 4, 2015, that survey does not show all of the changes, since the DOT rest stop property is not shown in its entirety on that survey, and that is proposed to be rezoned from DOR-5 to DOR-1.
 4. This proposal would result in the entire Parklands Office Park property (shown on Assessor's Map #35 as Lot #34, being entirely in the DOR-1 Zone. Currently, the property is in the DOR-5, R-1 and R-1/2 Zones.
 5. Per Section 8-3 of the Connecticut General Statutes, the Commission must state upon the record the reason why such change is made, and note whether it is consistent with the Town Plan. The Commission hereby finds that the proposed changes are consistent with the Town Plan. These changes allow for future adaptive re-use of the Parklands Office Park building 1. It also will have the zoning boundary lines better follow existing lot lines. The Parklands office park property (Lot #34) will now be in one zoning district, rather than in three zoning districts). The rezoning of other pieces of property has also been reviewed by the Commission and is logical. The final adopted changes approved herein are shown as:
 - "Property Survey Depicting Zone Change 1 & 3 Parklands Drive Prepared for Parklands Office Park, LLC", by William W. Seymour & Associates, dated December 4, 2015

ZONING REGULATION AMENDMENTS

6. The applicant has submitted a related proposal to modify the Darien Zoning Regulations to: modify the definition of Assisted Living Facility (ALF) and to permit senior living facilities in the DOR-1 and DOR-5 zones and make other regulation changes to allow the adaptive re-use and expansion of an office building to be used as an Assisted Living and Memory Care facility (Modifying Section 210 and Sections 701, 703, 705, and 706).
7. The subject property is 7.9 acres. The proposal is to take down Building One to its superstructure and rebuild it and expand it. Building Two will remain as is. The proposal is for a combination of Assisted Living and Memory Care. There are now 231 parking spaces on site and they propose a total of 234 parking spaces which will be shared. The existing buildings together now comprise 34,840 square feet as was approved in Special Permit Application 42-E.

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8. During the public hearing, there was concern regarding the proposed open space, and the fact that on the subject property, open water/lake cannot be constructed upon whether it is protected or not. The Commission agrees that open space shall be provided as part of the regulation amendment which will allow for an increase in allowable Building Coverage. However, the Commission believes that open water or lake should not count towards that open space. The Commission hereby modifies subsection 705 Note C accordingly.
9. There is one other DOR-5 Zone in Darien, which is now on Tokeneke Road and comprised of Zotos and one other building. The proposal is to change the subject property from DOR-5 to DOR-1 and to have the zone boundary lines follow the property boundary. State projects on State property don't need to meet local zoning.
10. Among the changes to the Zoning Regulations proposed is to the Background and Purposes in the Regulations to subsection 701 to specifically mention senior living. Another proposed change is to add to Section 703d to allow this use by Special Permit with a reference to Section 627 of the Regulations (DB-2 Zone). There are now two other such facilities in Town: Atria which is in the (SB) Service Business Zone, which is a combination Independent and Assisted Living Facility; and Maplewood in the DB-2 Zone which is Assisted Living and Memory Care. The third proposed change is to Section 705. The applicants propose to change the maximum number of stories, maximum height, and building coverage. Note B will allow for some finished space in the basement. They wish to screen the mechanical units on the roof and thus are asking the maximum building height to be expanded from 28 feet to 35 feet. The Building Coverage in this zone now allows a maximum of twenty percent. Section 706 includes a maximum impervious coverage. The new regulation would require dedicated open space.
11. Another proposed amendment to the Regulations is to Subsection 706a. This will allow the Planning & Zoning Commission to waive the setbacks for any parking facing I-95. The seventh change is relative subsection 706 l relative to building setbacks.
12. In summary, the Zoning Regulation amendments proposed to be amended are the following:
 - a) Modify the definition of Assisted Living Facility in Section 210;
 - b) Modify Subsection 701—Background and Purposes;
 - c) Add a new use in subsection 703d--_Principal Uses Requiring Special Permits
 - d) Modify subsection 705, including adding a Note B and a Note C;
 - e) Modify subsection 706 a; and
 - f) Modify subsection 706 l.
13. The Commission finds that the proposal complies with the Town Plan of Conservation & Development as this fills a housing need within the community and provides housing options.

NOW THEREFORE BE IT RESOLVED that Amendment to Darien Zoning Regulations (COZR #1-2016), is hereby adopted as shown below:

NEW WORDING IN BOLD AND UNDERLINE, DELETIONS IN STRIKEOUT:

SECTION 210. DEFINITIONS

Assisted Living Facility (ALF): A managed residential community consisting of private residential units and providing assistance with activities of daily life such as meal service, laundry service, housekeeping, social and recreational activities, transportation and personal services in a group setting to persons primarily fifty-five (55) years and older who require help or aid with activities of daily living. An ALF may provide nursing-type services, but is not a nursing home or convalescent facility as defined by State of Connecticut Regulations. ~~See also Subsection 667 and the definition of a Private Residential Unit.~~

701. Background and Purposes

This zone is intended to allow the establishment of executive and administrative corporate uses, senior living facilities, and structures in appropriate locations within the Town in keeping with the purposes set forth in these Regulations and in the Town Plan. Given the close proximity of residentially-zoned districts, it is the intention of this zone to achieve the following objectives: protect the environmental character of the land and its particular suitability for this specific use; control against congestion in the streets; preserve property values; provide a balanced system of business development; and preserve the residential character of the community.

703. Principal Uses Requiring Special Permits

The following uses shall be permitted subject to approval of a Special Permit in accordance with Section 1000:

- a. Offices, executive and administrative.
- b. Research and design laboratories, but excluding manufacturing, processing, assembly and packaging of products for sale or distribution.
- c. Educational, philanthropic, cultural and recreational uses serving a community need or convenience.
- d. Assisted Living Facility, Memory Care Facility or combination thereof as defined in Section 627.

705. Area and Bulk Requirements

The following requirements for the DOR-1 and DOR-5 Zones shall be deemed to be the minimum and maximum requirements in every instance of their application. Dimensions are in feet unless otherwise indicated.

<i>DOR-1</i>	<i>DOR-5</i>
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1. Minimum Lot Area	1 acre (43,560 sq.ft.)	5 acres (217,800 sq.ft.)
2. Minimum Lot Width Minimum	150	300
3. Lot Frontage. Minimum Lot	75	100
4. Depth Minimum Front Yard	150	300
5. Minimum Side & Rear Yards	40	100
6. Minimum Setback From Any	35	75
7. Residence Zone		
Maximum Height in Stories	50	100
8. Maximum Height in Feet	2 (See Note B)	2
9. Maximum Building Coverage	28 35	28
10. Off-Street Parking Spaces	20% (See Note C)	15%
11. Maximum Floor Area Ratio	See Note A	See Note A
12.	None	0.15

Note A:

As required in Section 900. However, in approving a plan, the Commission may permit a portion of the required spaces to be developed as landscaped open space if the applicant can demonstrate to the Commission's satisfaction that the additional open space can be used for parking if subsequently needed and where it finds that the lesser number of parking spaces to be developed shall meet the applicant's actual parking needs.

Note B:

In the case of a senior living facility, a portion of the basement may be finished and used for purposes other than storage, parking, or mechanical equipment provided the area of such finished space is less than 10% of the floor area of the story immediately above and the uses are common to the users of the building such as administrative offices, lobbies, and common areas.

Note C:

In order to increase the amount of protected open space in town, the Commission may permit a 1% increase in Maximum Building Coverage for each additional 2% of the property protected as open space. The open space shall be of a size, location, and context to provide conservation value and shall be permanently protected by a legal instrument acceptable to the Commission. Open water/lake shall not count towards such open space. In such cases, Maximum Building Coverage shall not exceed 25%.

706.Special Controls

- a. ~~Landscaping, screening and buffer areas shall be provided in accordance with Section 940.~~ Off-street parking design standards and buffering per Sections 226, 900 et. seq. and 940 et. seq. shall be applicable, except that the Commission may waive or reduce such requirements where it finds that the adjacent land is railroad or Connecticut Turnpike rights-of-way, or that the adjacent land is public land (except streets as defined herein) of the State or of the Town.

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1. In approving any Site Plan, the Commission may permit the specified minimum side and rear yards to be reduced to not less than 2520 feet, where it finds that the adjacent land is railroad or Connecticut Turnpike rights-of-way, or that the adjacent land is public land (except streets as defined herein) of the State or of the Town.

These changes shall take effect on Sunday April 17, 2016 at 12:01 p.m.
This effective date and time will give staff an opportunity to publish this decision in a local newspaper, and file the new official zoning map and regulations with the Town Clerk.

Chairman Cameron then read the following agenda item:

Subdivision Application #615, Flood Damage Prevention Application #189-A, Land Filling & Regrading Application #372, Michael Nikolas, 2 Silver Lakes Drive. Proposal to subdivide the existing property into two building lots, with association construction of single-family residences and associated filling and regrading and to perform related site development activities within a regulated area. *PUBLIC HEARING CLOSED: 2/23/2016. DECISION DEADLINE: 4/28/2016.*

Commission members discussed the draft resolution and made corrections and clarifications that all agreed upon. The following motion was made: That the Planning & Zoning Commission adopt the following resolution to approve the project subject to the conditions and stipulations as noted. The motion was made by Mr. Sini and seconded by Mr. DiDonna. Voting in favor of the motion were Mr. Sini, Mr. DiDonna and Mr. Voigt. Opposed was Ms. Cameron and Mr. Olvany. The motion passed by a vote of 3-2-0. The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
April 5, 2016**

Application Number: Subdivision Application #615
Flood Damage Prevention Application #189-A
Land Filling & Regrading Application #372

Street Address: 2 Silver Lakes Drive
Assessor's Map #37 Lot #15

Name and Address of Applicant &:
Property Owner: Michael Nikolas
2 Silver Lakes Drive
Darien, CT 06820

Name and Address of
Applicant's Representative: Steve McAllister
McChord Engineering
1 Grumman Hill Road
Wilton, CT 06897

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Activity Being Applied For: Proposal to subdivide the existing property into two building lots. During the public hearing, the applicant's representative noted that although the legal notice added the phrase "with association construction of single-family residences and associated filling and regrading and to perform related site development activities within a regulated area.", that they are not requesting permission to actually develop the sites or build the proposed residences at this time.

Subject Property: The subject property is located on the northeast corner formed by the intersection of Silver Lakes Drive and Tokeneke Road.

Zone: R-1/2

Date of Public Hearing: January 26, 2016 continued to February 23, 2016
Deliberations held: March 8, 2016

Time and Place: 8:00 p.m. Room 119 (1/26) Room 206 (2/23) Darien Town Hall

Publication of Hearing Notices

Dates: January 15 & 22, 2016
February 13, 2016
February 19, 2016

Newspaper: Darien News
Stamford Advocate
Darien News

Date of Action: April 5, 2016

Actions:

SUBDIVISION APPLICATION--APPROVED WITH CONDITIONS
FLOOD DAMAGE PREVENTION APPLICATION AND
LAND FILLING & REGRADING APPLICATION -WITHDRAWN

Scheduled Date of Publication of Action: Friday, April 15, 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 the Darien Zoning Regulations and all applicable sections of the Subdivision 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 showing the proposed two lot subdivision, and the testimony contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

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1. At the public hearing, professional engineer Steve McAllister of McChord Engineering explained that the subject property is 1.3 acres in a R-1/2 acre zone. He showed on the submitted plans the existing on-site pond, inland wetlands, and flood zone boundary line. He explained that the proposal is only for the subdivision. At this time they do not propose to fill or regrade the site, nor to actually build the houses. The proposed houses are just shown to the Commission to demonstrate for feasibility for subdivision.
2. Mr. McAllister mentioned that the EPC has approved this subdivision and that the project has been peer reviewed by Tighe & Bond. Mr. Ginsberg then explained the proposal and the fact that the actual development is not the subject of this evening's proposal. Ms. Cameron explained her concern about proposed tree removal and believed that this is an aggressive use for a sensitive property. She noted the presence of the pond and wetlands on the property and mentioned that most of the property is in the flood zone and the proposal is for extensive tree removal. She said that this property seems like it has a sensitive ecosystem. Mr. McAllister said that the proposed footprints shown are about 2,400 square feet each. He explained that there is now an existing non-compliant (from a flood standpoint) residence on the subject property. He believed that the proposal for two houses which comply with the Flood Regulations is an improvement over the existing situation.
3. The Environmental Protection Commission (EPC) approved this subdivision as part of EPC #33-2015 on December 2, 2015. That approval is hereby incorporated by reference. The EPC also sent a memo in its role as Conservation Commission. The Environmental Protection Commission (EPC) approved the subdivision from a regulatory perspective, but as a Conservation Commission, they had many serious concerns, particularly about creating two building lots that will necessitate the construction of two new houses in the Flood Hazard Area.
4. Professional Engineer, Joe Canas of Tighe & Bond, explained that he has been retained by both the Environmental Protection Commission and Planning & Zoning Commission to peer review this application. He said that most of the subject property is in Zone AE which is an area of riverine flooding and has a Base Flood Elevation (BFE) of 41.7. Under Section 825 of the Darien Zoning Regulations, the lowest floor of the proposed residences must be at least one foot above the base flood elevation. The Town has a one foot freeboard standard. Mr. Canas explained that the houses will require flood insurance if there is a mortgage on them. He said that the proposal meets the compensatory conveyance standard.
5. As part of this application, a four foot wide asphalt sidewalk along (generally parallel to) Tokeneke Road was shown on the Subdivision Plan on proposed Lot "2B".

STORMWATER MANAGEMENT

6. The submitted stormwater management plans (Shown on the plan entitled, "Subdivision Plan" and last revised to 1-7-16) prepared by McChord Engineering, showed proposed infiltrators to account for stormwater runoff. The proposed subdivision does comply with the Regulations and the drawings indicate a conceptual drainage plan that will need to be refined as the specific house designs are proposed for each property.

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7. The plans shown to the Commission do not show specific houses to be constructed. Thus, once the applicant or future owner prepares final house plans and submits them for necessary review and action by the Planning and Zoning Commission, an associated stormwater management plan shall be submitted. At that time, the applicant or property owner shall prepare a Drainage Maintenance Plan.
8. During the public hearing, it was noted that the proposed residences shown on the plans are for illustrative purposes only, and that the applicant was not asking for specific approvals for those residences. That aspect of the application has been withdrawn by the applicant.
9. The Commission is concerned about creating any new lots that are entirely in the flood zone. The Commission members discussed this fact during deliberations, and concluded that the subdivision regulations do not preclude such activity when virtually the entire site is in the Flood Hazard Zone. In this case, they believed they would need to approve the application, but believed that an amendment to the Subdivision Regulations could be appropriate in the future because creating building lots that require construction in the flood zone is not a good practice.

NOW THEREFORE BE IT RESOLVED that Subdivision Application #615 is hereby modified and approved subject to the foregoing and following stipulations, modifications and understandings:

- A. The subdivision shall be in accordance with the following plan submitted to and reviewed by the Commission, as required to be modified herein:
 - Preliminary 2 Lot Resubdivision Map of Lot 2 Subdivision Map for Antonio DiSilvestri #2 Silver Lakes Drive prepared for Michael Nikolas by Arcamone Land Surveyors, LLC, dated July 14, 2015.Although not approved by the Commission, the applicant also did submit the following plans in support of the application, which assisted in demonstrating that the subdivision is feasible:
 - Environmental Planting Plan, 2 Lot Subdivision 2 Silver Lake Drive, by Environmental Land Solutions, LLC, scale 1"=20', Drawing No. EP-1.
 - Plan Prepared for Michael Nikolas Subdivision Plan 2 Silver Lakes Drive, by McChord Engineering Associates, Inc., scale 1"=20', Drawing No. SE1.
- B. All utilities serving these properties shall be underground. These include, but are not limited to, electrical, telephone, cable TV, and all other wiring from the existing poles in the street right of way, to any new structures.
- C. Since there is no new road construction and no extension of public utility facilities, the Commission waives the requirement for submission of a Performance Bond.
- D. In accordance with Article IV Section C of the Darien Subdivision Regulations, there is no requirement to provide open space as part of this two lot subdivision.
- E. A key component to this subdivision was the inclusion of a four foot wide asphalt sidewalk along (generally parallel to) Tokeneke Road. That was on the Subdivision Plan on proposed Lot "2B". The Commission hereby requires that a Note be added to the subdivision map mylar as follows: "The sidewalk as shown on the plan entitled, "Preliminary 2 Lot Resubdivision Map of

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Lot 2 Subdivision Map for Antonio DiSilvestri #2 Silver Lakes Drive prepared for Michael Nikolas by Arcamone Land Surveyors, LLC, dated July 14, 2015, shall be installed prior to the issuance of a Temporary or Permanent Certificate of Occupancy for a residence on either lot.” A note to that effect shall be added to the map to be filed in the Darien Land Records so that the owner(s) of each lot are aware of the requirement.

- F. In preparing the final mylar, lot numbers and street addresses shall be verified with the Assessor. Those should be included on the final mylar for filing.
- G. Prior to the submittal of a subsequent Flood Damage Prevention Application and Land Filling & Regrading Application (if necessary) for each of the proposed residences, a detailed and site specific drainage plan to accommodate the storm water for the proposed development of the parcel shall be submitted for staff review and action. In addition, a Drainage Maintenance Plan shall be submitted. The maintenance plan shall require the property owner and all subsequent property owners of each lot to maintain the drainage facilities per the maintenance plan.
- H. A sediment and erosion control plan was submitted for the record (on the Subdivision Plan). The Commission notes that this may need to be modified for the subsequent application, since at this time, the exact house footprint locations are unknown. As part of any subsequent application, the applicant shall submit a detailed sediment and erosion control plan (which shall include at a minimum, anti-tracking pads and applicable stockpile areas on-site).
- I. This approval of this subdivision does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency. The Planning and Zoning Commission notes that prior to demolition of the existing residence, approval from the Health Department will be needed to abandon the existing septic system. A Demolition Permit for the existing house will need to be obtained from the Building Department. Sewer Connection Permit and Street Opening Permits will be needed from the Department of Public Works/Sewer Services for the new houses. All Street Openings (driveway curb cuts) shall comply fully with DPW Residential Driveway Specifications.
- J. 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 approval as it deems appropriate.
- K. Because the existing residence straddles the proposed new lot line, the applicant or property owner must obtain a Demolition Permit and raze (completely remove) the existing house prior to the signing of the mylar, and the filing that mylar map in the Darien Land Records. Because that demolition or moving of the house could take some period of time, the Commission hereby authorizes the applicant up to six months from the date of this action (until October 5, 2016) to demolish or move the house, and file the subdivision map in the Darien Land Records or this approval shall become null and void.
- L. Since the subdivision has now been approved, the applicant or property owner(s) must re-apply to the Commission with specific building and site development plans for each lot before any construction or site development occurs.

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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 [the final revised mylar showing lot number(s) and street address(es)] and the note regarding the sidewalk, shall be submitted to the Planning and Zoning Department for review and signature.

The associated Flood Damage Prevention Application #189-A and Land Filling & Regrading Application #372 aspects of this application are withdrawn, since the applicant has noted that the specific house designs are not part of this application.

Chairman Cameron then read the following agenda item:

Approval of Minutes

March 8, 2016 General Meeting

Commission members discussed the draft minutes and agreed upon several corrections and clarifications on pages 6 and 8. The following motion was made: That the revised minutes be adopted. The motion was made by Mr. Sini, seconded by Mr. Voigt and unanimously approved.

There being no further business, the following motion was made: That the Commission adjourn the meeting. The motion was made by Mr. DiDonna, seconded by Mr. Voigt and unanimously approved. The meeting was adjourned at 10:50 P.M.

Respectfully submitted,

David J. Keating
Planning & Zoning Assistant Director

04.05.2016min