

**PLANNING AND ZONING COMMISSION
MINUTES
SPECIAL MEETING / PUBLIC HEARING / GENERAL MEETING
JUNE 21, 2016**

Place: Auditorium

TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Olvany, Cunningham, DiDonna, Sini, Jr., Voigt (arrived at 8:10 p.m.)

STAFF ATTENDING: Ginsberg
RECORDER: Syat
Channel 79

Vice-Chairman Olvany opened the meeting at 8 P.M. and read the first agenda item:

PUBLIC HEARING

Continuation of Proposed Amendments to the Darien Zoning Map (COZM #3-2016) and Proposed Amendments to Darien Zoning Regulations (COZR #7-2016) put forth by Baywater Corbin Partners, LLC. Proposal to amend the Darien Zoning Map to create a new Corbin Subarea within the Central Business District (CBD). The proposed zoning regulation amendments would provide for larger, mixed use developments in the subarea. The regulation amendments would also allow for: redevelopment in the Corbin Subarea by Special Permit; a minimum building height of two stories and 25 feet, and a maximum building height of six stories and 95 feet if the building meets certain setbacks; 9' x 18' parking spaces, rather than the 9' x 20' parking spaces allowed elsewhere in Darien, and would require that Building Height be calculated differently in this zone than elsewhere in Darien. It would also require that public plaza space be provided, and sets out criteria and required features for such public plazas.

It was noted that the public hearing was opened on May 17, 2016 and continued to tonight.

Attorney Robert F. Maslan, Jr. was present on behalf of the applicant. He said that he has distributed to the Commission earlier tonight a June 21, 2016 six page letter which responds to comments and concerns raised at the last public hearing and since that time. David Genovese of Baywater Properties then presented slides which were shown at the last public hearing. These slides show his work in Darien through the years. He noted that there has been a large public interest in this project. Mr. Genovese explained that there are two levels of underground parking proposed as part of this project with some parking at grade. They are proposing a "village" of buildings. He showed the proposed buildings with their various heights throughout the property as proposed. He confirmed that the proposed number of condominiums is 66, and those will be on upper floors.

Mr. Genovese then reviewed with the Commission building heights which have been slightly reduced from the original proposal based on feedback received thus far. Mr. Sini then asked what is the total height of 745 Boston Post Road which was built by Mr. Genovese a few years ago? Mr. Genovese responded that the first floor of that building is 11 feet, 2 inches and the second and third floors are 11 feet, 6 inches. They are asking for 12 feet floor to floor for this project. The idea is to

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / PUBLIC HEARING / GENERAL MEETING
JUNE 21, 2016
PAGE 2 OF 16

sell the condominiums. Mr. Genovese said for 1020 Boston Post Road, the slab to slab dimensions were given and that is 35 feet.

Mr. Genovese then showed slides of the existing and proposed of the Corbin block before and after the proposed development. He said that they have tried to achieve architectural variety and he outlined some of the benefits of the project. One of the benefits would be “critical mass”. Additional office and housing units proposed will support the restaurants which will be included as part of the project. He said that there will be no real impact on Town services and that there will be a large tax revenue increase annually.

At about 8:45 P.M., Mr. Genovese added that the project will improve property values throughout Darien. He acknowledged that this is a complicated request for the Commission, but noted that the Darien Zoning Regulations are outdated and do not reflect current thinking of the community. The project will certainly be more pedestrian friendly than the existing conditions. Mr. Genovese said that the Nelson Nygard Study recently completed by the Town as well as the 2016 Town Plan of Conservation & Development both recommend 9’ x 18’ parking space sizes. Mr. Olvany noted his concerns with parking garages.

Mr. Sini said that there has been some acknowledgement that the Town wishes to compete with the downtown in New Canaan, however the downtown in New Canaan now only allows three stories maximum. Mr. Genovese responded that there have been no new buildings built on Elm Street in New Canaan in many years. There is now a pending proposal for four stories in New Canaan. He said that part of the goal of this project is to block I-95. They are proposing underground parking which is very expensive. They are also including as part of this project a large public plaza which does not exist in New Canaan. Mr. Genovese believed that an above-ground parking garage is not consistent with Darien’s character. Mr. Genovese explained that this is an economic thing. Mr. Sini asked if Mr. Genovese can provide the Commission with various variables if the Commission were to approve less stories. Mr. Genovese added that the 6 story building height is only a small part of this project in terms of roof area, and that is “high value real estate”. Mr. Genovese noted that as part of the various traffic improvements, they will be eliminating the perpendicular parking which now exists adjacent to Boston Post Road; creating better access into the site; and they will have to prove to the Commission that all the traffic will work as part of the site plan application.

Mr. Olvany then asked Mr. Ginsberg to outline the various regulations and map amendments which are being proposed this evening so the audience could be better award of the request. Mr. Genovese then submitted letters of support.

Mr. Ginsberg said that the changes that the applicant proposes are as follows:

- 1) The establishment of a new subzone within the CBD Zone;
- 2) Changes in the Background and purposes of the Regulations
- 3) Establishment of new Area and Bulk standards for the Subzone, including but not limited to:
 - a) Minimum building heights of 2 stories 25 feet, and a maximum building height of 6 stories 95 feet;
 - b) A new method for calculating building height, which is different than the rest of Darien;
 - c) Specifically allowing certain features such as flagpoles, chimneys, cupolas, and mechanical equipment to not count towards building height.

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / PUBLIC HEARING / GENERAL MEETING
JUNE 21, 2016
PAGE 3 OF 16

- 4) Require a public plaza of at least 5% of the lot being redeveloped, and requiring certain features within said plaza;
- 5) Allow office tenants to have reserved parking, and requiring a parking study and parking management plan.
- 6) Allow for smaller parking spaces within the Subzone—allowing 9' x 18' spaces instead of the 9' x 20' spaces required elsewhere in Town;
- 7) Allow for the required inclusionary affordable units to count double if they are deed restricted based on age or disability.

The Commission must determine that the proposed amendments are consistent with the Town Plan of Conservation & Development.

Mr. Olvany asked whether the proposal has been amended by Mr. Genovese down from the original 95 feet building height down to 85 feet. Mr. Maslan explained that the Planning & Zoning Commission is entitled to modify the applicant's proposal as they see fit.

At about 8:45 P.M., Mr. Olvany then opened up the meeting to members of the general public. He reiterated that all e-mails submitted to the Commission have been read and the public does not need to re-read emails which have already been submitted.

Mr. John Vaccaro of 48 Rings End Road explained that "Live Work Play" is now the current thinking in planning circles. He then spoke about other parts of the country such as San Francisco and New Rochelle. Mr. Olvany asked Mr. Vaccaro and other speakers to speak directly to the issues of the zoning map and Zoning Regulation amendments. Mr. John Kracke said that he had concerns about the funding of any affordable housing proposed as part of this project. Ms. Erica Jensen explained that she owns The Helen Ainson Shop on Boston Post Road which is now within the Corbin block. She said that the proposal will draw shoppers and be good for the Town. This will bring excitement to the community. She explained that Mr. Genovese is subsidizing some of the commercial rents with the development on the upper floors. She said that aesthetically, the underground parking is good as it needs to be easily accessible and sufficient for shoppers.

At about 9:00 P.M., Mr. Paul Darrah of 11 Peabody Lane then spoke. He said that 1020 Boston Post Road, constructed by Baywater Properties, was transformative for the community. He believed that the scale being proposed as part of this project is appropriate for the Town. He believed that this is a "game changer" for the Town of Darien. Mr. Walter Casey of Webster Valley Road questioned the scope and degree of change being proposed. He believed that this could set a precedent for the community. He said that, in his opinion, this project risks changing the character of Darien. He questioned whether, with all the existing commercial vacancies, it makes sense to add more retail in the Town of Darien. He noted that this project will define Darien for the future. Mr. Al Tibbetts, who works at 43 Corbin Drive, explained that he works about 48½ feet from the proposed development. He said that he will have to work through the construction being right outside his window, but generally supports the project. Mr. David Hawes who is a real estate broker in Town, explained that people now want elevated, multi-storied buildings. He believed that the project is close to transportation and good for the community. Mr. Olvany noted that condominiums are generally accepted by the market now, and Mr. Hawes agreed.

Ms. Marilyn VanSciver, a Town resident, said that she cannot imagine a six-story building in Darien. She said that this disturbs her as she has lived in Town for 71 years. Ms. Kitty Wynne of

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / PUBLIC HEARING / GENERAL MEETING
JUNE 21, 2016
PAGE 4 OF 16

10 Queen's Lane said that she loves the underground parking. Mr. Rob Young of Hillside Avenue said that this should be done for the rest of Town. He believed that this is a spot zone and thus should not be only for this development. He said that he would like to see alternate transportation being developed in Darien. Ms. Ingrid Hess of 86 Raymond Street explained that she is a realtor in Town. She said that life is about change and she is all for the changes proposed by Baywater Properties. She said that Darien residents will get used to this change. Ms. Bonnie Frate Dora said that she has lived in Town for many years and supports the project.

Mr. Olvany said that the changes being proposed tonight are for the subject properties, not for a specific person or developer. Any changes the Commission makes will have to run with the land. He noted recent other instances in Town where property was re-zoned and a different builder is proceeding with development. Mr. Patrick Robinson of Nearwater Lane said that he is a commercial real estate professional. He said that the proposed parking is a benefit to the Town. He agreed that the sixth story will help block I-95. He said that there is a need to give potential upper floor condominium buyers good views.

Ms. Susan Cator commented on the proposal from three perspectives. These are her perspectives as a Town resident, as a business owner, and as the Director of the Darien Chamber of Commerce. She said that she supports the project. Ms. Suzanne Papsun of 127 West Avenue asked whether the proposed underground parking garage will be divided up. She had been concerned about potential parking being used by commuters. Mr. Ginsberg explained that this would be a privately owned garage and that enforcement of parking would be up to the private property owner. Mr. Clifford DeForest of 14 Red Cedar Lane said that he has lived in Town for many years. He believed that the proposal would be good for the Town of Darien. Mr. Bill Jensen explained that he now runs The Darien Toy Box shop within the Corbin block. He believed that cutting the parking spaces and size would be okay. He confirmed that only a small percentage of the proposed project would be six stories in height. He believed that this sixth story part would not be seen.

Ms. Cindy Hampton of 192 Old Kings Highway South then spoke. She said that she loves the project concept, but believed that six stories is a lot. She emphasized that living on Old King's Highway South is a problem. She noted that, in her opinion, 745 Boston Post Road is a very tall building – it is about 3½ stories tall. She said that the height of this proposed building is her biggest concern. She also had concern about the water table relative to the proposed underground parking. She asked that the Commission keep Darien's small town appeal. Mr. Reese Hutchison of Hecker Avenue explained that he is both a realtor and a downtown property owner. He said that he is excited about the project, but torn about the way it will change the community. He agreed that the community needs extra residential units in its downtown.

Mr. Gary Brewer, the architect for the project, then responded to some of the comments received this evening. He said that the buildings proposed for the Boston Post Road match those now in Town and are in scale with others along Boston Post Road in downtown Darien. It is only those buildings off Boston Post Road which are taller. Mr. Sini asked Mr. Brewer of an example of building heights of communities which are suburbs such as the Town of Darien. Mr. Olvany asked for the view from the back of the project. Mr. Brewer responded that the sixth floor of the project is very important for architectural composition. Mr. Cunningham also asked for other views of the project, especially from Old King's Highway South and one view from the west, saved from 599 Boston Post Road, another view from the library at 1441 Boston Post Road looking eastward.

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / PUBLIC HEARING / GENERAL MEETING
JUNE 21, 2016
PAGE 5 OF 16

Mr. John Ruddy of 63 Old King's Highway South then spoke. He believed that there is no downside to the sixth story building and said that he is all for the project. Ms. Papsun who spoke earlier in the evening said that the Commission should obtain other potential views of the project which should also prove interesting. Mr. Maslan emphasized that the proposed regulations he has put forth require a comprehensive parking study and a parking maintenance plan. Mr. Sini asked that when the applicant returns in July that they cover the issue of why this can't be an overlay zone and should be a sub-area. Due to additional information needed, it was agreed to continue the public hearing on this matter to Tuesday, July 12, 2016 at 8:00 P.M. in the Auditorium of Town Hall. Mr. Maslan agreed to an extension of time to that date.

At about 10:10 P.M., the meeting was recessed for five minutes to allow the crowd to disperse. The meeting was then begun again at 10:15 p.m. and Vice-Chairman Olvany read the following agenda item:

GENERAL MEETING

Discussion and deliberations and possible decisions regarding the following:

Site Plan Application #291/Special Permit, Land Filling & Regrading Application #378, Darien Housing Authority, 719 Boston Post Road. Proposal to raze the residential structures on the property and construct 55 units of multi-family housing with associated parking and stormwater management and perform related site development activities. *PUBLIC HEARING CLOSED ON 4/26/2016. DECISION DEADLINE: 6/30/2016.*

Mr. Ginsberg explained that a revised draft Resolution had been prepared in response to comments received by Mr. Sini and comments that Mr. Ginsberg has included. He then covered issues in Condition B which were put forth by Olive Hauser and commented upon by Todd McClutchy during the public hearing process. There were many comments from Commission members regarding the draft Resolution including Mr. Olvany and Mr. Voigt. Mr. DiDonna also had a question about the proposed 25 foot buffer and how that is being addressed in the Resolution. In his opinion, it was important to preserve that buffer to the greatest extent possible in deference to the neighbors. After some discussion, it was agreed that Mr. Ginsberg should prepare a revised draft Resolution for consideration at the Commission's meeting next week.

Vice-Chairman Olvany then read the following agenda item:

Business Site Plan #146-D/Special Permit, Lithos, 319 Boston Post Road. Proposal to establish outdoor dining in front of the restaurant. *PUBLIC HEARING CLOSED ON 5/5/2016.*

Mr. Cunningham said he would be recusing himself on this matter since he was not at the public hearing. Mr. Sini has also recused himself on this matter. Thus, of three remaining members, Mr. Olvany, Mr. Voigt and Mr. DiDonna deliberated.

Mr. Ginsberg outlined the draft Resolution and some of the issues and concerns presented during the public hearing and how they were addresses in the Resolution. Mr. Voigt had some changes to pages 2 and 3 and Paragraphs A, C, G and D. Mr. Di Donna had a comment about Paragraph E. Some discussion ensued as to how long the approval would be good for, whether it would extend

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / PUBLIC HEARING / GENERAL MEETING
JUNE 21, 2016
PAGE 6 OF 16

into 2018 or the Commission would only allow the outdoor dining to be used until the end of 2017. After some discussion, it was agreed that the end of 2017 would be appropriate.

Mr. DiDonna made a motion to approve the draft Resolution as amended this evening. Mr. Voigt seconded that motion which was approved by a vote of 3 to 0 with Mr. Sini and Mr. Cunningham abstaining. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 21, 2016**

Application Number: Business Site Plan #146-D/Special Permit
Lithos

Street Address: 319 Boston Post Road
Assessor's Map #13 Lot(s) # 1 and #2

Name and Address of Applicant: Ted Giapoutzis
And Applicant's Representative: 319 Boston Post Road
Darien, CT 06820

Name and Address of Property Owner: BDQ LLC
42-08 Bell Boulevard
Bayside, NY 11361

Activity Being Applied For: Proposal to establish outdoor dining in front of the Lithos restaurant, at 319 Boston Post Road.

Property Location: The subject property is located on the north side of Boston Post Road, at the northeast corner formed by the intersection of Birch Road and Boston Post Road.

Zone: SB-E & R-1/2

Date of Public Hearing: May 3, 2016 immediately continued to May 5, 2016
Deliberations held on: May 10, 2016

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

Publication of Hearing Notices
Dates: April 22 & 29, 2016 Newspaper: Darien News

Date of Action: June 21, 2016 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action: July 1, 2016 Newspaper: Darien News

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / PUBLIC HEARING / GENERAL MEETING
JUNE 21, 2016
PAGE 7 OF 16

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

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

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

1. The application is to establish outdoor dining with seating for up to sixteen, in front of the Lithos restaurant at 319 Boston Post Road. At the public hearing it was noted that there were prior applications for outdoor dining at this site, some of which were withdrawn, none of which were approved.
2. The subject property is split-zoned. The area within 150 feet of the Boston Post Road is zoned Service Business East (SB-E), and the remainder of the property is zoned Residential ½ acre (R-1/2). The lots to the north (the rear) of this property are zoned R-1/2. This includes lots on both Birch Road and Point O' Woods Road South which have existing single family residences on them, and are located on properties directly adjacent to this subject property.
3. Section 671 of the Darien Zoning Regulations includes the Background and Purposes of the Service Business East Zone (SB-E). It reads as follows:
"This zone is located on the north and south sides of the Boston Post Road between Birch Road and the Norwalk municipal line and is intended to provide for certain types of business uses which serve a community need or convenience requiring external storage or activity or are automobile-oriented. It is the intention of these Regulations to protect and preserve this SB-E Zone for the continued provision of such services in a manner which will not be detrimental to the surrounding residential area... The specific design standards incorporated into this zone are needed due to the unique location of this district which adjoins residential areas and due to existing and projected traffic conditions on this section of the Boston Post Road."
This section clearly states that the business uses shall not be detrimental to the surrounding residential area. It also notes the unique location of the district adjacent to residential zones, and traffic conditions, both of which are issues to be considered.

REQUEST TO INSTALL OUTDOOR DINING ON A PROPOSED TERRACE

4. At the public hearing, Ted Giapoutzis, the applicant, said that they are requesting a modification of the Special Permit to allow a terrace on the front right hand side of the building. The terrace would allow outside dining. No music would be outside. The outside terrace area would be strictly for dining, not for entertainment or a bar. Mr. Giapoutzis said that as part of this

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / PUBLIC HEARING / GENERAL MEETING
JUNE 21, 2016
PAGE 8 OF 16

application, he also wants to supplement the landscaping along Birch Road.

5. It was noted that the previous operator of the restaurant at this site, Anthony's Coal Fired Pizza, had proposed increasing the number of parking spaces, enhancing the landscaping along Birch Road and creating a terrace for outdoor dining. As part of that previous application, additional on-site parking was proposed along with the outside terrace.
6. Mr. Giapoutzis said that Lithos is not a sports bar type of restaurant like Anthony's Coal Fired Pizza. He noted that many of the employees of Lithos park at the Darien Diner, located on the property immediately to the east. Mr. Giapoutzis also operates the Darien Diner.
7. The Zoning Regulations do allow the Commission to approve up to 16 outside seats without mandating additional on-site parking spaces. Mr. Giapoutzis said that there would be a maximum 16 seats and whether there would be 6 or 7 or 8 tables would depend on the customer preference, but at no time would there be more than 16 seats on the outdoor terrace.
8. Mr. Giapoutzis said that he will be proposing an awning and it needs to go to the Architectural Review Board. Mr. Giapoutzis said that the awning will help control the noise and will also help to satisfy the concerns of the Darien Health Department. In response to questions, he said that the wall surrounding the terrace would be made of stone and would not be concrete block. The Fire Marshal noted the need for emergency exit through the proposed wall, and that exit has been shown on the "Outdoor Seating Plan".

CONCERNS FROM NEIGHBORS

9. At the public hearing, a number of neighbors voiced their concerns with the proposed outdoor dining. These residents, who live at nearby residential properties, spoke at the public hearing and sent in letters opposing the establishment of outdoor dining. These concerns included issues regarding potential noise, potential visual impacts, and parking and traffic circulation. At the public hearing, neighbors said that this is the fifth time that a terrace had been proposed at restaurants in this location. Some previous applications had been withdrawn and others had been denied. The neighbors have opposed past applications due to the parking demand. They explained that having more seats will result in more customers at the site and will require more on-site parking. In the past, parking of vehicles has occurred on the grass beyond the allowed parking lot, but this has ceased.
10. The presence of an adjacent residential zone, and adjacent single-family residences directly behind and adjacent to Lithos clearly distinguishes it from other restaurants in Town. These factors are major differences between other restaurants and Lithos and are extremely significant.
11. At the public hearing, there was some discussion about a landscaping plan. Mr. Giapoutzis showed the Site Plan, which includes a dozen arborvitae to be installed as part of this proposal.
12. Commission members believe that the exterior patio would be acceptable for this type of restaurant in this particular location provided there is no music or significant noise generated from the outside dining facility, and that potential parking impacts are addressed.

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / PUBLIC HEARING / GENERAL MEETING
JUNE 21, 2016
PAGE 9 OF 16

13. The Commission has considered all evidence offered at the public hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
14. The nature of the proposed use is such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or impair the value thereof.
15. The site plan has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
16. The location and size of the use conforms to the requirements of Section 1005 (a-g) and will not adversely affect public health, safety and welfare.

NOW THEREFORE BE IT RESOLVED that Business Site Plan #146-D/Special Permit are hereby approved with conditions subject to the foregoing and following stipulations, modifications and understandings:

- A. The outdoor dining and landscaping shall be in accordance with the following plans, as required to be modified herein:
 - Restaurant 319 Boston Post Road, by Deraffele Mfg., Outdoor Seating Plan, 3-26-16, 11” x 17”.
 - Site Plan, B.D. q. LLC Property Owner, dated 7-15-11, Sheet S1.0.This Site Plan shows the proposed location of the arborvitae described by the applicant at the public hearing. It shall only be used for that purpose.
The applicant noted that there might be a 30 inch high stone wall to separate the patio from the parking area/driveway and there might be an awning to cover some or all of the patio, but no other side walls or enclosure is permitted because it would constitute creation of indoor seating. Details of both the wall and awning need to be submitted by the applicant to the ARB, who will review them on behalf of the Planning and Zoning Commission.
- B. As presented by the applicant at the public hearing, the Commission requires that:
 - a. No music (either live or through speakers or other devices) would be outside.
 - b. The outside terrace area would be strictly for dining, not for entertainment or a bar.
- C. Due to the concerns of the neighbors voiced at the public hearing, the Commission is approving the outdoor dining, with the applicant to return to the Commission prior to the use of any outdoor tables and chairs on or after January 1, 2018. This will allow the Commission to weigh the various factors considered herein, and ensure that those are still present. It would address potential concerns on the neighborhood in case the type of restaurant changes.
- D. The landscaping to be added along Birch Road as represented by the applicant and shown on the Site Plan is an integral part of this approval, and is required to be installed prior to the use of any outdoor dining. This is for twelve arborvitae, each to be at least six (6) foot high, as shown on the Site Plan. The landscaping shall be installed per the approved Site Plan listed in Condition A above, prior to the issuance of a Certificate of Zoning Compliance for the new outdoor dining area.

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / PUBLIC HEARING / GENERAL MEETING
JUNE 21, 2016
PAGE 10 OF 16

- E. There is no formal written shared parking agreement with a nearby property as part of this application. The Commission understands that the same person operates both Lithos, and Darien Diner, the restaurant on the immediately adjacent property to the east. The applicant has encouraged employees to park on the Lithos property during the Diner's busy hours, and vice-versa. This practice allows the most customer parking to be available during the daytime at the Diner and in the evening at Lithos. That fact is an essential aspect of this application, and gives the Commission an assurance that the extra outdoor seating will have sufficient parking on the adjacent property so as to avoid any possible parking on Birch Road or Boston Post Road.
- F. The Commission strongly urges the property owner/applicant to continue to pursue a more formal shared parking arrangement, which will be required upon the changing of the operator. This will allow on-site parking spaces now used by restaurant staff to be freed up for customers.
- G. A final as-built drawing and photographs shall be submitted confirming that the entire project, including the landscaping, and other site development features have been properly completed per the approved plans, as noted in Condition A, above.
- H. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- I. The granting of this Site Plan and Special Permit approval does not relieve the Applicant of responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agencies. This includes review of the awning and wall by the Architectural Review Board, and any necessary reviews by the Darien Health Department, and possibly a Zoning and Building Permit for associated construction work.
- J. This permit shall be subject to the provisions of Sections 1009 and 1028 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (July 1, 2017). This may be extended as per Sections 1009 and 1028

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these stipulations, the signing of the final approved plans by the Chairman. All completed requirements and materials, including, but not limited to the filing of the Special Permit form in the Darien Land Records, shall be submitted to the Planning and Zoning Department within 60 days of this action.

At about 11:10 p.m., the Commission then discussed the High School Darien Athletic Foundation.

Amendments to the Darien Zoning Regulations put forth by Darien Board of Education (COZR #8-2016), Flood Damage Prevention Application #354, Land Filling & Regrading Application #53-E/Site Plan, Darien High School, 80 High School Lane. The applicant proposes to install a new turf field system for the Stadium East field over a larger footprint than previously proposed; and construct a paved turnaround at the end of a parking area; and perform related site

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / PUBLIC HEARING / GENERAL MEETING
JUNE 21, 2016
PAGE 11 OF 16

development activities within a regulated area. *PART OF THIS REQUEST, THE ZONING REGULATION AMENDMENT ASPECT OF THIS APPLICATION, HAS BEEN WITHDRAWN.*

Mr. Cunningham said he has read the draft Resolution and had no comments. Mr. Voigt had some minor typographical comments to the Resolution. Mr. Voigt then made a motion to adopt the Resolution as amended this evening. That motion was seconded by Mr. DiDonna and approved by a vote of 5 to 0. The Adopted Resolution reads as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
June 21, 2016**

Application Number: Amendments to the Darien Zoning Regulations
put forth by Darien Board of Education (COZR #8-2016)
Flood Damage Prevention Application #354
Land Filling & Regrading Application #53-E/Site Plan

Street Address: 80 High School Lane
Assessor's Map #9 Lots #80, #81

Name and Address of Applicant: Jennifer Montanaro
Darien Athletic Foundation
c/o 17 Old King's Highway South
Darien, CT 06820

Name and Address of Property Owner: Darien Public Schools
35 Leroy Avenue
Darien, CT 06820

Name and Address of Applicant's Representative: Joe Canas, PE
Tighe & Bond, Inc.
1000 Bridgeport Avenue
Shelton, CT 06484

Activity Being Applied for: The applicant proposes to install a new turf field system for the Stadium East field over a larger footprint than previously proposed; and construct a paved turnaround at the end of a parking area; and perform related site development activities within a regulated area. The Regulation amendment proposal was to modify Section 586 of the Regulations to allow temporary processing of excavated earth materials on Town owned properties (this aspect of the application was withdrawn prior to the opening of the public hearing on May 24, 2016).

Property Location: The subject property is located on the north side of High School Lane approximately 1,100 feet west of its intersection with Middlesex Road.

Zone: R-2

Date of Public Hearing: May 24, 2016

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / PUBLIC HEARING / GENERAL MEETING
JUNE 21, 2016
PAGE 12 OF 16

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

Publication of Hearing Notices

Dates: May 13 & 20, 2016

Newspaper: Darien News

Date of Action: June 21, 2016

Actions:

Amendments to the Darien Zoning Regulations (COZR #8-2016)--WITHDRAWN

Flood Damage Prevention Application #354, Land Filling & Regrading Application #53-E/Site Plan—
APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action:
July 1, 2016

Newspaper: Darien News

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

- the proposed activities must comply with all provisions of Sections 400, 820, 850, 1000 and 1020 of the Darien Zoning Regulations for the Commission to approve this project.
- the size, nature, and intensity of the proposed activities are described in detail in the application materials, and the statements of the applicant's professional engineer whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. The application as originally submitted, consisted of two parts:
 - a) to modify Section 856 of the Zoning Regulations to allow temporary processing of excavated earth materials on Town owned properties;
 - b) to install a new turf field system for the Stadium East field over a larger footprint than previously proposed; and construct a paved turnaround at the end of a parking area; and perform related site development activities within a regulated area.

ZONING REGULATION AMENDMENT REQUEST

2. A letter from applicant's representative Joe Canas dated April 22, 2016 officially withdrew the request for a zoning regulation amendment to modify Section 856 of the Regulations. The remaining portions of the application were unaffected.

**FLOOD DAMAGE PREVENTION APPLICATION AND
LAND FILLING & REGRADING APPLICATION #53-E/SITE PLAN**

3. At the public hearing, professional engineer Joe Canas explained that the application is to install a new turf field system for the Stadium East field over a larger footprint than previously

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / PUBLIC HEARING / GENERAL MEETING
JUNE 21, 2016
PAGE 13 OF 16

proposed; and construct a paved turnaround at the end of a parking area; and perform related site development activities within a regulated area.

4. It is noted that a prior application was approved by the Commission relative to new artificial turf in this area of the High School property. This application is to expand the turf southward and eastward. Part of the proposed work is within the flood zone. There was no evidence presented that this proposal would change activities or use at the high school. The application would transform a field into a full-length multi-purpose field, but would not create a new field.
5. A March 21, 2016 two-page letter from Joe Canas to Rich Jacobson regarding “Darien High School Turf Infill Materials” outlined past details regarding the turf field materials at the high school. That letter notes that “...the DAF is willing to consider the use of cork composite infill as part of its donation of the construction of Stadium East field...”. The Planning and Zoning Commission hereby requires that use of cork composite infill.
6. The Darien Environmental Protection Commission (EPC) approved this project on May 4, 2016 as part of EPC #9-2016. That approval is hereby incorporated by reference.
7. Both the Environmental Protection Commission and Planning and Zoning Commission hired Redniss & Mead to conduct a peer review of the flood damage prevention and filling/regrading aspects of the application. Relative to the Planning and Zoning Commission record, professional engineer Craig Flaherty sent a letter dated March 18, 2016, and an e-mail dated April 4, 2016. He also testified at the May 24, 2016 public hearing on this matter.
8. The Fire Marshal sent in a comment asking whether the turnaround can be made with a larger radius for larger vehicles. At the public hearing, Mr. Canas confirmed that the proposed turn around can be made larger. The Commission finds that the expansion of the turnaround will assist in traffic flow, public safety, and greatly improve access for emergency vehicles.
9. The location and nature of the proposed activities are such that the project will not hinder or discourage the appropriate development and use of adjacent land and buildings, or materially impair the value thereof.
10. The Commission is satisfied that proper provision has been made to control: ground stability, including the prevention of soil erosion and earth slides; storm water runoff; pollution, siltation, stream erosion; flying dust and erosion by wind; conservation of the fertility of existing topsoil; and the preservation of significant trees, vegetation and other natural resources.
11. The Commission has considered all evidence offered at the Public Hearing regarding the character and extent of the proposed activities, the land involved, the possible effects of the activities on the subject property and on the surrounding areas, and the suitability of such actions to the area for which it is proposed.
12. The elements of the Site Plan as revised accomplish the objectives for Site Plan approval as specified in subsections 1024-1025 of the Darien Zoning Regulations.

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / PUBLIC HEARING / GENERAL MEETING
JUNE 21, 2016
PAGE 14 OF 16

13. The design, location, and specific details of the proposed grading, excavation and earth removal activities will not adversely affect safety in the streets nor increase traffic congestion in the area, nor will they interfere with the patterns of highway circulation in such a manner as to create or augment unsafe traffic conditions between adjoining developments and the district as a whole.
14. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Flood Damage Prevention Application #354 and Land Filling & Regrading Application #53-E/Site Plan are hereby approved with the foregoing and following stipulations, modifications and understandings:

A. All work shall be in accordance with the following plans submitted to and reviewed by the Planning & Zoning Commission, as required to be revised herein:

- Darien Athletic Foundation Darien High School Stadium East Modifications February 19, 2016, by Tighe & Bond, Sheets C3.20, C4.20, C5.20, C6.20, C7.20, C7.40, C7.50, C8.00, C8.10, C8.20, C8.30, C8.40. (the “large plans”).
- Turf Field Edge and Liner at Retaining Wall, Stadium East Revisions, by Tighe & Bond, dated 05/25/2016 (the 8-1/2” x 11” plan submitted at the 5-24-2016 public hearing).

The Commission hereby requires that the plans be revised to reflect a turnaround at least two (2) feet larger in radius. The Turf Field Edge and Liner at Retaining Wall Plan shall also be incorporated into the “large plans”.

All plan sheets showing this turnaround and the Turf Field Edge and Liner at Retaining Wall shall be revised and include a new revision date. These revised and coordinated plans shall be submitted to the Planning and Zoning office prior to commencing any work on the turnaround.

B. Due to the nature of the project, the Planning and Zoning Commission will not require a Performance Bond.

C. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the plans and any additional measures as may be necessary due to site conditions, including tree protection. Those sediment and erosion controls shall be installed to minimize any adverse impacts during the construction and until the area has been revegetated or restabilized. The Planning and Zoning Department shall be notified prior to commencement of work and after the sedimentation and erosion controls are in place. The staff will inspect the erosion controls to make sure that they are sufficient and are as per the approved plans, and as needed by site conditions. All erosion control measures must be maintained until the disturbed areas are stabilized.

D. The applicant/property owner shall have the continuing obligation to make sure that storm water runoff and drainage from the site will not have any negative impacts upon the adjacent properties. If such problems do become evident in the future, the owner of the property shall be responsible of remedying the situation at their expense and as quickly as possible.

E. A final “as-built” topographic survey (with one foot contours) and certification of the installed synthetic turf and system and any associated stormwater management system is hereby required

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / PUBLIC HEARING / GENERAL MEETING
JUNE 21, 2016
PAGE 15 OF 16

to certify that the site development and regrading are all in compliance with the approved plans. A Professional Engineer shall certify in writing prior to the issuance of a Certificate of Zoning Compliance, that the work has been properly completed in accordance with the approved plans.

- F. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke the permit as it deems appropriate.
- G. The granting of this approval does not relieve the applicant of the responsibility of complying with all other applicable rules, regulations and codes of the Town, State, or other regulating agency.
- H. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation and completion of the approved plan within one (1) year of this action (June 21, 2017). This may be extended as per Sections 858 and 1009.

All provisions and details of the plans, as required to be revised herein, shall be binding conditions of this action and such approval shall become final upon the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within 60 days of this action, or this approval shall become null and void.

Vice-Chairman Olvany read the following agenda item:

Coastal Site Plan Review #246-A, Flood Damage Prevention Application #91-B, Anne Dempsey Sullivan, 124 Pear Tree Point Road. Proposal to demolish most of an existing residence, construct an addition, and raise the floor elevation to be compliant with the current FEMA flood zone, and perform related site development activities within regulated areas.

All Commission members believed this was straightforward, and they asked Mr. Ginsberg to draft a resolution for their review and action at the June 28, 2016 meeting.

Vice-Chairman Olvany read the following agenda item:

Business Site Plan #138-B/Special Permit, BLCR Holdings, LLC, William Raveis Real Estate, 22 Old King's Highway South. Proposal to construct additions and alterations to the existing office building and perform related site development activities; and to apply for a Special Permit for a first floor real estate office use in the CBD Zone.

It was noted that the issues of the accessway and pedestrian easement need to be addressed in a draft resolution. It was agreed that planting should be in the back adjacent to the Center Street lot, rather than the proposed pavement. The Commission asked Mr. Ginsberg to draft a resolution for their review and action at an upcoming meeting, possibly as early as next week.

PLANNING & ZONING COMMISSION
MINUTES
SPECIAL MEETING / PUBLIC HEARING / GENERAL MEETING
JUNE 21, 2016
PAGE 16 OF 16

Due to the late hour, Vice-Chairman Olvany noted that the Commission would not be getting to the following two agenda items tonight:

Deliberations only regarding the following:

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. *PUBLIC HEARING CLOSED ON MAY 24, 2016.*

Flood Damage Prevention Application #352, Land Filling & Regrading Application #377, Everett Schenk, 19 Salisbury Road. Proposal to fill and regrade in conjunction with the construction of a replacement residence, with associated stormwater management and septic system, and to perform related site development activities within a regulated area.

There being no further business, the following motion was made: That the Commission adjourn the meeting. The motion was made by Mr. Voigt, seconded by Mr. DiDonna and unanimously approved. The meeting was adjourned at 11:12 P.M.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director