

**PLANNING AND ZONING COMMISSION
MINUTES
EXECUTIVE SESSION
PUBLIC HEARING/ /GENERAL MEETING
JANUARY 26, 2016**

Place: Room 119

TIME: 7:30 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Cameron, DiDonna, Olvany, Sini, Jr., Voigt, Cunningham (arrived at 8:00 PM)

STAFF ATTENDING: Ginsberg

RECORDER: Syat

Channel 79

Ms. Cameron read the first agenda item:

EXECUTIVE SESSION

Mr. Voigt made a motion to go into Executive Session with Attorney John Louizos and staff to discuss pending litigation. Mr. DiDonna seconded that motion which was unanimously approved.

The Commission then discussed two pending litigation matters in Executive Session. No actions were taken and no votes were taken. Mr. Voigt then made a motion to adjourn the Executive Session at 8:28 P.M. That motion was seconded by Mr. Sini and unanimously approved.

At 8:30 P.M., Ms. Cameron then read the next agenda item:

PUBLIC HEARING

Continuation of Public Hearing regarding: Coastal Site Plan Review #83-B, Flood Damage Prevention Application #71-B, Land Filling & Regrading Application #371, Justin Scott, 47 Pear Tree Point Road. Proposing to lift the existing residence; lift the garage slab and modify the internal circulation; regrade the driveway, garage access and new entrance stair; and perform related site development activities within regulated areas. *TO BE IMMEDIATELY CONTINUED TO 2/2/2016.*

Ms. Cameron mentioned that the Scott matter has been opened and will be immediately continued to February 2, 2016 at 8:00 P.M. in Room 206 of Town Hall.

Chairman Cameron then read the next 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:

- 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

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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).

Ms. Cameron mentioned that the Commission will only be focusing on the zone change and map amendment tonight. The Site Plan and Special Permit will be discussed when and if a subsequent application is submitted. Mr. Olvany mentioned that he works at CBRE and this property has been recently appraised by his firm. He was not involved in such an appraisal and did not believe he had a conflict in this matter. He asked if anyone else thought he had a conflict and nobody said that they did.

Mr. Mark DePecol of Senior Living Development, LLC of Fairfield explained that they came before the Planning & Zoning Commission informally in March 2014. This proposal is for an Assisted Living Facility(ALF)/Memory Care Unit. At these facilities, the average age is 85. The average resident has a tenure of 3½ to 4 years on average. Most residents do not have cars. There will be a communal restaurant within the facility. ALF units have an efficiency with microwave. He then introduced the team that will be presenting the application this evening.

Mr. Craig Flaherty, Professional Engineer from Redniss & Mead, explained that the subject property is 7.9 acres. Building One was constructed sometime in the 1960's. The proposal is to take down Building One to its superstructure and rebuild it and expand it. He explained that tonight they will be discussing a proposal for a Zone Map Change and Zoning Regulation Amendments. He showed on the site plan the existing building. He noted that Building Two will remain as is. The proposal is for 105 units, 78 of which will be Assisted Living and 27 of which would be 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 sq.ft. as was approved in Special Permit Application 42-E.

Mr. Flaherty explained that the proposal complies with the Town Plan of Conservation & Development as this fills a housing need within the community and provides housing options. He then showed a 500 foot Vicinity Map and a Map Change board showing the areas to be re-zoned. He explained that 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. Mr. Ginsberg then explained the ideas behind the zone change boundaries, and the intent to make the change a "cleaner" change. It was noted that State projects on State property don't need to meet local zoning.

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Mr. Flaherty explained that certain Zoning Regulation amendments are also needed, and then he discussed them one by one. The first proposed change is to the Background and Purposes in the Regulations to specifically mention senior living. They now have a vacant building in Building One and this is a good adaptive reuse of the site. The second 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). Mr. Flaherty explained that 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. Mr. Flaherty then showed the Zoning Chart in 705 and noted that they proposed to change the maximum number of stories, maximum height, and building coverage. He elaborated by noting that they will be stripping Building One down and adding to it. In the lower level, there will be some finished spaces. Note B will allow for some finished space in the basement. Relative to building height, he explained that existing Building One is now non-conforming. It will be holding essentially the same roof line elevation within a few inches. They wish to screen the mechanical units on the roof and thus are asking the maximum building height to be expanded from 28 ft. to 35 ft. Mr. Flaherty said that 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. He then showed a triangular area owned by Parklands which could get a conservation easement to establish such an open space. He then explained Note C. Mr. Sini then asked why the Planning & Zoning Commission should go beyond the existing 20% building coverage maximum.

Mr. Flaherty noted that the sixth change to the Regulations is to Section 706a. This will allow the Planning & Zoning Commission to waive the setbacks for any parking facing I-95. The seventh change is relative to building setbacks. Mr. Flaherty explained that the existing building is too close to the property line now and is not compliant. They will end up with the proposed building being 23 or 24 ft. from the property line. The eighth change is a reference which needs to be properly cleaned up and addressed.

At about 9:00 P.M., Kermit Hua, who performed the Traffic and Parking Review, explained that he did perform a parking analysis. As part of that parking analysis, he looked at both the ITE standard and took actual counts on site. Mr. Hua recommends at least 99 parking spaces for the office use in Building 3 and 75 for the proposed facility which would result in .71 spaces per unit. They are proposing substantially more than that amount of parking. He then showed on the plan where there would be 80 spaces for the Assisted Living Facility/Memory Care Unit; 108 spaces for Building 3; and 46 shared spaces resulting in a ratio of 1.28. A total of 234 parking spaces would be provided and the existing office building needs 4 spaces per 1,000 square feet. He confirmed that the proposal would have less traffic than the existing office use.

Mr. Flaherty mentioned that he had recently met with the neighbors of the Parklands Office Park property and he mentioned some of their concerns when they met many of which are related to the site plan. The first concern was removing the debris and cleaning up and augmenting the existing conservation easement area on the east part of the site which divides the Parklands Office Park from the residential properties on Fairmead Road. This would include, but not be limited to, augmenting with more plantings, possible new fences, and restacking the existing stone walls which are generally along the property boundary. Neighbors were hoping to see new LED lighting in the

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parking lot to replace the existing lighting. Another concern of the neighbors was the frequency of emergency vehicles and the potential for loud sirens. Mr. Flaherty said Mr. DePecol had already spoken with Fire Marshal Bob Buch about trying to address that issue. Mr. Flaherty confirmed that the building at its closest point to the houses on Fairmead Road would be about 57 feet.

Mr. Flaherty explained that tonight's Legal Notice said that the public meeting would be in Room 206 and the meeting is in Room 119. He therefore requested that the public hearing be continued to another night to allow for better notice to the neighbors who had been notified of this meeting by letter. The Commission then made a motion to continue the public hearing to Tuesday, February 23rd at 8:00 P.M. in Room 206 of Town Hall.

At about 9:20 P.M., Ms. Cameron then read the next agenda item:

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.

Attorney Mike Murray of Ivey Barnum & O'Mara explained that he represents the contract purchasers of the subject property. They are not permitted to change the existing 3.7 AH Zone which was enacted in 1999. He then showed an existing sanitary sewer line map showing where the existing sewer lines are relative to this property. He explained that the establishment of multi-family housing on this parcel is impractical due to the lack of access to the sanitary sewer lines. He explained that Avalon has the only private sewer line now in the Town of Darien and he submitted an email from Ron Martin of Avalon stating that they are not allowed to connect to that sewer line. He also submitted an email from the State of Connecticut DOT regarding possible access to the sewer at the State I-95 rest stop. Attorney Murray noted that there was a presumption in 1999 that sanitary sewer was nearby and available for connection. It is not.

Professional Engineer Doug DiVesta said that he did soil testing on the property. Much of the property in the west of the property had poor soils. Mr. Olvany confirmed that the proposed self-storage use has no plumbing. Mr. DiVesta said that that is correct. It does not have a large need for plumbing. Attorney Murray said that there are two workforce housing units proposed with 14 privately owned commuter spaces. He believed that this proposal is consistent with the Town Plan of Conservation & Development as it is "a well planned and supportive use". Due to the lack of sanitary sewer, this parcel has limited options. Attorney Murray emphasized that it is important to the seller that the affordable housing component which is now allowed on the subject property not be changed.

John Hertz, builder and proposed contract purchaser, explained that the area to the east of the property may be good to add these 14 privately owned commuter spaces. These will be accessed through the existing driveway on the subject property which is now used exclusively by Avalon. The proposed 14 parking spaces will be screened and lit, and commuters will be able to utilize the signaled cross walk on Hollow Tree Ridge Road to access the Noroton Heights Train Station. Attorney Murray then showed the proposed Site Plan. He explained that the property is 3.7 acres

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with the existing Avalon driveway along the north side of the property. There is also a utility easement through the property. Mr. Hertz showed the proposed 14 parking spaces.

Mr. Olvany mentioned that the proposed building is 102,000 square feet in size, which seems large to him. Ms. Cameron mentioned that the proposal also includes the provision for outdoor storage of vehicles or boats. Mr. Hertz showed the proposed location of long-term parking on the subject property and noted that the parking for users of the building to load and unload material goods into the building are directly adjacent to the building. Mr. Olvany said that he wanted a little more time to read the Traffic Study which was distributed earlier in the evening. Mr. Ginsberg then read aloud the comments received from the Western Connecticut Council of Governments and the local Traffic Authority. Ms. Cameron asked if there were any members of the public who wished to speak on this matter and there were none.

Mr. Neil Olinsky of Milone & MacBroom explained his January 26, 2016 letter regarding traffic. Mr. Olinsky explained that he will prepare a more detailed Traffic Study as part of a formal application if the zone change is approved. His report states that there will be less traffic from the proposed use than the current zone which allows a multi-family housing development. Commission members agreed that in order to give them more time to read the Traffic Study, that the public hearing on this matter should be continued to February 23, 2016 at 8:00 P.M. in Room 206 of Town Hall.

At 9:45 P.M., Ms. Cameron then read the next 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. The subject property is located on the northeast corner formed by the intersection of Silver Lakes Drive and Tokeneke Road, and is shown on Assessor's Map #37 as Lot #15 in the R-1/2 Zone.

Steve McAllister of McChord Engineering explained that the subject property is 1.3 acres in a 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 this evening is not for actual houses. The proposed houses are just shown for feasibility for subdivision. He then explained the proposed storm water management/drainage. Mr. McAllister mentioned that the EPC has approved this subdivision and that the project has been peer reviewed by Tighe & Bond. Mr. McAllister mentioned that the EPC has sent a memo in its role as Conservation Commission. 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. Olvany asked about the footprint of the proposed residences. Mr. McAllister said that the proposed footprints shown are about 2,400 sq.ft. each. He explained that there is now an existing non-compliant (from a flood standpoint) residence on the subject property. He believed that

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the proposal for two houses which comply with the Flood Regulations is an improvement over the existing situation.

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 Flood Elevation of 41.7. Under Section 825 of the Darien Zoning Regulations, the first 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. Mr. Ginsberg explained the Town's policy and read aloud the comments received from Darren Oustafine of Darien Public Works and the Local Traffic Authority. Mr. John Ritchie of Tokeneke Road said that he was concerned about building height of the proposed residences and asked if the property could be clearly staked. Mr. Ginsberg noted that any houses to go on the subject property will likely be taller than the house that is there now. Ms. Cameron suggested that the lot line be modified, but Mr. McAllister noted the southern lot only has slightly over 0.5 acres. The subject public hearing was then continued to February 23, 2016 at 8:00 P.M. in Room 206 of Town Hall.

Chairman Cameron read the next agenda item:

Coastal Site Plan Review #272-C, Flood Damage Prevention Application #342-A, Mitch & Jody Truwit, 123 Five Mile River Road. Proposing to install a dock and perform related site development activities within regulated areas. The subject property is located on the south and east side of Five Mile River Road approximately 700 feet south of its intersection with Davis Lane, and is shown on Assessor's Map #67 as Lot #2 in the R-1/2 Zone.

Mr. Tom Ryder of LandTech was present to explain the proposal. He explained that the proposed recreational dock is 81 feet long and 75 feet of it is waterward of the Coastal Jurisdiction Line (CJL). This proposal has been reviewed by the Five Mile River Commission and the State of Connecticut DEEP. The State DEEP has granted tentative approval stating that their issues have been resolved. There are 6 feet on the landward side of the dock between the retaining wall and sea wall. Mr. Ryder explained that other options were considered and this proposal takes advantage of gaps in the vegetation. Mr. Sini asked if there are other walkways. Mr. Ginsberg read aloud West COG comments. There were no members of the public who wished to speak on this matter and no further questions or comments from the Commission members. Mr. Sini then made a motion to close the public hearing on this matter. That motion was seconded by Mr. Olvany and approved by a vote of 6 to 0.

GENERAL MEETING (TIME PERMITTING)

At about 10:15 P.M., the Commission then went into a general meeting to discuss Atria, 50 Ledge Road.

Proposed Amendments to the Darien Zoning Regulations (COZR #5-2015), Atria Darien, 50 Ledge Road. Proposed zoning regulation amendments to Sections 664, 667 and 668 to: correct existing references; eliminate the distinction between ILF and ALF units; provide minimum and

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maximum size units; modify parking standards; and allow the Commission to waive or reduce setback or buffering requirements. *DECISION DEADLINE FOR THE APPLICATION IS 2/3/2016, UNLESS FURTHER EXTENSION IS GRANTED BY APPLICANT.*

Mr. Ginsberg explained that a draft Resolution has been prepared in response to comments received by the Commission members over the past few weeks. He said that the proposed parking standard he has included in the draft Resolution is 0.8 parking spaces per unit. Ms. Cameron explained that she is concerned about the proposed 0.8 spaces per unit standard since this is a standalone site. Mr. Sini suggested 0.9 as a compromise. Mr. Sini said that residents in an ILF unit are more likely to own a vehicle than an ALF unit. Ms. Cameron questioned whether 0.9 or 1.0 would be the most appropriate. Mr. Sini emphasized that the 0.82 spaces per unit has effectively worked on site for 20 years and there has been no documented problem with that standard. Ms. Cameron wondered whether the Commission should go with 1.0 to make sure that they are conservative. Mr. Olvany agreed with 1.0. Mr. Voigt believed that 0.9 would be more appropriate, as did Mr. Cunningham. Three minor typographical changes were noted in the draft Resolution. Mr. Olvany then made a motion to adopt the Resolution, as amended, with a parking standard of 0.9 parking spaces per unit. That motion was seconded by Mr. Sini and approved by a vote of 6 to 0. The Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
January 26, 2016**

Application Number: Proposed Amendments to the Darien Zoning Regulations (COZR #5-2015)

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

Name and Address of Applicant & Applicant's Representative: Wilder G. Gleason, Esq.
Gleason & Associates, LLC
455 Post Road, Suite 201
Darien, CT 06820

Name and Address of & Property Owner: Jacqueline W. Whitridge, Trustee
PO Box 847
Mandan, ND 58554

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

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

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A separate application to construct additions and alterations to the existing structure, modify the driveway, add on-site parking, and perform related site development activities is the subject of a separate decision.

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

Zone: Service Business (SB) Zone

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

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

Publication of Hearing Notices

Dates: October 16 & 23, 2015

Newspaper: Darien News

Zoning Regulation Amendments

Date of Action: January 26, 2016

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

Scheduled Date of Publication of Action:
February 5, 2016

Newspaper: Darien News

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

The submitted subject application consists of two parts:

A. **Zoning Regulation amendments**. Proposed zoning regulation amendments to Sections 664h, 667f, 668c, 668g, and 668h to:

- 1) correct existing references;
- 2) eliminate the distinction between Independent Living Facility (ILF) and Assisted Living Facility (ALF) units;
- 3) provide minimum and maximum size units;
- 4) modify parking standards; and
- 5) allow the Commission to waive or reduce setback or buffering requirements.

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

This decision only addresses the zoning regulation amendments. The Special Permit/Site Plan and Land Filling & Regrading are the subject of a separate decision.

A. ZONING REGULATION AMENDMENTS

1. The first part of this Resolution addresses the proposed zoning regulation amendments. The Zoning Regulation amendments submitted by the applicant are a prerequisite to the Special

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Permit/Site Plan submitted with the application. None of the zoning regulation amendments are specific to the 50 Ledge Road property owned by the applicant. These ALF/ILF regulations will apply Town-wide.

GENERAL BACKGROUND AND HISTORY

2. The Darien Zoning Regulations were amended in 1996 to allow the Independent Living Facility (ILF) / Assisted Living Facility (ALF) use. The Commission's subsequent Special Permit/Site Plan approval allowed for a maximum of 86 units in the building—19 Independent Living Facility units (ILF) units and 67 Assisted Living Facility (ALF) units, and 71 on-site parking spaces. Over time, some units have been combined, resulting in the existing facility containing less than the maximum number approved by the Commission, and the number of on-site parking spaces increased. Also throughout the years, the number of ALF/ILF units within the facility has changed. The applicant has noted that distinguishing between ILF units and ALF units is no longer appropriate, since residents are encouraged to “age in place”. This combination Independent/Assisted Living Facility will be expanded as part of the associated Special Permit/Site Plan application, and additional parking created.
3. Atria came before the Planning and Zoning Commission informally regarding the subject application in February 2015. At that time, it was explained that residents sometimes move into the facility as independent living and age in place. While in some situations, assisted living units may be in a different floor, wing, or part of a building than independent living units, that is apparently not the situation in this case, where the different types of units are interspersed, and less of a distinction made, than possibly in other situations in other communities.
4. The existing building is approximately 80,000 square feet within two stories. The proposed Special Permit/Site Plan application requests an increase from 80 existing units to 86 units, and an increase of two on-site parking spaces. They are proposing to increase from 18% building coverage to 19%. Again, issues related to the proposed specific development proposal are addressed in the separate decision.
5. The five separate proposed regulation amendments are reviewed individually below, and are reviewed and analyzed individually.
(new wording underlined; deletions in strikeout)

A1. MODIFICATIONS TO SECTION 664h TO CORRECT REFERENCE

6. The first proposed regulation amendment is to correct an incorrect reference in section 664h. The applicant pointed out that this Section should more properly refer to Section 668 rather than Section 667. The Commission agrees, and approves the typographical correction, as proposed by the applicant, from Section 667 to 668 in existing subsection 664h.

664h. Assisted Living Facility, Independent Living Facility or a combination thereof. See Section 66~~8~~7.

A2. MODIFICATIONS TO SECTION 667f TO CORRECT REFERENCE

7. Similar to the previous amendment request, this amendment proposal is to correct an incorrect reference. The Commission agrees that this amendment is appropriate, and approves

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the typographical correction as proposed by the applicant, from Section 667 to 668 in existing subsection 667f.

667f. Except for ILFs and ALFs, (which are included in Section 668~~7~~), one additional off-street parking space per bedroom shall be required. The total number of dwelling units shall not exceed six (6) dwelling units on any site. If there will be more than two (2) dwelling units, then at least 30 percent of the total number of units shall be limited to one bedroom.

A3. MODIFICATIONS TO SECTION 668c TO ELIMINATE THE DISTINCTION BETWEEN ALF AND ILF UNITS, AND TO PROVIDE A MINIMUM AND MAXIMUM SIZE OF UNIT

8. The existing regulation 668c allows ALFs to not be less than 400 square feet, and ILFs to not be less than 600 square feet. Throughout the years, the applicant has found a desire of the residents to combine units, thereby creating larger units than originally envisioned or approved. As noted previously, in this facility, there is less of a distinction by physical area of which units are ALF units, and which are ILF units, and the number of on-site units of each changes throughout time, depending on the existing residents' needs. Thus, the Commission agrees with the applicant that having a distinction and a cap on average unit size is no longer appropriate. Any Special Permit/Site Plan approval will determine the maximum number of units in any ALF/ILF building.
9. The Commission believes that there should continue to be a square foot minimum for an ALF or ILF. The submitted floor plans by Stein | Troost Architecture dated 9/10/15 show three units now under 400 square feet in size (Unit 218 is a 378 square foot studio; Unit 235 is a 396 square foot studio; and Unit 242 is a 396 square foot studio). No other units are currently below that threshold, and based upon the submitted plans, no new proposed units are below 400 square feet. Thus, the Commission believes that a 400 square foot minimum continues to be appropriate, and since there is a desire to eliminate distinctions, this 400 square foot minimum would apply to both ALFs and ILFs.
10. The Commission agrees with the applicant that the existing standard which regulates average floor area should also be addressed, since the ALF/ILF distinction will be eliminated. The applicant proposes lowering the existing average, with a provision that all units have an average gross floor area of no less than 325 square feet. The Commission notes that the smallest unit is now 378 square feet, and thus, to have an allowance for an average unit size of 325 is too low. The Commission believes that an average of at least 400 square feet would be appropriate, and modifies the applicant's proposal accordingly.
11. Similarly, the average gross floor area standard should also have a maximum. In this case, a 1,000 square foot maximum should be created for either an ALF or ILF.
12. The Commission agrees with the applicant regarding the need for regulation of minimum and maximum average gross floor areas of units in the future, and therefore approves the following wording, which is modified from that proposed by the applicant.

668c. The average gross floor area of ~~all~~ private residential units in an ALF, ILF, or combination thereof shall be not less than 400 square feet, or more than 1,000 square feet. ~~shall not be less than 400 square feet and the average floor area of all ALF units shall not exceed 500~~

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~~square feet. The gross floor area of a private residential unit in an ILF shall not be less than 600 square feet and the average floor area of all ILF units shall not exceed 700 square feet.~~

A4. MODIFY SECTION 668g TO ESTABLISH A NEW COMBINED PARKING STANDARD FOR ALF/ILFS.

PARKING

13. This property now has 88 or 89 parking spaces (the submitted application narrative dated September 15, 2015 states 88, and the October 13, 2015 Parking Adequacy Evaluation states 89), and as part of this application, Atria proposes to increase on-site parking to 90 or 91 parking spaces. Both sources agree that there will be an increase of two on-site parking spaces. After reviewing the evidence, the overall proposal is from 89 to 91 parking spaces.

14. At the public hearing, the applicant’s parking and traffic expert, David Sullivan of Milone and Macbroom reviewed his October 13, 2015 Parking Adequacy Evaluation. He said that some reserved signs have been removed, and there are now sixty employees in three separate shifts. Mr. Sullivan noted that any reserved spaces are only for the residents, not the workers or visitors.

15. This Atria facility is a combination of ILF and ALF both as defined in the Zoning Regulations and as licensed by the State of Connecticut. Since there is change in the occupancy of the units on a frequent basis, from a zoning enforcement standpoint, arriving at an appropriate combined parking standard is essential. This would eliminate the need for the zoning officer to get continuous determinations from Atria regarding the status of its residents. It was acknowledged that any revised parking standard be sensitive to the presence of private aides and the possible occasional use by outside groups. At the public hearing, it was acknowledged that there are now some residents with private aides—about 20 of the 80 units have part-time aides. The facility is now 60% ILF and 40% ALF. It is usually 30-45% assisted living (ALF). It was noted that there is a high vehicle occupancy rate at this location in Darien, relative to other such facilities in other communities. That also needs to be taken into account by the Commission.

16. As part of this application, the applicant did specific parking counts for this site. At no time during those counts did the number of vehicles on-site exceed the on-site parking supply. The largest documented count during the week of November 9-14, 2015 was for one hour on November 11, 79 vehicles were parked on-site. That still resulted in 12% vacancy. Other counts were done by Milone and MacBroom on two dates in February 2015 and on September 10 and 16. While those counts were not hourly, they also showed that at no point were more than 69 vehicles parked on-site.

17. The chart below shows the changes in on-site units and parking spaces through time for this property.

	ALF/ILF UNITS	ON-SITE PARKING SPACES	PARKING RATIO PARKING SPACES/UNIT
Original P&Z Commission approval in 1995	86	71	0.825
As of October 2015	80	89	1.11

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ITE STANDARD	N/A	N/A	0.70
Proposed as part of 2015 application	86	91	1.05

18. At the public hearing, Mr. Michael Galante, of FP Clark Associates, explained that he had been hired by the Town at the applicant's expense to review the parking aspects of this application. He said that in his November 18, 2015 letter, he agreed with the 0.7 parking spaces per unit standard. This is based upon both the applicable ITE standard, and counts which his firm had done. He also looked at Saturday information. He noted that in his expert opinion, 0.8 spaces per unit is appropriate in this specific instance, even accounting for the larger than normal number of vehicles parked on-site by residents.
19. The submitted application proposed a change to the parking standards for these ILF/ALF facilities. Based upon the expert testimony received, and the need to allow for more efficient and consistent enforcement of the regulations, the Commission believes that a combined parking standard for ILF/ALF is appropriate. Thus, that aspect of the regulation (to create one combined parking standard) is desired.
20. It should be noted that the Commission's original approval was for 71 parking spaces for a total of 86 units (a mix of ALF and ILF units). That is a current ratio of 0.825 parking spaces/unit, if a combined ratio were to be established. Overall, that parking ratio has proven to be sufficient through the years, since its establishment over 18 years ago. There was no evidence submitted that even though the mix of ILF/ALF units has changed on-site throughout time, that at any point, on-site parking was insufficient.
21. Based upon the parking counts taken, and the expert testimony, the Commission believes that an appropriate combined parking standard for such a facility should be 0.9 parking spaces per unit. The Commission must ensure that any new parking standard is sufficient for existing residents vehicles; employees, outside aides, and visitors. It should also be sufficient to allow for the possible use of the facility by outside groups. Of course, that aspect is part of the Special Permit being requested, and shall be permitted on a case-by-case basis, after Commission review.
22. The Commission adopts the following wording, which is modified from that proposed by the applicant (an increase in the standard from the applicant's proposed 0.7, to 0.9 spaces per unit):
668g. To accommodate the parking needs of the residents, visitors, and staff providing services to the occupants, the following minimum off-street parking shall be provided: 0.9 parking spaces per ILF or ALF residential unit. one space for each employee per maximum shift with a minimum of 20 spaces reserved for employees; plus 1.5 spaces for each ILF unit; plus 0.33 spaces for each ALF unit.

A5. MODIFY SECTION 668h TO ALLOW FOR COMMISSION WAIVER OR REDUCTION OF SETBACK OR BUFFERING REQUIREMENTS.

BUFFERING

23. The Commission finds the zoning regulation amendment can be adopted as written, since the Commission can envision certain circumstances where a waiver or reduction would be appropriate. The individual circumstances should be reviewed on a case-by-case basis.

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24. The Commission adopts the following wording, which is modified from that proposed by the applicant:

668h. Off-street parking design standards and buffering perof Sections 226, ~~and~~ 900 et. seq. and 940 et. seq. shall be applicable, except that the Commission may waive or reduce such requirements where it determines that such waiver or reduction will have no adverse impact on abutting residential properties.-

OVERALL CONCLUSIONS

25. There are five zoning regulation amendments proposed by the applicant. The proposed regulation changes are to Sections 664h and 667f (to correct existing references); 668c (to eliminate the distinction between ILF and ALF units and to provide minimum and maximum size units); 668g (to modify parking standards); and 668h (to allow the Commission to waive or reduce setback or buffering requirements). As noted, some are adopted as proposed, and some are adopted with modifications.

26. The Commission finds that the proposed regulation amendments, as analyzed and described above, are consistent with the Town Plan of Conservation & Development.

NOW THEREFORE BE IT RESOLVED that based upon the review of all of the materials and information, the Commission, acting in its legislative capacity, hereby ADOPTS WITH MODIFICATIONS the ***Proposed Amendments to the Darien Zoning Regulations*** WITH AN EFFECTIVE DATE OF SUNDAY, FEBRUARY 28, 2016 AT TWELVE NOON.

TO SUMMARIZE THE AMENDMENTS APPROVED ABOVE:

New wording underlined; deleted wording in strikeout.

664h. Assisted Living Facility, Independent Living Facility or a combination thereof. See Section 6687.

667f. Except for ILFs and ALFs, (which are included in Section 6687), one additional off-street parking space per bedroom shall be required. The total number of dwelling units shall not exceed six (6) dwelling units on any site. If there will be more than two (2) dwelling units, then at least 30 percent of the total number of units shall be limited to one bedroom.

668c. The average gross floor area of alla private residential units in an ALF, ILF, or combination thereof shall be not less than 400 square feet, or more than 1,000 square feet. shall not be less than 400 square feet and the average floor area of all ALF units shall not exceed 500 square feet. The gross floor area of a private residential unit in an ILF shall not be less than 600 square feet and the average floor area of all ILF units shall not exceed 700 square feet.

668g. To accommodate the parking needs of the residents, visitors, and staff providing services to the occupants, the following minimum off-street parking shall be provided: 0.9 parking spaces per ILF or ALF residential unit. one space for each employee per maximum shift with a minimum of 20 spaces reserved for employees; plus 1.5 spaces for each ILF unit; plus 0.33 spaces for each ALF unit.

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668h. Off-street parking design standards and buffering per Sections 226, ~~and~~ 900 et. seq. and 940 et. seq. shall be applicable, except that the Commission may waive or reduce such requirements where it determines that such waiver or reduction will have no adverse impact on abutting residential properties.-

Ms. Cameron then read the next two agenda items:

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

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

Mr. Ginsberg noted that although draft Resolutions have been prepared for these two agenda items, they did not make it into the Commission members' packets. Commission members briefly discussed the Bar Nala proposal and Mr. Ginsberg noted a number of possible conditions which he can include in the draft Resolution. He will put both these items on for review and action next week.

Chairman Cameron read the next agenda item:

Deliberation only regarding:

Special Permit Application #153-D/Site Plan, Land Filling & Regrading Application #366, Atria Darien, 50 Ledge Road.

Proposing to construct additions and alterations to the existing structure, modify the driveway, add on-site parking, and perform related site development activities. *DECISION DEADLINE FOR THE APPLICATION IS 2/3/2016, UNLESS FURTHER EXTENSION IS GRANTED BY APPLICANT.*

Mr. Olvany wondered how Atria in the past has combined or separated units to increase or decrease the number of units. Mr. Ginsberg said that the issue of outside groups also needs to be addressed and the parking standard should insure that outside groups can meet there. Mr. Sini said he believed that the remainder of the application was okay and the project should be approved. Mr. DiDonna agreed that the issue of outside groups needs to be addressed.

There being no other business, the meeting was then adjourned at 10:37 P.M.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director