PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING
FEBRUARY 9, 2016

Place: Mather Center (café extension) Room 113 TIME: 8:00 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:
Cameron, Olvany, DiDonna, Voigt

STAFF ATTENDING: Ginsberg
RECORDER: Syat

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

GENERAL MEETING

Public Information Session regarding:
Town Plan of Conservation & Development.
Glenn Chalder of Planimetrics will present the "second draft" of the Town Plan of Conservation & Development, and the Commission will accept comments from the general public.

Glenn Chalder of Planimetrics reviewed his handout/Powerpoint presentation. He explained the role of the Planning and Zoning Commission in preparing and adopting the Plan. He explained the various themes in the Town Plan...conservation, development; and Infrastructure. Mr. Chalder explained the process of preparing the plan and obtaining public input. The second draft, dated January 2016, has been prepared. He reviewed demographic changes over time. Mr. Chalder mentioned key issues identified by residents during the public input session. He then reviewed Open Space and Natural Resource issues. He said that the Development Strategies section outlines how the Commission wishes to guide growth. The Plan reviews both downtown and transforming the Noroton Heights business area, making them both more walkable and pedestrian friendly. The Plan looks at managing residential development and guiding Business and Economic Development. The Plan also discussed transportation need and encourages walking and biking. It concludes by outlining major policy areas. The Plan also focuses on implementation by identifying leaders and partners.

Mrs. Cameron noted that an e-mail was received from Flip Huffard, and she reviewed the comments in that email. Mr. Huffard summarized some of his thoughts. Mr. Olvany asked whether Trumbull as an Open Space fund. Mrs. Cameron noted that Shirley Nichols of the Darien Land Trust also sent in an e-mail, but was not now present.

Mrs. Cheryl Russell then said that she had read the plan and offered comments. Relative to page 38, she asked why the Parks and Recreation Department was not listed as a partner, only the Darien Land Trust. On page 40, she noted that the Hecker Avenue property had not yet been purchased by the Town. She then asked about #3 on page 42, and noted issues with a Harbor Management Plan as mentioned on pages 43 and 46. Mr. Huffard confirmed that historically, such a plan was not well received. Mrs. Russell asked whether the maps should be made larger for improved readability. Mrs. Cameron said that maps will be posted to the web, allowing users to increase their size on a screen. Mrs. Russell then noted on page 106 that all parks in Darien are dedicated parklands. Mr. Olvany mentioned that the Diller property should be better identified on pages 106 and 108.

Mr. Ken Fiveson of Edgerton Street, a member of the RTM, said that he had written and email. He noted four other RTM members were present noting their concern for the Edgerton Street area where the Senior Center used to be located. Mrs. Cameron suggested adding the wording "including open space". Mrs. Carol Smith of Goodwives River Road said that in the past, she had noted her concern with the blighted properties on Old King's Highway South, and she specifically referenced a June 2007 Darien Times article. She asked that the Commission recommend a blight ordinance.

Mr. Harry Maglathlin of the RTM, said that he now lives in Noroton Heights. He was concerned about both pedestrian and traffic flow. He noted the possibility of a bridge or lighted crosswalk across Heights Road. Mr. David Hawes, a local real estate broker, said that about ten years ago, Building Official Charles Saverine issued a nuisance notice to the owner of the 33 Old King's Highway North property, and subsequently, the structure was demolished and removed.

There were no other comments from the general public or the Commission. Mr. Ginsberg then outlined the next meetings on the Plan, including a February 22 League of Women Voters sponsored meeting at the Darien Library, and the full RTM that night. The Commission will next discuss the Plan on March 8.

At about 8:50 p.m., Chairman Cameron then read the next agenda item:

REMAINDER OF GENERAL MEETING

Amendment of Land Filling & Regrading Application #111-A/Site Plan, Darien Little League, Cherry Lawn Park, 120 Brookside Road.
Installation of scoreboard and flagpole with ground lighting at Gallagher Field.

Mr. Ginsberg introduced Terry Bock of the Darien Little League. Mrs. Cameron asked Mr. Bock if the scoreboard will hum, like the one now at the high school. Mr. Voigt questioned the need for a lit flagpole. Mr. Ginsberg noted the management issues related to the responsibility of a flagpole. Mr. DiDonna asked whether the scoreboard will contain a loudspeaker. Mr. Bock replied that the scoreboard will not make noise, and it will be on only during games. Mrs. Cameron reminded Mr. Bock that this field is only for children, and adults cannot schedule use of the field, since the community gardens within Cherry Lawn Park are nearby. Mr. Olvany made a motion to approve the proposal with the conditions that: the scoreboard by on only during games; and the flagpole lights be on only when the flag is raised. Mr. Bock said that the flag will only be flown April through the fall, and it will be maintained the same way as the flagpole now in use at McGuane field. Mr. DiDonna made a motion to second Mr. Olvany's motion. This was approved by a vote of 4-0.

Chairman Cameron then read the next agenda item:

Special Permit Application #66-M, Darien YMCA, 2420 Boston Post Road
Request to continue early morning hours, which allow the YMCA to open at 5:00 A.M. on Monday through Friday, and 7:00 A.M. on Saturday and 8:00 A.M. on Sunday.

Mr. Ginsberg noted the memo received from Executive Director Pat Morrissey. Mr. Olvany suggested continuing these extended early morning hours for five more years. That motion was seconded by Mr.DiDonna and approved by a vote of 4-0.

Chairman Cameron then read the next agenda item:

Deliberations and possible decisions on the following:
Proposed Amendments to the Darien Zoning Regulations put forth by the Darien Planning & Zoning Commission (COZR #2-2015). Proposing to amend the Darien Zoning Regulations as follows: Defining Building Coverage; Modifying how side lot lines are defined; Modify Section 230 to allow Monument Signs and to allow such signs in certain non-residential zones; Modify Section 334 and 385 regarding building lots which have at least 50% of the required Lot Width and Depth; Modify Section 371—Height of Buildings or Structures (clarify Building Height relative to cupolas and mechanical equipment.); clarify Section 384; Modify Section 406 #7—Eliminate the Total of Two side yards requirement; Modify Section 406f regarding detached accessory structures, to not allow finished space in detached accessory structures which do not meet the principal setbacks; Modify Section 575 Area and Bulk Requirements DCR Zone; Modify Inclusionary Zoning Regulations (Sections 583, 588a through 588e); Modify Section 572 to refer to the DMR Zone, when it should refer to the DCR Zone; Modify Section 577 to reference signs allowed in the DCR zone; Modify Section 625 Item 15 to be Maximum Average Floor Area of All Dwelling Units; and Modify Section 873 to reflect updated report name and date.

Mr. Ginsberg explained that one of the more significant changes was to address the Total of Two Side Yard provision found in the R-1/3 and R-1/5 zones. Mr. Voigt believed that the Commission wished to handle this by requiring that all new construction must meet the Total of Two Side Yards, without regard to the existing structures on the property. Thus, Commission members agreed that the appropriate response would be to leave #7 in section 406 (and not strike it out), and a new Note to that section. That Note would read: "All new construction shall comply with minimum side yard setbacks without regard to existing development or structures on the site."

Mr. Ginsberg explained that he will need to add new figures to page 9 and 11 of the Resolution. Mr. DiDonna pointed out two typographical corrections on page 8 and 17. Mr. Voigt questioned whether the Commission should vote on these regulations with only four members present, or wait for the two other members. Mrs. Cameron noted that due to the Commission's schedule, it could be a few weeks until the Commission has all six members present. After some consideration, Mr. Voigt suggested modifying pages 5 and 15.

The following motion was made: That the Planning & Zoning Commission adopt the following revised resolution to adopt the zoning regulation amendments. The motion was made by Mr. Voigt, seconded by Mr. Olvany and unanimously approved. Commission members noted that Mr. Sini and Mr. Cunningham should be informed of these changes, and the members also wanted to thank the Zoning Board of Appeals for their ideas and comments. The Adopted Resolution reads as follows:

PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
February 9, 2016

Application Number: Proposed Amendments to the Darien Zoning Regulations (COZR #2-2015) put forth by the Darien Planning & Zoning Commission

Name and Address of Applicant: Planning & Zoning Commission

Activity Being Applied For: Proposing fourteen amendments to the Darien Zoning Regulations as follows: Defining Building Coverage; Modifying how side lot lines are defined; Modify Section 230 to allow Monument Signs and to allow such signs in certain non-residential zones; Modify Section 334 and 385 regarding building lots which have at least 50% of the required Lot Width and Depth; Modify Section 371—Height of Buildings or Structures (clarify Building Height relative to cupolas and mechanical equipment.); clarify Section 384; Modify Section 406 #7—Eliminate the Total of Two side yards requirement; Modify Section 406f regarding detached accessory structures, to not allow finished space in detached accessory structures which do not meet the principal setbacks; Modify Section 575 Area and Bulk Requirements DCR Zone; Modify Inclusionary Zoning Regulations (Sections 583, 588a through 588e); Modify Section 572 to refer to the DMR Zone, when it should refer to the DCR Zone; Modify Section 577 to reference signs allowed in the DCR zone; Modify Section 625 Item 15 to be Maximum Average Floor Area of All Dwelling Units; and Modify Section 873 to reflect updated report name and date.

Date of Public Hearings: September 29, 2015 immediately continued to October 20, 2015
then continued to November 10, 2015
Deliberations held on: November 24, 2015

Time and Place: 8:00 P.M. Room 206 (9/29 and 11/10) Room119 (10/20) Town Hall

Publication of Hearing Notices
Dates: September 18 & 25, 2015
October 30 & November 6, 2015
Newspaper: Darien News

Date of Action: February 9, 2016
ADOPTED WITH MODIFICATIONS WITH AN EFFECTIVE DATE OF SUNDAY, FEBRUARY 28, 2016 AT TWELVE NOON

Scheduled Date of Publication of Action: February 19, 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 approve them.

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

A. The subject application to amend the Zoning Regulations was outlined in a seventeen page August 14, 2015 memo from Planning & Zoning Director Jeremy Ginsberg, which described

the fourteen proposed Zoning Regulation amendments put forth by the Planning and Zoning Commission. These are:

1. *Modify Sections 210 and 223—Definition of Building Coverage*
2. *Modify Section 210—Definition of Lot Line, Side*
3. *Modify Section 230 to allow Monument Signs and Modify Sections 925.1 and 926.3 to allow such signs in certain non-residential zones.*
4. *Modify Section 334 and 385 to eliminate the need for Lot Width variances to redevelop on building lots which do not have sufficient Lot Width.*
5. *Modify Section 371—Height of Buildings or Structures (Building Height relative to cupolas and mechanical equipment.)*
6. *Modify Section 384—Non Conformity, Other Than Use.*
7. *Modify Section 406 #7—Eliminate the Total of Two side yards requirement which now affects the R-1/3 and R-1/5 Zones.*
8. *Modify Section 406f regarding detached accessory structures.*
9. *Modify Section 575 Area and Bulk Requirements DCR Zone to clarify what counts towards floor area.*
10. *Modify Inclusionary Zoning Regulations (Sections 583, 588a through 588e) to require that all below market rate units be changed to be affordable to those with an income equal to or less than 80% of State Median Income (SMI). Include updated SMI data and calculations.*
11. *Modify Section 572 to refer to the DMR Zone, when it should refer to the DCR Zone.*
12. *Modify Section 577 to reference signs allowed in the DCR zone.*
13. *Modify Section 625 Item 15 to be Maximum Average Floor Area of All Dwelling Units.*
14. *Modify Section 873. Eligibility for Certification to reflect updated report name and date.*

B. A follow-up memo dated October 30, 2015 from Planning & Zoning Director Jeremy Ginsberg was submitted for the record, further reviewing amendment #7 relative to "Total of Two Side Yards", and offering a revised proposal.

C. This subject zoning regulation amendment application was referred to the Western Connecticut Council of Government (which replaced the South Western Regional Planning Agency – SWRPA) and they found that the proposal is of local concern, but with minimal intermunicipal impact, as noted in an August 31, 2015 email from Jonathan Chew of WestCOG.

D. Many of the concepts and amendments put forth are as a result of a memo from the Zoning Board of Appeals (ZBA) dated February 6, 2013. This 2013 memo outlined nineteen suggested changes from the ZBA. Seven of these suggestions have previously been adopted by the Commission about a year and a half ago, and the subject amendments could address six others. The proposed amendments range from minor typographical corrections to changing of long-time established setbacks in the R-1/3 and R-1/5 zoning districts.

E. Overall, the fourteen zoning regulation amendments proposed are to address items in the ZBA memo, clarify long-time Department policies, and correct improper and incorrect references now in the Regulations.

F. As part of the record in this matter, written comments have been received from professionals in different fields. They are from: architect Jacek Bigosinski; realtor David Hawes; surveyor Mark Lebow and others from the firm of William W. Seymour & Associates; engineer Joe Canas; and

former Commission member Reese Hutchison. In addition, a member of the ZBA spoke at one of the public hearings.

1. ***Modify Sections 210 and 223—Definition of Building Coverage***
The first proposed regulation amendment is to modify the definition of Building Coverage, and its associated figure in Section 223. The overall goal of this amendment is to better clarify whether certain items count towards Building Coverage. This amendment would exempt air conditioning units if the total square footage of all HVAC units, generators, and above ground propane tanks, does not exceed twenty square feet. Currently all of these items count towards Building Coverage. Section 223 will be revised to reflect whatever determination the Commission makes in the definition of Building Coverage in Section 210. The amendment also addresses the issue of elevated patios. The new definition will now count patios higher than four feet above grade (which are sometimes referred to as raised terraces) towards Building Coverage.

2. ***Modify Section 210—Definition of Lot Line, Side***
The second amendment is a change in the definition of Lot Line, Side, in Section 210 of the Regulations. The existing definition of side lot line requires that one end of a Side Lot Line touch a front lot line. As described at the public hearing, in some extreme cases, the definition actually "punishes" a property owner for having extra property, and in fact, the property owner would be better off from a setback standpoint to not own some property. Very small change in angles of lot lines have resulted in staff interpretations regarding when a side lot line turns into a rear lot line. This change in the definition of Lot Line, Side will clarify existing Department policy. The amendment is to specifically note that a change of direction of 60 degrees or more from the original bearing for a length of 30 feet or more shall change a side lot line to a rear lot line.

3. ***Modify Section 230 to allow Monument Signs and Modify Sections 925.1 and 926.3 to allow such signs in certain non-residential zones.***
The third amendment is to allow monument signs in certain non-residential zones. In recent years, the ZBA has approved a number of monument signs in Darien, including those at Maplewood, 745 Boston Post Road, Darien Green, 17 Old King's Highway South, and Land Rover. Some of those are in the OB and SB-E zones, but not all of them. Commission members noted that these signs appear to be functional, and also look good. They agreed that not all zones should allow for monument signs. The Commission believes that it is logical therefore, to describe/define such a sign in Section 230 (the figure entitled, "Types of Signs"), and specifically allow them in the OB, DOR-1, DOR-5, SB, and SB-E zones.

4. ***Modify Section 334 and 385 to eliminate the need for Lot Width variances to redevelop on building lots which do not have sufficient Lot Width.***
The fourth amendment relates to Lot Width and Lot Depth. In recent years, the ZBA has had to address replacement houses on lots which do not have sufficient lot width. At the public hearing on this application, Commission members asked whether the proposed 50% number was appropriate. The Commission also wanted to ensure that no new non-conforming lots are being created.

One suggestion during the public hearing was to have the percentage change from the proposed 50% to 75%. Commission members seemed amenable to the 75%. This will allow for

replacement house proposals that meet all setback, parking and other limitations to no longer require a variance, if they have at least 75% of the required width and depth. This amendment modifies Section 385 to establish a procedure for the Zoning Enforcement Officer (ZEO) to determine the legality of non-conforming building lots (width, depth, area, merger).

5. ***Modify Section 371—Height of Buildings or Structures (Building Height relative to cupolas and mechanical equipment.)***
The fifth proposed zoning regulation amendment addresses Height of Buildings or Structures—including, but not limited to, the issue of cupolas which extend beyond the existing thirty (30) foot height maximum.

This amendment attempts to address a number of issues. First, it clearly specifies that mechanical units on the roofs of buildings would not count towards building height if they are screened from view. At the public hearing, it was noted that generators on roofs could be a concern on small lots. There is a difference between commercial properties, which traditionally have mechanical equipment on the roof, and residential properties, which almost never do. Commission members agree that this change is appropriate.

Second, the amendment also tries to address how cupolas are treated, including how much of the roof area can be covered by a cupola. The existing policy is that a 4' x 4' x 4' cupola is exempt from the regulations and is considered the height necessary to accomplish the purpose. Mr. Ginsberg said that the ZBA has addressed twelve cupola requests within the past twelve years. The proposed standard was suggested by former Planning & Zoning Commission member Reese Hutchison, who may have obtained it off a manufacturers' web site. Mrs. Cameron said she is more concerned about the height of the cupola than the width. Commission members acknowledged that the 4' default practice doesn't appear to fit properly with every house design. The goal is to define a maximum height ignoring any weathervane/spire type projections. The maximum width should be proportional to the ridge length the cupola sits on. It was noted that the existing Department policy (4' x 4' x 4') will remain in effect if the proposed amendment regarding cupolas is not adopted. After some discussion, the Commission was not in favor of changing the standard for cupolas, and thus, that aspect of the proposal is not adopted.

6. ***Modify Section 384—Non Conformity, Other Than Use.***
The sixth proposed zoning regulation amendment codifies long-time Department policy regarding non-conformities. The Planning and Zoning Commission hereby adopts this amendment as proposed.

7. ***Modify Section 406 #7—Eliminate the Total of Two side yards requirement which now affects the R-1/3 and R-1/5 Zones.***
The seventh amendment is to modify Section 406 by eliminating the existing "Total of Two Side Yard" requirement. This "total of two side yards" is very difficult to administer and hard to explain to owners and their representatives. This amendment would only affect the R-1/3 and R-1/5 zones, as all other zoning districts have the same side yard setback for both sides. At the public hearing, Mr. Ginsberg showed on a number of surveys how this regulation is currently interpreted, and how it "punishes" homeowners who have non-conforming residences that are too close to one side lot line, by creating an extra large setback on the other side. Commission members noted that this could result in wide houses in small lot zones, which could create the

appearance of over-building on those lots. This amendment will allow an addition to be constructed without a variance if all of the new volume conforms to applicable setback and other limitations. It will eliminate the current "penalty" practice and simplify the application of the total side yard setback requirement in the R-1/3 and R-1/5 zones.

Mr. Ginsberg's October 30, 2015 memo offered one way to modify this section of the Regulations. That amendment would eliminate the Total of Two Side Yard requirement entirely. He explained that this is a common ZBA variance request in the R-1/3 and R-1/5 zones. It does not affect other zoning districts. He then showed an example from Brookside Drive, where the applicant had a non-conforming situation with a two foot setback on one side. Mr. Ginsberg said that one other way to address this issue would be to specifically note in the regulations that if all new construction complies with existing setbacks, that a Total of Two Side Yard provision would no longer apply.

At the public hearing, Mr. Mark Lebow, a surveyor from William W. Seymour & Associates, said that most communities do not treat the Total of Two Side Yards the same way that Darien does—most communities do not require a property owner to make up the deficiency. He mentioned that the existing regulation is very complex to explain. He said that this is applied uniquely in Darien.

The Commission has decided to address this Total of Two Side Yards issue by requiring that all NEW construction comply with the setbacks without regard to existing development or structures on the site. This would ignore any existing conditions. This will require simply keeping Item #7 in the chart in Section 406 and adding a new Note j. Commission members agree that this would be an appropriate solution to this matter.

8. ***Modify Section 406f regarding detached accessory structures.***
The eighth amendment addresses detached accessory structures. The existing long-time regulation allows small one-story structures very close to the property line. In recent years, a number of proposals have been made to finish such space, which could result in potential impacts to neighboring properties. It was agreed that large detached accessory structures can have a negative impact on neighborhoods. The proposed amendments clarify how to measure the height of such structures, and give a maximum height to the ridge. It also notes that detached accessory structures which do not meet the principal setbacks cannot contain finished space.

9. ***Modify Section 575 Area and Bulk Requirements DCR Zone to clarify what counts towards floor area.***
The ninth amendment, to modify Section 575, codifies a June 23, 2015 Commission determination regarding Kensett, and how to treat the square footage of finished floor area in the basement. At that June 2015 meeting, the Commission agreed that the wording in the DCR zone requirements needs to clarify that portions of finished basements do not count toward the floor area of the dwelling units. The amendment is to add a Note to the Area and Bulk Requirements of the DCR zone, clarifying the Commission's policy.

10. ***Modify Inclusionary Zoning Regulations (Sections 583, 588a through 588e) to require that all below market rate units be changed to be affordable to those with an income equal to or less than 80% of State Median Income (SMI). Include updated SMI data and calculations.***

The tenth amendment was relative to the Inclusionary Zoning Regulations in Section 580. Mr. Ginsberg explained that this Section of the Regulations was originally adopted in 2009, and has been tweaked a few times through the years. The amendment is to no longer require a 110% of Area Median Income (AMI) unit, but rather, require all inclusionary units tied to 80% of State Median Income (SMI). Mr. Ginsberg noted that 110% of Area Median Income is $137,610 and 80% of State Median Income is $69,520. It was also noted that an 80% of SMI unit would get 1 or 1.5 points towards an 8-30-g moratorium, while a 110% of AMI unit would not qualify. A 110% of AMI unit would not get any consideration toward the Town's 10% count, as considered by the State of CT, and in fact, would push the Town further behind that number, even though such a unit it is deed-restricted by income.

The proposed amendment also updates out-of-date numbers used in the calculations. It was suggested that the numbers be included in a new Appendix to the Regulations, in order to improve readability of this section of the regulations. The change in the Regulations will change the maximum income standard, creating units which are affordable to lower incomes, and allow the Town to gain moratorium points for these units. The change will also include updated SMI figures. It was agreed that using 80% of SMI, rather than 110% of AMI was appropriate, and that relative to Item #10, Mr. Ginsberg would be creating a new Appendix E to the Zoning Regulations to remove some of the detailed calculations out of Section 580, to make the regulations more readable.

11. ***Modify Section 572 to refer to the DMR Zone, when it should refer to the DCR Zone.***
12. ***Modify Section 577 to reference signs allowed in the DCR zone.***
13. ***Modify Section 625 Item 15 to be Maximum Average Floor Area of All Dwelling Units.***
14. ***Modify Section 873. Eligibility for Certification to reflect updated report name and date.***

Amendments 11, 12, and 13 are essentially typographical corrections, and amendment 14 is to properly reflect the correct, updated document in the Regulations. At the public hearing, Commission members had no comments on amendments 11, 12, 13, and 14. Amendment #12 clarifies that signs allowed in the DCR zone are those allowed in the DBR and all other Residential Zones. Amendment #13 corrects a typographical error in the DB-2 zoning table. Amendment #14 updates a reference to a document.

CONSISTENCY WITH 2006 TOWN PLAN OF CONSERVATION & DEVELOPMENT

1. Under the State Statutes, the Commission is required to make a finding on any adopted zoning regulation amendment that it is consistent with the Town Plan of Conservation & Development. The existing Town Plan does not have anything right on point for many of these proposed amendments. One recommendation is on page 6-3 of the Town Plan, which reads as follows: "Continue to evaluate and consider amending the existing building coverage and height restrictions to maintain the character of the community."

2. Section 8-3(d) of the Connecticut General Statutes requires that notice of this decision be published in a local newspaper, and a copy of the regulation change be filed with the Town Clerk prior to the zoning regulation amendments taking effect. The inside cover sheet, Table of Contents and Appendix B of the Regulations will be amended accordingly to reflect these changes. As noted above, relative to amendment #10, a new Appendix E will be created entitled, "Calculations regarding Inclusionary Zoning".

NOW THEREFORE BE IT RESOLVED that the **Amendments to the Darien Zoning Regulations (COZR #2-2015)**, are hereby ADOPTED WITH MODIFICATIONS WITH AN EFFECTIVE DATE OF SUNDAY, FEBRUARY 28, 2016 AT TWELVE NOON.

NEW WORDING UNDERLINED, DELETIONS IN STRIKEOUT

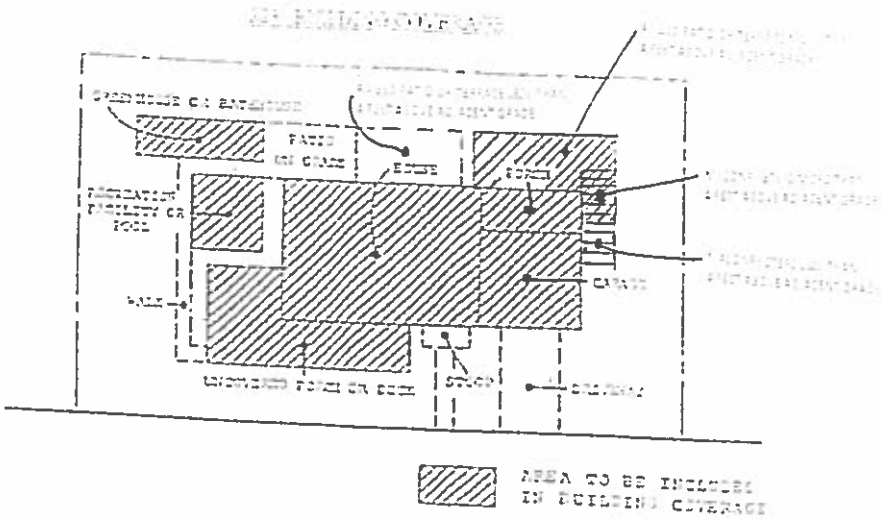
1. ***Modify Sections 210 and 223 of the Regulations (Definition of Building Coverage).***

Building Coverage: The combined percentage of the land covered by the roof area or outside dimensions of all structures on the lot including eaves and other similar projections. Building Coverage shall include: dwellings; garages; storage/accessory buildings; commercial buildings; porches; decks; covered courtyards and walkways; pools; tennis and other recreational courts; and other structures that are located on or above the ground. Patios, steps, stoops and similar structures, any portion of which is more than 4 (four) feet above any of the adjacent ground level, shall be included in the calculation of Building Coverage. (See Subsection 223 for illustration). ~~For pervious tennis courts and other pervious recreational courts located on lots in a commercial zone or on a residential lot with a Special Permit use thereon, only the largest such court shall count in Building Coverage.~~

The following shall not count towards Building Coverage:

- The first six inches (6") of building eave, and up to a total of twenty (20) square feet for overhangs for stairs, stair landings, and stoops ~~do not count toward Building Coverage~~.
- Driveways, uncovered walks, patios, terraces and other at grade surfaces that do not require a Building Permit. ~~shall not be included in building coverage, but~~
- Provided they each are less than nine (9) square feet each; and provided the total of such features does not exceed a maximum total of twenty (20) square feet – above ground mechanical HVAC, pool equipment, generator equipment, fuel tanks, and covers over basement access stairs or window wells.
- For pervious tennis courts and other pervious recreational courts located on lots in a commercial zone or on a residential lot with a Special Permit use thereon, only the largest such court shall count in Building Coverage.

Section 223. Building Coverage (figure)
(Update figure to reflect revised definition and make reference to the definition in Section 210.)



NEW WORDING UNDERLINED, DELETIONS IN STRIKEOUT

2. ***Modify the definition of Lot Line, Side in Section 210 of the Regulations.***

Lot Line, Side: Boundary line which separates two lots and one end of which intersects a front lot line. A change of direction of 60 degrees or more ~~for a length of 30 feet or more~~ from the original bearing at the street line shall change a side lot line to a rear lot line. In situations where a side lot line starts at the street as a turning radius or in situations where there is a total deflection of greater than 60 degrees for a total length of 30 feet or less of the side line, then the boundary shall remain a side lot.

---

3. ***Add monument style signs as a possible sign type in Section 230 of the Regulations, and allow them in the OB, DOR-1 and DOR-5, and SB and SB-E Zones.***
(the existing subsection 925.1 and 926.3 headings are now underlined and will remain underlined)

925.1. Ground and Monument Signs (See Subsection 230 for illustration.)

a. The maximum total square footage of a ground or monument sign shall not exceed 20 square feet.
b. The maximum height of a ground or monument sign shall not exceed four feet.
c. No letter or figure on a ground or monument sign shall be higher than four inches.
d. Multiple occupancy buildings may have one combined ground or monument sign listing all occupants.

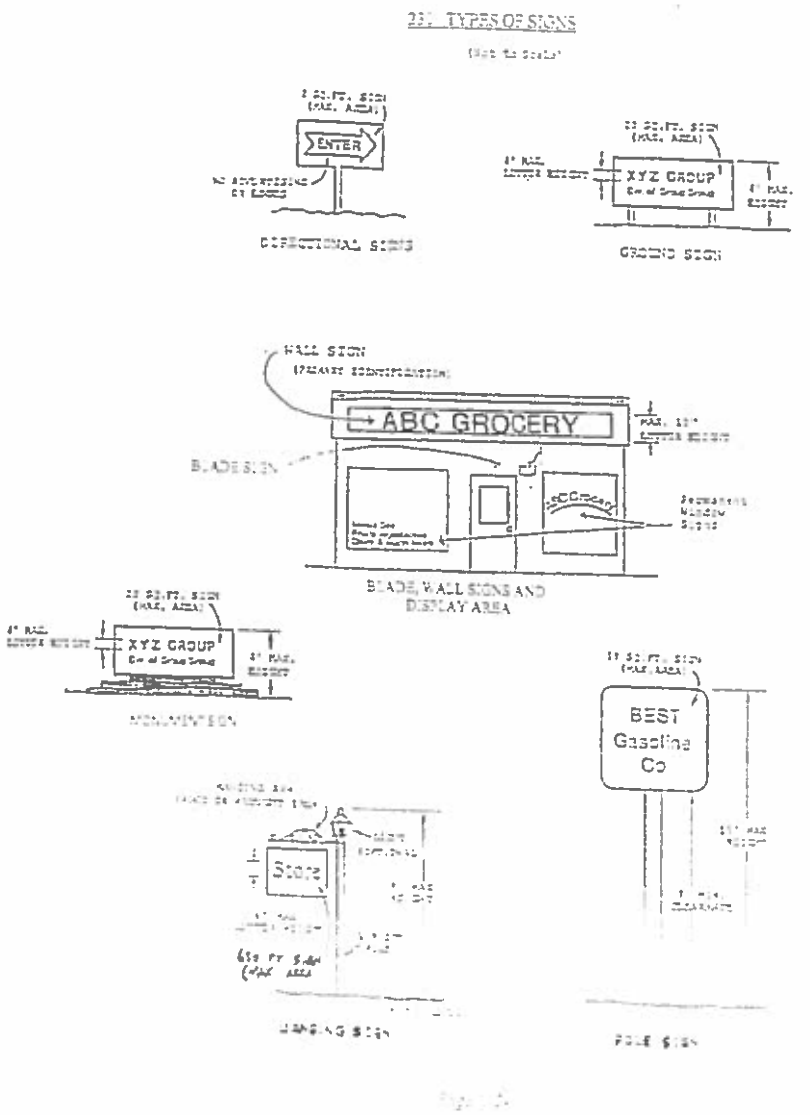
926.3. Ground and Monument Signs (See Subsection 230 for illustration.)

One ground sign or monument sign may be permitted in lieu of one pole sign. All ground or monument signs shall comply with the requirements of Subsection 925.1(a-d) and shall be subject to the same setback requirements as pole signs.

NEW WORDING UNDERLINED, DELETIONS IN STRIKEOUT

Add new figure to Section 230 (Types of Signs) to reflect a monument sign.
(existing figure showing various signs to now include a monument sign).

<u>230. TYPES OF SIGNS</u>



NEW WORDING UNDERLINED, DELETIONS IN STRIKEOUT

4. Modify Section 334 and 385 to eliminate the need for Lot Width variances to redevelop on building lots which do not have sufficient Lot Width.

334. Lot Width and Depth Required

Within any zone, no part of any building or any structure housing a principal use shall be erected on any part of a lot which has a minimum width or depth of less than the distance specified for the zone in which located. Further, such lot shall be able to fully enclose a square having a dimension on each side equal to the lot width requirement for that zone.

On existing non-conforming lots where there is no portion of the lot with sufficient lot width and/or lot depth ~~is not sufficient~~ to fulfill these requirements, the following shall apply:

a. Construction of a new principal building on a vacant building lot shall be permitted only in accordance with Subsection 385; and

b. The lot width and/or lot depth requirement shall not apply to the construction of a replacement dwelling or to an addition to an existing structure provided the actual lot width and actual lot depth shall equal at least ~~50~~75 percent of ~~the required lot width~~that which is required.

385. Building on Non-conforming Lots

A permit may be issued for the erection of a building on any building lot, recorded in the Darien Land Records, that was made non-conforming with respect to area, frontage, lot depth and/or lot width requirements, by the adoption of, or any amendment to, these Regulations or the Zoning Map, provided the Zoning Enforcement Officer makes a written finding that:

(a) The owner of any such lot did not own sufficient adjoining land at the time of the adoption of said Regulations (September 24, 1954) or said amendments to conform therewith, or more nearly therewith, and

(b) All yard and open space requirements of the Regulations are met, and

(c) Adequate provision is made for protecting the general health, safety, and welfare and providing adequate access, drainage facilities, and protection of the nearby properties, and

(d) The lot has not been used in conjunction with adjacent property to the extent that its identity has merged with adjacent property in the same ownership. Uses or activities that may cause the identity of a lot to be merged with adjacent properties include, but are not limited to the following:

1. allowing two or more parcels to be assessed as one building lot, or
2. construction of a structure crossing the property line, or
3. location of an accessory structure (tool shed, pool, garage, etc.) on the lot, or
4. having utilities and/or services (electrical, telephone, sewer, water, septic system, etc.) on or crossing the lot without having an easement or documented distinction between the parcel being serviced and the lot in question, or
5. having a driveway, parking area, accessway or similar facility on or crossing the lot without having an easement or documented distinction between the parcel being serviced and the lot in question, or
6. planting and/or maintaining a garden, lawn, row of planted trees or shrubs, fence, or similar improvement(s) on or encompassing the lot or portion of the lot, or
7. other actions of the lot owner that indicate that they have treated the lot as a portion of the adjoining property.

When the owner of two or more adjacent non-conforming lots abandons the separate, non-conforming status of the lots by failing to comply with any of the above standards, the non-conforming lots shall be eliminated and the parcels shall, for purposes of these Regulations, be considered merged into one or more conforming lots or a single more nearly conforming lot. This shall apply even if one or more of the non-conforming lots has been developed. Once considered merged the lots may not be sold, conveyed, altered, or otherwise used as separate lots.

---

*5. **Modify Section 371 Height of Buildings or Structures.***

371. Height of Buildings or Structures

The height limitations of these Regulations shall not apply to church spires, ~~bellfries,~~ belfries, flagpoles, cupolas ~~and domes~~ not used for human occupancy~~; or to~~ chimneys, ventilators, solar panels, skylights, water tanks, ~~bulkheads, non-commercial transmitting or receiving antennas, or similar features, and~~ mechanical equipment or similar features not intended for human occupancy. ~~N~~Necessary mechanical appurtenances usually carried above the roof level may exceed the height limitation provided they shall be adequately screened from view from nearby streets. All ~~S~~such features, however, shall be erected only to such height as is necessary to accomplish the purpose they are intended to serve, and the total area covered by such features shall not exceed 15% of the roof area or the area actually needed, whichever is less.

NEW WORDING UNDERLINED, DELETIONS IN STRIKEOUT

*6. **Modify Section 384—Non Conformity, Other Than Use.***

384. Non-Conformity, Other Than Use

A building that is conforming in use, but does not conform to the height, setback, yard, land coverage or parking requirements of these Regulations shall not be considered to be non-conforming within the meaning of Subsection 383 (nonconforming use). Any and all additions

to the building must comply with all current requirements of the zone in which the site is located. No permit shall be issued that shall result in the increase of any non-conformity in height, setback, yard space, land coverage or parking without an appropriate variance from the Zoning Board of Appeals. No intensification of use nor increase of the amount of building vertically, horizontally or otherwise, shall be based on the existing noncomplying or nonconforming aspects of the structure.

NEW WORDING UNDERLINED, DELETIONS IN STRIKEOUT

7. ***Modify Section 406 by eliminating the "Total of two side yard" requirements, which impact the R-1/3 and R-1/5 Zones. All items in the chart shall be renumbered accordingly.***

406. Area and Bulk Requirements

The requirements listed for each zone as designated shall be deemed to be the minimum or maximum requirements in every instance of their application. Dimensions are in feet unless otherwise indicated.

	R-2	R-1	R-1/2	R-1/3	R-1/5
1. Minimum Lot Area (Square Feet) (See notes e, g)	87,120	43,560	21,780	14,520	8,712
2Minimum Width (See notes a, b, e)	200	150	100	80	60
3.Minimum Frontage (See notes a, e, h, i)	75	50	50	50	50
4.Minimum Depth (See notes a, e)	200	150	100	100	100
5. Minimum Front Yard (See notes a, b, c, d)	50	40	40	30	25
6. Minimum Side Yard: Each One	35	25	15	10	8
7. Minimum Side Yard: Total of Two (See notes b, e, j)	70	50	30	25	20
8. Minimum Rear Yard (See note b)	50	40	25	25	25
9. Accessory Structures (See note f) 9A. Minimum Distance from Front Lot Line	50	40	40	30	25
9B. Minimum Distance from Side Lot Line	35	25	10	5	5
9C. Minimum Distance from Rear Lot Line	50	40	10	5	5
10.Maximum Height in Stories	2-1/2 (All Residential Zones)				
11.Maximum Height in Feet	30 All Residential Zones)				
12.Maximum Building Coverage	20% (All Residential Zones)				

j. All new construction shall comply with minimum side yard setbacks without regard to existing development or structures on the site.

NEW WORDING UNDERLINED, DELETIONS IN STRIKEOUT

8. Modify Section 406f regarding detached accessory structures. This will clarify how the height of the structure is measured, and give a maximum height to the ridge of such a structure. Also notes that there shall be no finished space in such detached accessory structures.

f. Detached accessory structures within five feet of a principal structure, and/or over 15 feet tall at any point, and/or over one floor/story in height, shall observe the same setbacks as for main buildings. Such detached accessory structures that do not comply with the setbacks for principal use or structure shall be for parking and/or storage only and shall not contain any finished or habitable space for occupancy.

---

9. Modify Section 575. Area and Bulk Requirements DCR Zone to clarify what counts towards floor area.

575. Area and Bulk Requirements

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.

Minimum Lot Area	10 acres
Minimum Lot Frontage	200
Minimum Lot Width (Average)	200
Minimum Lot Depth (Average)	200
Minimum Front Yard	50
Minimum Side Yard	25
Minimum Rear Yard	25
Maximum Height	2 ½ stories or 28 feet
Maximum Building Coverage	20%
Average Floor Area of Dwelling Units (see Note 1)	3,900 sq. ft.
Maximum Dwelling Units/Building	4
Maximum Average Building Size	16,000 sq. ft.

Note 1: Portions of finished basements do not count toward the floor area of the dwelling units unless the basement is a 'story' as defined by these regulations.

NEW WORDING UNDERLINED, DELETIONS IN STRIKEOUT

10. Modify Inclusionary Zoning Regulations (Sections 583, 588a through 588e) to require that all below market rate units be changed to be affordable to those with an income equal to or less than 80% of State Median Income (SMI). Create a new Appendix E.
(NOTE THAT IN THIS SPECIFIC CASE, ALTHOUGH NEW WORDING IS SHOWN UNDERLINED, THE TITLE OF THE SECTION WILL REMAIN UNDERLINED)

583. Affordable ~~Below-Market-Rate~~ Requirements

Developments resulting in the creation of additional multi-family dwelling units shall designate a minimum of twelve percent (12%) of the total number of dwelling units as ~~below-market-rate.~~affordable housing as defined by Connecticut General Statutes. For the purpose of this regulation, the term multi-family is defined as a single property with two or more dwelling units, whether attached or detached. Dwelling units constructed pursuant to Section 405e. are exempt from the requirements of this regulation.

Single-family subdivisions or re-subdivisions resulting in a total of five or more building lots shall designate a minimum of twelve percent (12%) of the total number of dwelling units ~~below-market-rate~~as affordable housing as defined by Connecticut General Statutes. All other single family subdivisions are exempt from the requirements of this regulation.

The ~~below-market-rate~~ affordable housing requirement shall be satisfied by: providing affordable housing ~~below-market-rate~~ ~~dwelling~~ units on the subject property; providing ~~below-market-rate~~affordable housing ~~dwelling~~ units elsewhere within the Town of Darien; or paying a fee in lieu; or providing some combination thereof.

~~At least half of the below market rate (BMR) dwelling~~ All affordable housing units shall be affordable to households with an income equal to or less than 80 percent of the State Median Income (SMI) for the State of Connecticut ~~and the remainder of the below market rate dwelling units shall be affordable to households with an income equal to or less than 110 percent of the Area Median Income for the Standard Metropolitan Statistical Area encompassing Darien. If an odd number of below market rate units is being constructed, the higher number of units shall be constructed at the 80 percent number. For example, if the requirement is to construct one BMR unit, then it shall be at the 80 percent number.~~ Household incomes are published by the United States Census Bureau and periodically updated by the U.S. Department of Housing and Urban Development (HUD). Income levels are to be adjusted for household size per HUD requirements.

588. Additional Standards

a. On-Site: Affordable ~~Below-market-rate~~ ~~dwelling~~ units shall be reasonably dispersed throughout the development and shall contain, on average, the same number of bedrooms and shall be indistinguishable from market rate units with respect to the exterior finishes, including landscaping, but interiors may include standard finishes and need not be of 'luxury' quality. Those units shall be designed and located to maintain the architectural elements and character of the neighborhood. Examples of how to calculate the number of units required are shown in Appendix E of the Zoning Regulations.

~~(1) Example: Nine lot subdivision:~~
~~The total number of on-site units proposed is nine (9).~~
~~The number of BMR dwelling units required: 9 X 12% = 1.08.~~
~~The number of units required to be affordable to households at 80% of State Median Income: 50% X 1.08 = .54.~~

~~The number of units required to be affordable to households at 110% of Area Median Income: 50% X 1.08 = .54.~~
~~Since only one unit is required (the 1.08 rounds down to 1.0), that unit shall be at the 80% level, and no unit is needed for the 110% level. The remaining .08 units would have to be fulfilled via fee in lieu at the 110% level standard~~
~~0.08 X $117,800 X 225% = $21,204.~~

~~(2) Example: Nine multi-family units to be constructed:~~
~~The total number of on-site units proposed is nine (9).~~
~~The number of BMR dwelling units required: 9 X 12% = 1.08.~~
~~The number of units required to be affordable to households at 80% of State Median Income: 50% X 1.08 = .54.~~
~~The number of units required to be affordable to households at 110% of Area Median Income: 50% X 1.08 = .54.~~
~~Since only one unit is required (the 1.08 rounds down to 1.0), that unit shall be at the 80% level, and no unit is needed for the 110% level.~~
~~The Commission could grant up to 4 additional units as a bonus (1/2 of 9 rounded down), provided that these units meet a 25% affordability standard (Section 585).~~
~~Now there are 13 units~~
~~The number of BMR dwelling units required: 9 X 12% = 1.08.~~
~~25% of the 4 bonus units will need to be affordable = 1.00.~~

~~Now, there are two required affordable units, one at the 80% level, and one at the 110% level, with the remainder being a fee-in-lieu calculated as:~~
~~The number of units required to be affordable to households at 80% of State Median Income: 50% X .08=.04~~
~~The number of units required to be affordable to households at 110% of Area Median Income: 50% X .08=.04~~
~~The Area Median Income for a family of four is $117,800 (2008).~~
~~The cash contribution is calculated as follows:~~
~~0.04 X $117,800 X 300% = $14,136~~
~~0.04 X $117,800 X 225% = $10,602~~
~~b. The total fee in lieu payment is: $24,738~~

NEW WORDING UNDERLINED, DELETIONS IN STRIKEOUT

c. Phasing: Affordable ~~Below market rate~~ ~~dwelling~~ units shall be developed simultaneously with or prior to the development of the other units on a pro rata basis.

d. Deed Restrictions: In order to maintain affordable ~~below market rate~~ dwelling units for at least forty years or the life of the unit, whichever is longer, the following restrictions shall apply:

(1) Affordable ~~Below-market rate~~ ~~dwelling~~ units for sale shall be restricted by title to require that, in the event of any resale by the owner or any successor, the resale price shall not exceed the then maximum sales price for said

dwelling unit, as determined in accordance with Subsection 587d above or the sum of the original purchase price and the cost of any documented fixed improvements made by the owner, whichever is greater.

(2) Affordable ~~Below-market-rate~~ ~~dwelling~~ units for rent shall be restricted by title to require that the rents for said units shall not exceed the maximum rent as determined annually in accordance with Subsection 587e above.

e. Alternative Sites: The Commission may, at its absolute discretion, approve the construction or rehabilitation of the required affordable ~~below market rate~~ ~~dwelling~~ units on another site in Darien, provided that such off-site affordable ~~below-market-rate~~ ~~dwelling~~ units shall be maintained for at least forty years or the life of the unit, whichever is longer, in the same manner as on-site units. The Commission may condition the issuance of certificates of occupancy for the development project with the completion of the off-site affordable ~~below-market-rate~~ ~~dwelling~~ units or establish other reasonable performance conditions necessary to insure that the off-site units will be built in a timely manner.

f. Payment of a Fee: The Commission, at its absolute discretion, may require the applicant to pay a fee in lieu of constructing some, or all, of the required affordable ~~below-market rate~~ housing units. Such fee shall take the form of a one time cash contribution to a Town of Darien housing trust fund, or other Commission approved non-profit or for-profit organization dedicated to affordable ~~below-market-rate~~ housing initiatives. Said funds shall be paid prior to the issuance of the first Zoning Permit. Units created with such funds shall be designated as affordable in the same manner as required in Section 584. ~~The case contribution provided for each dwelling unit, or fraction thereof, shall be as follows:~~ An example of Fee In Lieu Payment Calculations is in Appendix E.

~~(1) Units affordable to households earning 80 percent of the State Median Income (SMI) for the State of Connecticut require a cash contribution equal to 300% of the State Median Income for a family of four.~~

~~(2) Units affordable to households earning 110 percent of the Area Median Income for the Standard Metropolitan Statistical Area encompassing Darien require a cash contribution equal to 225% of the Area Median Income for a family of four.~~

~~(3)Example: cash contribution based on 20082014 data:~~
~~The total number of on-site units proposed is five (5).~~
~~The number of BMR dwelling units required: 5 X 12% = 0.6.~~
~~The number of units required to be affordable to households at 80% of State Median Income: 100~~50% X 0.6 = ~~0.6.0.3.~~
~~The Area Median Income for a family of four is $86,900 (2014) $117,800 (2008).~~
~~The cash contribution is calculated as follows:~~
~~0.3 0.6 X $117,800$86,900 X 300% = $156,420~~
~~0.3 X $117,800 X 225% = $79,515~~
~~The total fee in lieu payment is $156,420.$185,535~~

~~(Note: As of the adoption of this Regulation, the 2008 Area 2014 State Median Income data was the most recent available. As time changes, this data will change. The most recent data from HUD at the time the application is filed shall be used for this calculation).~~

NEW WORDING UNDERLINED, DELETIONS IN STRIKEOUT
(NOTE THAT IN THIS SPECIFIC CASE, NEW WORDING IS SHOWN UNDERLINED AND THE TITLE OF THE APPENDIX AND SUBHEADINGS WILL BE UNDERLINED)

APPENDIX E

EXAMPLES OF INCLUSIONARY ZONING CALCULATIONS

A. Calculating the Number of Units Required

(1) Example: Nine lot subdivision:
The total number of on-site units proposed is nine (9).
The number of affordable units required: 9 X 12% = 1.08.
All of which must be affordable to households at 80% of State Median Income (SMI): 50% X 1.08 = .54.

Since only one unit is required (the 1.08 rounds down to 1.0), the remaining .08 units would have to be fulfilled via fee in lieu at the 80% level standard
0.08 X $86,900 X 225% = $21,204.

(2) Example: Nine multi-family units to be constructed:
The total number of on-site units proposed is nine (9).
The number of affordable units required: 9 X 12% = 1.08.
The number of units required to be affordable to households at 80% of State Median Income (SMI): 100% X 1.08 = 1.08.
Since only one unit is required (the 1.08 rounds down to 1.0), that unit shall be at the 80% level.
The Commission could grant up to 4 additional units as a bonus (1/2 of 9 rounded down), provided that these units meet a 25% affordability standard (Section 585).
Now there are 13 units.
The number of affordable units required: 9 X 12% = 1.08.
25% of the 4 bonus units will need to be affordable = 1.00.

Now, there are two required affordable units at the 80% level, with the remainder being a fee-in-lieu calculated as:
The number of units required to be affordable to households at 80% of State Median Income: 100 X .08=.08
The State Median Income for a family of four is $86,900 (2014).
The cash contribution is calculated as follows:
0.04 X $86,900 X 300% = $10,428
0.04 X $86,900 X 225% = $7,821

The total fee in lieu payment is: $18,249

B. Calculating the Fee In Lieu Payment

The cash contribution provided for each dwelling unit, or fraction thereof, shall be as follows:

(1) Units affordable to households earning 80 percent of the State Median Income (SMI) for the State of Connecticut require a cash contribution equal to 300% of the State Median Income for a family of four.

(2)–Example: cash contribution based on 2014 data:
The total number of on-site units proposed is five (5).
The number of affordable units required: 5 X 12% = 0.6.
The number of units required to be affordable to households at 80% of State Median Income: 100% X 0.6 = 0.6
The State Median Income for a family of four is $86,900 (2014).
The cash contribution is calculated as follows:
0.6 X $86,900 X 300% = $156,420

The total fee in lieu payment is $156,420

(Note: As of the adoption of this Regulation, the 2014 State Median Income data was the most recent available. As time changes, this data will change. The most recent data from HUD at the time the application is filed shall be used for this calculation).

NEW WORDING UNDERLINED, DELETIONS IN STRIKEOUT

11.Modify Section 572a to refer to the DMR Zone, when it should refer to the DCR Zone.

a. Utilities

To qualify for development under these ~~DMR~~DCR regulations, a site shall be served by public water supply and public sewerage facilities of sufficient capacity to serve the development. The applicant shall submit a statement from a licensed Professional Engineer or the utility companies certifying that such capacity exists.

12.Modify Section 577 to reference signs allowed in the DCR zone.

577. Design Criteria

The following required criteria on specific design elements under this Section are found in the following Subsections of Section 500 Designed Business and Residential Zone (DBR):

A. Sec. 509 Accessory Buildings, Structures, ~~Signs,~~ and Uses shall apply as modified by Sec. 577 and 578 below.
B. Sec. 511 Architectural Design shall apply
C. Sec. 517 Application shall apply
D. Sec. 516 General Standards and Requirements shall apply
E. Sec. 519 Drives shall apply.

NEW WORDING UNDERLINED, DELETIONS IN STRIKEOUT

13. Section 625 Item 15 should be clarified to be "Maximum Average floor area."

625. Area and Bulk Requirements

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

1. Minimum Lot Area	1/2 acre (21,780 sq.ft.)
2. Minimum Lot Width	80
3. Minimum Lot Frontage	80
4. Minimum Lot Depth	100
5. Minimum Front Yard	30 (See Note a)
6. Minimum Side Yard	15 (See Note b)
7. Minimum Rear Yard	25 (See Note c)
8. Maximum Height in Stories	2
9. Maximum Height in Feet	28
10. Maximum Building Coverage	Determined by FAR
11. Minimum Front Landscape Depth	30
12. Maximum Developed Site Area	70%
13. Minimum Setback from Any Residential or DOR Zone	25
14. Maximum Average Floor Area Ratios	0.40 of first 10,000 s.f. of lot area plus 0.20 of all lot area over 10,000 s.f.
15. Maximum Floor Area of all Dwelling Units	1,000 sq. ft. (See Note d.)

NEW WORDING UNDERLINED, DELETIONS IN STRIKEOUT

15. Modify Section 873. Eligibility for Certification to reflect updated report name and date. (NOTE THAT IN THIS SPECIFIC CASE, ALTHOUGH NEW WORDING IS SHOWN UNDERLINED, THE TITLE OF THE DOCUMENT WILL REMAIN UNDERLINED)

873. Eligibility for Certification

To be eligible for certification, a Soil Erosion and Sediment Control Plan shall contain proper provisions to adequately control accelerated erosion and sedimentation and reduce the danger from storm water runoff on the proposed site based on the best available technology. Such

principles, methods and practices necessary for certification shall be found in the "2002 Connecticut Guidelines for Soil Erosion and Sediment Control" published by the Connecticut Department of Energy and Environmental Protection, ~~Connecticut Guidelines for Soil Erosion and Sediment Control (1985),~~ as amended. Alternative principles, methods and practices may be used with prior approval of the Commission.

Chairman Cameron then 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 Commission members explained that they had read though the draft resolution and had no comments or changes. Mr. Voigt made a motion to adopt the resolution as drafted. That motion was seconded by Mr. Olvany, and was approved by a vote of 4-0. The Adopted Resolution read as follows:

PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
February 9, 2016

Application Number: Coastal Site Plan Review #272-C
Flood Damage Prevention Application #342-A

Street Address: 123 Five Mile River Road
Assessor's Map #67 Lot #2

Name and Address of Applicant's Representative: Tom Ryder
LANDTECH
518 Riverside Avenue
Westport, CT 06880

Name and Address of Applicant &: Property Owner: Mitch & Jody Truwit
123 Five Mile River Road
Darien, CT 06820

Activity Being Applied For: Proposing to install a dock and perform related site development activities within regulated areas.

Property Location: 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.

Zone: R-1/2

Date of Public Hearing: January 26, 2016

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

Publication of Hearing Notices
Dates: January 15 & 22, 2016 Newspaper: Darien News

Date of Action: February 9, 2016 Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action: February 19, 2016 Newspaper: Darien News

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

- the proposed use and activities must comply with all provisions of Sections 400, 810 and 820 of the Darien Zoning Regulations for the Commission to approve this project.

- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plan, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.

- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. The owner proposes to install a dock and perform related site development activities within regulated areas.

2. As noted at the public hearing, the applicant received a Notice of Tentative Determination to Approve from the State of Connecticut Department of Energy & Environmental Protection (DEEP) in Permit #201502737-KB for this work.

3. The amount of work within Planning and Zoning Commission jurisdiction is shown on the submitted map and described in the application materials. This application narrative notes that the western six +/- feet long section of a wooden dock is in Town jurisdiction. All other work associated with this project is at a lower elevation, and solely within the jurisdiction of the State of Connecticut DEEP.

4. Due to the subject property's location, this application was referred to the Western CT Council of Governments (WestCOG). They sent comments via e-mail dated December 16, 2015, noting that "...the proposal is of local concern, but with minimal intermunicipal impact."

5. The potential adverse impacts of the proposed activity upon coastal resources, as designed are minimal and are therefore acceptable.

6. 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.

7. The Commission finds that the proposed development, if properly implemented and protected, is not contrary to the goals, objectives and policies of the Coastal Area Management Program.

8. The proposed activity, as modified within this resolution, is consistent with the goals and policies in Section 22a-92 (the Connecticut Coastal Area Management Act) of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would minimize any adverse impacts by the proposed activity on coastal resources.

9. The proposed activities, to be implemented with the conditions and modifications listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.

NOW THEREFORE BE IT RESOLVED that Coastal Site Plan Review #272-C and Flood Damage Prevention Application #342-A are hereby modified and granted subject to the foregoing and following stipulations, modifications and understandings:

A. Work shall be in accordance with the plan entitled:
   - Proposed Site Improvements for a Proposed Dock, Mitch and Jody Truwit, 123 Five Mile River Road, by LANDTECH, date: 12/03/15, Sheet C-1.

B. The proposed activity is consistent with the goals and policies in Section 22a-92 (the Connecticut Coastal Area Management Act) of the Connecticut General Statutes. The conditions as outlined herein include all reasonable measures which would mitigate any adverse impacts by the proposed activity on coastal resources.

C. Due to the location of the subject property and the scope, nature and amount of work proposed within the application, the Commission hereby waives the requirement for stormwater management per Sections 888a(1) and 888a(3) of the Darien Zoning Regulations.

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

E. Prior to February 9, 2017, as-built maps, surveys and/or other documentation shall be submitted to the Commission to verify that the dock has been installed and completed in accordance with the approved plans. No deviation or alterations from the approved plans shall be permitted except with the prior written permission of the Commission.

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 Section 829f of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (February 9, 2017). This may be extended as per Section 829f.

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.

Chairman Cameron then read the next agenda item:

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

Mr. DiDonna had one typographical correction. Mr. Olvany made a motion to adopt the resolution with that one correction. That motion was seconded by Mr. DiDonna and approved by a vote of 3-0, with Mr. Voigt abstaining, since he was not at the public hearing on the matter. The Adopted Resolution read as follows:

PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
February 9, 2016

Application Number: Land Filling & Regrading Application #373

Street Address: 64 Dubois Street
Assessor's Map #43 as Lot #56

Name and Address of Applicant & Property Owner:	Robert & Debra Riley 64 Dubois Street Darien, CT 06820
Name and Address of Applicant's Representative:	Doug DiVesta, PE DiVesta Civil Engineering Assoc. 51 Painter Ridge Road Roxbury, CT 06783

Activity Being Applied For: Proposal to regrade and construct an associated retaining wall in the back yard of the property and perform related site development activities.

Property Location: The subject property is located on the east side of DuBois Street approximately 400 feet south of its intersection with Relihan Road.

Zone: R-1/3

Date of Public Hearing: February 2, 2016

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

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

Date of Action: February 9, 2016 Action: APPROVED WITH CONDITIONS

Scheduled Date of Publication of Action: February 19, 2016 Newspaper: Darien News

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

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

- the size, nature, and intensity of the proposed use and activities are described in detail in the application, the submitted plan, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.

- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. The proposal is to regrade and construct an associated retaining wall in the back yard of the property and perform related site development activities. The proposed regrading will be no more than 15 inches in any one location, and the overall amount of fill is expected to be a total of 30 cubic yards. The proposed retaining wall will be no greater than 1-1/2 feet in height. No tree cutting is proposed as part of this application, and there is no new impervious surface proposed.

2. The Environmental Protection Commission approved this application as part of EPC #34-2015. That application is hereby incorporated by reference.

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

4. The proposal conforms to the standards for approval as specified in Section 1005 (a) through (g) of the Darien Zoning Regulations.

NOW THEREFORE BE IT RESOLVED that Land Filling & Regrading Application #373 is hereby approved subject to the foregoing and following stipulations, modifications and understandings:

A. Filling and regrading work, and the installation of an associated retaining wall shall be in accordance with the plan submitted to and reviewed by the Commission entitled:
   - Riley Residence 64 Dubois Street, Proposed Site Plan, by DiVesta Civil Engineering Associates, Inc., last dated 11/16/15, Sheet 1 of 1.

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

C. Because of the limited amount of regrading, the Commission hereby waives the requirement for stormwater management.

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

E. The granting of this Permit does not relieve the applicant of responsibility for complying with all applicable rules, regulations, and codes of other Town, State, or other regulating agencies.

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 this permit as it deems appropriate.

G. This permit shall be subject to the provisions of Sections 858 and 1009 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one year of this action (February 9, 2017). This may be extended as per Sections 858 and 1009.

All provisions and details of the plan shall be binding conditions of this action and such approval shall become final upon compliance with these conditions and the signing of the final documents by the Chairman. A Special Permit form shall be filed in the Darien Land Records within the next sixty days AND prior to the start of the proposed work in order to finalize this approval.

Chairman Cameron then read the next agenda item:

Deliberations ONLY on the following:
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.

Mr. Ginsberg noted that the Zoning Board of Appeals (ZBA) had approved the project. Mr. DiDonna asked about raising the garage slab. Mrs. Cameron took note of the proposed stormwater management. Mr. Voigt explained that the house lifting was mostly a ZBA issue.

Chairman Cameron then read the next agenda item:

Discussion of upcoming schedule.

Mr. Ginsberg mentioned the upcoming meeting schedule. This includes a Town Plan presentation to the RTM on February 22. He noted that there will be no meeting on Tuesday, February 16. He noted that the Commission will have full public hearing nights on February 23 and March 1. The next meeting regarding the Town Plan will be March 8. March 22 will also be a full public hearing night, and will include the continuation of the public hearing on Shake Shack.

Chairman Cameron then read the next agenda item:

Project status update.

Mr. Ginsberg explained that Mr. Keating is expected back at work soon, although he will not be back at Planning and Zoning Commission meetings until March, since he will be at the ARB meeting on February 23, and the Commission does not meet on February 16. Mr. Ginsberg said that work on Knobel Hill continues. He said that he has prepared a proposal for increasing the application fees for the local land use boards as well as zoning permit fees. He will be meeting with the PZ&H and F&B Committees of the RTM on Thursday, and then meeting with the full RTM on February 22. Mr. Ginsberg explained that the work at the Tokeneke Club continues, and it was noted that they hope to at least partially open later in 2016. Mr. Ginsberg reminded the Commission of the paddle tennis tournament to be held at the Country Club of Darien in early March.

Chairman Cameron then read the next agenda item:

Approval of Minutes
January 5, 2016 Public Hearing/General Meeting
Mr. DiDonna said that he had watched on vimeo and asked about the 40% SMI provision mentioned by Mr. Maslan relative to the potential redevelopment of 26 East Lane. Mrs. Cameron mentioned that this would not be a requirement of the Commission, but rather, an income range which many of the residents might income qualify for. Mr. Olvany made a motion to approve the minutes with some minor typographical corrections. That motion was seconded by Mr. Voigt, and approved by a vote of 4-0.

January 12, 2016 General Meeting
Mr. DiDonna said that he had watched the meeting on vimeo. Mrs. Cameron and Mr. DiDonna had minor typographical corrections. Mr. Voigt made a motion to approve the minutes with those corrections. That motion was seconded by Mr. Olvany and approved by a vote of 4-0.

January 26, 2016 Executive Session/Public Hearing/General Meeting
All Commission members had typographical corrections. Mr. Voigt made a motion to approve the minutes with those corrections. That motion was seconded by Mr. Olvany and approved by a vote of 4-0.

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 9:47 P.M.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director

02.09.2016min