

**PLANNING AND ZONING COMMISSION
MINUTES
GENERAL MEETING / PUBLIC HEARING
November 9, 2021**

Place: GoToMeeting (Online)

TIME: 7:30 P.M.

PLANNING & ZONING COMMISSION MEMBERS ATTENDING:

Olvany (Room 213), Rand, Reilly, Ball, Gately, Balgach (via GoToMeeting)

STAFF ATTENDING: Ginsberg (Room 213), Doneit (Room 213)

RECORDER: None

Channel 79

GENERAL MEETING

Chairman Olvany opened the Special Meeting at 7:32 P.M. and then welcomed new Commission member Adam Balgach, who was elected last week.

Mr. Olvany then read the first general meeting agenda item:

Election of Officers

Ms. Gately made a motion to nominate Stephen Olvany as Chairman. That motion was seconded by Mr. Ball. There were no other nominations. Mr. Olvany was then voted in as Chairman by a vote of 6-0.

Mr. Olvany made a motion to nominate George Reilly as Vice-Chairman. That motion was seconded by Mr. Rand. There were no other nominations. Mr. Reilly was then voted in as Vice-Chairman by a vote of 6-0.

Mr. Olvany made a motion to nominate Cara Gately as Secretary. That motion was seconded by Mr. Rand. There were no other nominations. Ms. Gately was then voted in as Secretary by a vote of 6-0.

Mr. Olvany then read the first general meeting agenda item:

Adoption of 2022 Meeting Schedule

Ms. Gately suggested dropping the proposed November 22, 2022 date. Commission members agreed. With that one change, Ms. Gately made a motion to adopt the 2022 meeting schedule. That motion was seconded by Mr. Rand, and approved by a vote of 6-0.

Mr. Olvany then read the next general meeting agenda item:

Subdivision Application #629, Peter & Catherine Thomas, 130 Leroy Avenue.

Request for extension of time to file map in Darien Land Records.

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Mr. Rand made a motion to grant an additional six months to file the mylar in the Darien Land Records. That motion was seconded by Ms. Gately, and was approved by a vote of 6-0.

Mr. Olvany then read the next general meeting agenda item:

Deliberations and possible decisions on the following items:

Coastal Site Plan Review #363, Flood Damage Prevention Application #169-A, Land Filling & Regrading Application #55-A, John Daileader, 32 Plymouth Road. Proposal to construct elevated terrace areas, a swimming pool, spa, and pool house directly adjacent to the rear of the existing residence with associated stormwater management; and to perform related site development activities within regulated areas.

Mr. Reilly made a motion to adopt the resolution as drafted, with one typographical correction. That motion was seconded by Mr. Balgach. That motion was approved by a vote of 6-0. Mr. Balgach noted for the record that he had watched the video of the hearing on this matter. That Adopted Resolution read as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
November 9, 2021**

Application Number: Coastal Site Plan Review #363
Flood Damage Prevention Application #169-A
Land Filling & Regrading Application #55-A

Street Addresses: 32 Plymouth Road
Assessor's Map #57 Lot #36

Name and Address of
Property Owners and Applicants: John Daileader
32 Plymouth Road
Darien, CT 06820

Name and Address of
Applicant's Representative: Harry Rocheville, P.E.
McChord Engineering Associates
1 Grumman Hill Road
Wilton, CT 06897

Activities Being Applied For: Proposal to construct elevated terrace areas, a swimming pool, spa, and pool house directly adjacent to the rear of the existing residence with associated stormwater management; and to perform related site development activities within regulated areas.

Property Location: The 1.01+/- acre subject property is located on the west side of Plymouth Road approximately 400 feet north of its intersection with Shipway Road.

Zone: R-1

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Date of Public Hearing: October 12, 2021

Time and Place: 7:30 P.M. Room 213 (Town Hall) and via GoToMeeting (Virtual)

Publication of Hearing Notices

Dates: September 30 & October 7, 2021

Newspaper: Darien Times

Date of Action: November 9, 2021

Action: GRANTED WITH STIPULATIONS

Scheduled Date of Publication of Action:
November 18, 2021

Newspaper: Darien Times

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

- the proposed use and activities must comply with all provisions of Sections 406, 810, 820, 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 plans, and the statements of the applicant's representative whose testimony is contained in the record of the public hearing, all of which material is incorporated by reference.
- each member of the Commission voting on this matter is personally acquainted with the site and its immediate environs.

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

1. The proposal is to construct elevated terrace areas, a swimming pool, spa, and pool house directly adjacent to the rear of the existing residence with associated stormwater management; and to perform related site development activities within regulated areas. A large wood deck will be removed from the back of the house to facilitate the development. The site is served by public water supply and sanitary sewer.
2. The subject property lies entirely within FEMA designated AE flood zone, with a Base Flood Elevation of 14.0'.
3. The Planning & Zoning Department referred the application to the State of CT DEEP on September 16, 2021. The Commission notes that no response from the Agency was received on the application.
4. The Darien Environmental Protection Commission (EPC) approved this project with conditions at its November 3, 2021 meeting as part of EPC #37-2021. That approval is hereby incorporated by reference.

PROPOSED POOL HOUSE

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5. At the public hearing, it was noted that the proposed pool house would include finished space on the first and second floors, including a room shown on the floor plan as “kitchen”. It was noted that the Planning & Zoning Department policies and Zoning Regulations allow a pool house to have a refrigerator and/or freezer and/or sink and/or a dishwasher, but no stove or oven or burners or cooktop or microwave oven—no cooking facilities of any sort. The Commission notes that the Zoning Regulations do not allow a second dwelling unit on a property or a short-term rental of part or all of the property.

STORMWATER MANAGEMENT

6. A Engineering Summary prepared by Professional Engineer Harry Rocheville of McChord Engineering Associates, Inc., dated September 8, 2021 was submitted for the record as part of the original application.
7. Assistant Director of Public Works Darren Oustafine sent an e-mail dated September 29, 2021 with comments on the subject application. In that email, Mr. Oustafine notes that the engineer’s stormwater management report details only water quality measures with no proposed attenuation of peak rate of runoff. He further notes that the subject property is very near to tidally influenced waters, the site will run off to adjacent properties prior to reaching the Long Island Sound. Mr. Oustafine’s email is included as part of the record on the matter.
8. Mr. Rocheville responded to Mr. Oustafine’s comments in a letter dated October 4, 2021. In that letter, Mr. Rocheville analyzed the peak rates of runoff for the existing and proposed conditions for the 2, 10, 25 and 50-year storm events. He confirms that there is no increase in the peak rate of runoff from the property during any of the analyzed storm events with the proposed stormwater management.
9. The applicant proposes to collect water quality volume via a proposed stormwater management system consisting of a rain garden that will be incorporated into the hardscape and set below the pool coping. Runoff from the proposed hardscape will be captured by strip drains and conveyed to the rain garden. Rooftop runoff from half of the pool house will be collected by roof leaders and conveyed to the rain garden. Rooftop runoff from the other half of the roof will discharge to a splash pad at grade and sheet flow through lawn and mitigation plantings in the back yard before discharging to the existing drainage ditch on the north side of the property. The rain garden will also convey stormwater to the drainage ditch after it has been filtered by bio retention soils.
10. The subject property is located within the lower 1/3 of the watershed, about 650+/- feet to the Long Island Sound. The Commission finds that there is no requirement or need to detain water and manage stormwater quantity, because of the property’s location so close to the Long Island Sound. A waiver of Section 880 of the Regulations was requested by the applicant.

PROPOSED WORK WITHIN THE FLOOD ZONE

11. The entire property lies with the FEMA 100-year AE flood zone with a Base Flood Elevation of 14.0’. All of the proposed development is proposed beneath the BFE, as the average existing grade in the area of the development is approximately 8.0’. The proposed pool and pool terrace will be set at elevation 12.0’. The upper terrace will be set at elevation 14.5’. The finished first floor of the pool house will be set above the BFE at elevation 15.0’. The pool, terraces and pool

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house will be elevated above existing grade by retaining walls or on a foundation capable of withstanding the hydrostatic forces of flood waters.

12. To construct the improvements, approximately 1,050 cubic yards of material will be filled below the Base Flood Elevation. As noted by the applicant, the reduction in flood storage capacity that will result from the proposed filling is extremely small in comparison to the total flood storage volume of the Long Island Sound once the peninsula is inundated. Therefore, the effect of the fill on flood levels is negligible.
13. The proposed work will not result in an increase of flood heights and the proposal meets or exceeds Section 825 of the Darien Zoning Regulations.
14. The Commission believes that the proposed activities as shown on the site plan, to be implemented with the conditions listed below, will have no adverse impact on flooding, and therefore, this proposal is consistent with the need to minimize flood damage.

PROPOSED WORK WITHIN CAM AREA

15. 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 and will not result in any significant, long-term negative impacts on coastal resources
16. The Commission finds that the proposed activity as shown on the site development plan is consistent with the goals and policies in Section 22a-92 of the Connecticut General Statutes.
17. The Commission finds that the potential adverse impacts of the proposed activity on coastal resources are acceptable.

LAND FILLING & REGRADING SPECIAL PERMIT FINDINGS

18. The application has been reviewed by the Commission and is in general compliance with the intent and purposes of Section 1000.
19. 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 Coastal Site Plan Review #363, Flood Damage Prevention Application #169-A and Land Filling & Regrading Application #55-A are hereby granted subject to the foregoing and following stipulations, modifications and understandings:

- A. Regrading, construction and other site development activity shall be in accordance with the plans submitted to and reviewed by the Commission:

ENGINEERING PLAN

- Sheet SE1, Site Development Plan, 32 Plymouth Road, Darien, Prepared for John Daileader by McChord Engineering Associates, Inc., dated September 9, 2021.

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LANDSCAPE PLAN

- Sheet L-1.0, Landscape Site Plan, Daileader Residence, 32 Plymouth Road, Darien, Prepared by Eckerson Design Associates, dated September 7, 2021.

ARCHITECTURAL PLANS

Plans generally titled 'Daileader Residence, 32 Plymouth Road, Darien, Prepared by Brooks & Falotico Associates, LLP, dated September 8, 2021:

- Sheet 101, First Floor Plan;
- Sheet 102, Second Floor Plan.

The Commission acknowledges that specific architectural plans are not being approved herein. Plans shall be revised to remove any reference to a kitchen in the pool house.

- B. Due to the nature of the project, the Planning and Zoning Commission will not require a Performance Bond.
- C. During construction, the applicant shall utilize the sediment and erosion controls illustrated on the submitted Site Development 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 immediately 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.
- D. As noted in Section 856 of the Darien Zoning Regulations, no processing, sorting, crushing, mixing, fabrication of rock or gravel or construction debris or other similar activities shall be engaged in or be operated on the site.
- E. The Commission hereby approves the proposed pool house with the following conditions:
1. that there be no cooking facilities installed. This would include but not be limited to: a stove, oven or cooktop burners; and
 2. that the bedrooms in the pool house can be used by family members and other guests when they come to visit on a short term basis. It cannot be lived in by anyone for more than two weeks during any six (6) month time period and cannot be used for any short- or long-term paying tenants as a rental facility.

These conditions will ensure that the pool house does not become a second dwelling unit on the property.

STORMWATER MANAGEMENT

- F. Because this property is in the lower 1/3 of the watershed and close to the Long Island Sound, the Commission hereby waives the requirement for stormwater retention or detention pursuant to Section 880 of the Darien Zoning Regulations. The submitted stormwater management plan treats the first inch of runoff and addresses water quality.
- G. The applicant must make sure that at all times during the redevelopment of the site, the stormwater runoff is properly managed to avoid impacts to the neighbors and the street. This

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shall include, but not be limited to sedimentation prevention and control, temporary artificial and/or vegetative cover to minimize erosion of exposed soils, and speedy restabilization of all disturbed areas.

- H. Prior to the issuance of a Certificate of Occupancy (CO) for the new pool house or a Certificate of Zoning Compliance for the pool, the applicant shall submit the following to demonstrate compliance with the approved plans and the flood damage prevention regulations:
1. Verification in writing and/or photographs from the professional designer of the drainage system that all aspects of the stormwater management system have been completed in compliance with the approved plans referred to in Condition 'A', above;
 2. A final "as-built" survey prepared by a licensed land surveyor and other evidence that all work has been properly completed in accordance with the approved plans, and complies with zoning setback, building height, building coverage requirements, and flood regulations. The as-built survey shall show all utilities or buried infrastructure installed as part of this application. The as-built survey shall include measurements from known, permanent, and visible surface features so that buried infrastructure can be located in the field in the future;
 3. An Elevation Certificate, prepared by a licensed land surveyor, shall be submitted to the Planning & Zoning Department following the completion of all of the improvements to the property, in order to verify that the final elevation of the pool house and pool/mechanical equipment comply with the flood regulations;
 4. The Commission hereby requires that prior to the issuance of a Zoning & Building Permit for the new pool house foundation, that a Stormwater Management Operation and Maintenance Plan be submitted by the project engineer, and that the completed DPW DCIA form be submitted to both the Planning & Zoning office and DPW office.
 5. Photographs of the interior of the pool house reflecting that no cooking facilities have been installed.
- I. 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. This includes, but is not limited to the following:
1. A Demolition Permit for the removal of the wood deck at the rear of the house.
 2. A Sewer Connection Permit for connecting the pool house to the existing house sewer.
 3. Separate Zoning & Building Permits will be required for the proposed pool, terraces, and pool house.
- J. In evaluating this application, the Planning and Zoning Commission has relied on information provided by the applicant. If such information subsequently proves to be false, deceptive, incomplete and/or inaccurate, the Commission reserves the right, after notice and hearing, to modify, suspend, or revoke this permit as it deems appropriate.
- K. This permit shall be subject to the provisions of Sections 815, 829f, and 858 of the Darien Zoning Regulations, including but not limited to, implementation of the approved plan within one (1) year of this action (November 9, 2022). This may be extended as per Sections 815, 829f, and 858.

All provisions and details of the plan, as approved herein with modifications, shall be binding conditions of this action and such approval shall become final upon compliance with these

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conditions and the signing of the final documents by the Chairman. A Special Permit form and Notice of Drainage Maintenance Plan form shall be filed in the Darien Land Records within 60 days of this approval AND prior to the issuance of a Zoning and Building Permit.

Mr. Olvany then read the next agenda item:

Proposed Amendments to the Darien Zoning Regulations (COZR #6-2021) put forth by Baywater Housing Partners, LLC & Abilis, Inc. Proposal to amend Section 454(a) of the Darien Zoning Regulations relative the Town's Special Needs Housing Overlay Zone to make Special Needs Housing in Darien more inclusive by allowing occupancy by persons with developmental disabilities, but whose disabilities do not meet the technical definition of "intellectually disabled" as defined by Section 1-1g of the Connecticut General Statutes. The amendment would also provide for residency by an income-qualified employee (per Section 454(a)(1) of the Regulations) of a property's administrator to provide support to residents. The Special Needs Housing Overlay Zone is eligible to be applied to properties in residential zones (R-2, R-1, R-1/2, R-1/3, R-1/5) on lots that are at least 150 percent of the minimum lot area, but not less than three-quarter acre (32,670 square feet). *HRG. CLOSED: 10/12/2021. DECISION DEADLINE: 12/17/2021.*

Mr. Olvany summarized the proposal. Ms. Gately said that Abilis was persuasive as to why this zoning change was necessary. Ms. Gately then made motion to adopt the resolution as written. That motion was seconded by Mr. Ball, and approved by a vote of 6-0. Mr. Balgach confirmed that he did watch the video of the meeting. The Adopted Resolution is as follows:

**PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
November 9, 2021**

Application Number: Amendments to the Darien Zoning Regulations (COZR #6-2021)
put forth by Baywater Housing Partners, LLC & Abilis, Inc.

Name and Address of Applicants: Baywater Housing Partners, LLC & Abilis, Inc.
Baywater Housing Partners, LLC (current owner of 26 East Ln.)
Darien, CT 06820

Activities Being Applied For: Proposal to amend Section 454(a) of the Darien Zoning Regulations relative the Town's Special Needs Housing Overlay Zone to make Special Needs Housing in Darien more inclusive by allowing occupancy by persons with developmental disabilities, but whose disabilities do not meet the technical definition of "intellectually disabled" as defined by Section 1-1g of the Connecticut General Statutes. The amendment would also provide for residency by an income-qualified employee (per Section 454(a)(1) of the Regulations) of a property's administrator to provide support to residents. The Special Needs Housing Overlay Zone is eligible to be applied to properties in residential zones (R-2, R-1, R-1/2, R-1/3, R-1/5) on lots that are at least 150 percent of the minimum lot area, but not less than three-quarter acre (32,670 square feet). Maximum density is twelve dwelling units located within two or more buildings, with not more than six units per building. The full text of the proposed zoning regulation amendment is on file and available in

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the Town Clerk's office and the Planning and Zoning Office for inspection, and online at *darienct.viewpointcloud.com*.

Date of Public Hearing: October 12, 2021
Deliberations Held: October 26, 2021

Time and Place: 7:30 P.M. Room 213 (Town Hall) and via GoToMeeting (Virtual)

Publication of Hearing Notices

Dates: September 30 & October 7, 2021 Newspaper: Darien Times

Date of Action: November 9, 2021

Action: **ADOPTED WITH MODIFICATIONS
WITH AN EFFECTIVE DATE OF SUNDAY,
NOVEMBER 28, 2021 AT 12:01 P.M.**

Scheduled Date of Publication of Action: November 18, 2021 Newspaper: Darien Times

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

- the proposed zoning regulation amendment must be consistent with the 2016 Town Plan of Conservation & Development for the Commission to adopt it.

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

THE APPLICANTS' PROPOSAL

1. The subject application is to:

- amend Section 454(a) of the Darien Zoning Regulations relative the Town's Special Needs Housing Overlay Zone to make Special Needs Housing in Darien more inclusive by allowing occupancy by persons with developmental disabilities, but whose disabilities do not meet the technical definition of "intellectually disabled" as defined by Section 1-1g of the Connecticut General Statutes.
- The amendment would also provide for residency by an income-qualified employee (per Section 454(a)(1) of the Regulations) of a property's administrator to provide support to residents.

The Special Needs Housing Overlay Zone is eligible to be applied to properties in residential zones (R-2, R-1, R-1/2, R-1/3, R-1/5) on lots that are at least 150 percent of the minimum lot area, but not less than three-quarter acre (32,670 square feet). Maximum density is twelve dwelling units located within two or more buildings, with not more than six units per building.

2. As part of the applicant's Powerpoint presentation during the public hearing, the changes were described as:

- Amend Section 454(a)(2) to replace the definition of intellectual disability under Conn. Gen. Stat. § 1-1g with the definition of developmental disability under 42 U.S.C. § 15002(8), and eliminating the age of onset of the disability.

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- This will increase the number of eligible residents by eliminating the requirement of an intelligence quotient under 70, and eliminating the age of onset.
- This will result in a more inclusive residential setting.
- Add subsection (3) to Section 454(a) to allow one staff person to reside in each building.
 - This will allow for one staff person/employee in each building to be available 24/7 to provide support to residents as needed.
 - The staff person/employee must meet the income eligibility requirements in Section 454(a)(1).
- Amend Section 454(d) to clarify the annual compliance certification.
 - The non-profit agency administrator is in a better position to certify compliance with the developmental disability requirements than Town agencies.

3. The application was filed with the Darien Town Clerk.

PUBLIC INPUT

4. Letters of opposition include a letter dated October 21, 2021 that was submitted by Catherine Piorkowski and an October 12, 2021 letter from Win Everts, Executive Director of The Arc of Connecticut, Inc. Letters of support were received from Andre Denunzio, John & Barbara Alter, Tricia and Andrew Bresnahan, Sheryl Knapp & Louisa Knapp, and Bob Marchesi. At the public hearing on October 12, 2021, Mr. & Mrs. Piorkowski spoke in opposition to the application.
5. The application was referred to WestCOG. The Agency responded with an e-mail dated September 28, 2021 noting that "...the opinion of WestCOG staff is that the proposal is of local interest and with minimal intermunicipal impact. Therefore, it is not being forwarded to adjacent municipalities and the regional staff is making no comment."
6. The Commission agrees that in this housing situation, no person(s) is being required to live in the premises. All tenants will live there voluntarily (i.e. They will not be "institutionalized"). However, all tenants must qualify by income and disability as specifically required by the Darien Zoning Regulations, the Commission's prior Special Permit approval, as well as the Declaration of Restrictions filed in the Darien Land Records.

PROPOSED CHANGES TO SECTION 454a(1)

7. The proposed change to Section 454a(1) is a correction of a scrivener's error in the existing text. By removing the few words, there is additional clarity.

PROPOSED CHANGES TO SECTION 454a(2) REGARDING DISABILITY

8. The applicant has proposed to change from intellectual disability to developmental disability regardless of the age of onset of such disability. The applicant has argued that this change will make the project more inclusive.

PROPOSED CHANGES REGARDING ON-SITE STAFF—ADDING A NEW SECTION 454a(3)

9. The Commission believes that having a staff member present overnight will be a benefit for safety and security, and thus is in favor of that zoning regulation amendment.

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PROPOSED CHANGES TO SECTION 454(c) REGARDING ORGANIZATIONS THAT MAY MANAGE SUCH HOUSING

10. The Commission approves the wording change from “non-profit” to “not-for-profit”. It provides clarity, and is a more accurate reflection of groups and agencies that are likely to manage such housing.

PROPOSED CHANGES TO SECTION 454(d) REGARDING CERTIFICATION

11. The applicant proposes to eliminate the existing subsection regarding annual certification, and replace it with a new subsection as detailed in Finding #12 below. The current version of Section 454(d) requires that the Town of Darien Department of Human Services “...confirm eligibility for occupancy with Section 1-1g of the Connecticut General Statutes...” This is not practicable because the Town of Darien Department of Human Services is not qualified to determine the level of disability of potential residents. Individual privacy concerns, including HIPPA requirements weigh against disclosure to an outside agency of information concerning individual disabilities and levels of need.
12. The Commission agrees with the applicant that it would be better and more practical for the property administrator to certify the occupants, and provide said certification to the Town of Darien Department of Human Services. The Commission agrees with the applicant that the certifications shall be provided as well to the Darien Planning & Zoning Department. Thus, the Commission hereby modifies the wording from “Planning & Zoning Commission” to “Planning & Zoning Department”. Overall, this aspect of the proposal clarifies the annual certification requirement.

REQUIRED FINDING OF CONSISTENCY WITH 2016 TOWN PLAN OF CONSERVATION & DEVELOPMENT

13. The application regards modifications to the Special Needs and Affordable Restrictions within the Special Needs Housing Overlay Zone. These modifications will make projects more inclusive, and allow for safety and security by allowing the possibility of on-site staff. The proposals also clarify the types of organizations that manage such housing, and clarify the annual certification requirement.
14. The Commission finds that the proposed modifications to Section 454 and its various subsections are consistent with the 2016 Town Plan of Conservation & Development.

EFFECTIVE DATE

15. In order for to give time for the adopted changes to be filed with the Darien Town Clerk, posted to the Town web site, and new pages printed for hard copies of the zoning regulations, the Commission hereby sets an effective date of Sunday November 28, 2021 at 12:01 p.m.

NOW THEREFORE BE IT RESOLVED that the Amendment to the Darien Zoning Regulations (COZR #6-2021) are hereby **ADOPTED**, subject to the foregoing and following modifications and understandings:

DELETIONS IN STRIKEOUT, NEW WORDING IN BOLD:
(Appendix C of the Zoning Regulations to be amended accordingly.)

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454. Special Needs and Affordable Restrictions

- a. All dwellings allowed under this Section 450 shall be occupied by persons who meet all of the following eligibility requirements:
 1. Income eligible persons as described in Sections 583 and 584 of the Zoning Regulations, where the maximum sales price or rent shall be restricted for forty years or the life of the unit, whichever is longer, using the methodology for maximum housing payment calculations outlined in Section 8-30g-8 of the Regulations of Connecticut State Agencies, based on maximum income less than or equal to ~~the~~ lesser of eighty (80) percent of the State Median Income.
 - ~~2. Such persons have an intellectual disability, as defined in Section 1-1g of the Connecticut General Statutes.~~
 - 2. Persons who have a developmental disability, as defined in 42 U.S.C. § 15002(8) regardless of the age of onset of such disability.**
 - 3. One dwelling unit in each building may be occupied by a person employed by such not-for-profit organization to provide services for other residents, provided that such person meets the income eligibility requirements of subsection (a)(1) of this section.**
- b. Prior to the issuance of a Certificate of Occupancy (CO), a restrictive covenant or declaration identifying the current owner(s) of each dwelling unit and describing the restrictions must be recorded on the Darien Land Records. The deed restriction or declaration must be approved by the Planning and Zoning staff and Town Counsel prior to being recorded on the Darien Land Records.
- c. Housing for persons eligible under these regulations, including selection of residents, shall be managed by a ~~non~~**not-for-profit** organization in the business of providing housing services to persons with intellectual disabilities in the State of Connecticut.
- ~~d. The property owner shall be responsible for certifying the eligibility of occupants and relaying that information to the Town. The Town of Darien Department of Human Services shall confirm eligibility for occupancy with Section 1-1g of the Connecticut General Statutes with respect to whether a person has an intellectual disability. The Planning & Zoning Department staff shall confirm eligibility with respect to income.~~
On or before January 31 of each calendar year, the property administrator shall certify that all occupants of developments governed by this Section 450, and provide such certification to the Darien Department of Human Services and the Planning & Zoning Department.

The effective date of these zoning regulation amendments is as listed on page 1 of this decision.

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Approval of Minutes

October 5, 2021

Mr. Rand made a motion to approve the minutes as written. Mr. Balgach noted that he did watch the video recording of the meeting. The motion was seconded by Mr. Ball, and approved by a vote of 6-0.

October 19, 2021

Mr. Ball made a motion to approve the minutes as written. The motion was seconded by Mr. Rand, and approved by a vote of 5-0-1, with Ms. Gately abstaining, since she was not present for the entire meeting. Mr. Balgach noted that he did watch the video recording of the meeting.

Chairman Olvany then read the first public hearing agenda item:

PUBLIC HEARING

Flood Damage Prevention Application #416, Land Filling & Regrading Application #518, Jeffrey Bluestein & Margit Conopask, 49 Stony Brook Road. Proposal to construct a replacement bridge over the Stony Brook, consisting of new framing, decking and guiderails, to provide access to the existing residence on the property, and to perform related site development activities, including widening the channel of the Brook, within a regulated area. The 3.05+/- acre subject property is located on the west side of Stony Brook Road approximately 1,000 feet south of its intersection with Leroy Avenue, and is shown on Assessor's Map #19 as Lot #28 in the R-1 Zone.

Mr. Olvany noted that this item will be opened this evening and immediately continued to Tuesday November 16, 2021 at 7:30 p.m., via GoToMeeting.

Chairman Olvany then read the next public hearing agenda item:

Subdivision Application #630, Land Filling & Regrading Application #517, Irrevocable Trust for Descendants of Eugene G. Bewkes, III, 92 Half Mile Road. Proposal to divide the subject 4.92+/- acre property into two (2) separate building lots, respectively 2.722+/- and 2.198+/- acres in size. The existing residence and associated improvements on the lot are to be razed. Proposal to construct a single-family residence on the newly created westerly building lot, construction of a new driveway, pool, and patio areas, and installation of stormwater management, a septic system and to perform related site development activities. Though conceptual improvements are shown on the easterly building lot, development of the lot is not proposed at this time. The subject property is located at the northeast corner formed by the intersection of Half Mile Road and Hollow Tree Ridge Road, and is shown on Assessor's Map #2 as Lot #24 in the R-2 Zone.

Mr. Olvany noted that this item will be opened this evening and immediately continued to Tuesday November 16, 2021 at 7:30 p.m., via GoToMeeting.

Chairman Olvany then read the next public hearing agenda item:

Business Site Plan Application #24-AB / Special Permit, Clean Juice, 25 Old King's Highway North, Goodwives Shopping Center. Proposal to establish a new 1,371+/- square foot Quick

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Service Restaurant in the first floor space formerly occupied by Runner's Roost. The space is located within Goodwives Shopping Center, located on the south/east side of Old King's Highway North, approximately 150 feet southeast of its intersection with Brookside Road and is shown on Assessor's Map #71 as Lot #19, in the DC Zone.

Mr. Doneit summarized the application. It was noted that the proposal is for a quick service restaurant in the space formerly occupied by Runner's Roost within Goodwives Shopping Center. There will be 1-2 employees on site generally, with a maximum of three on the largest shift. The tenant will be serving juices and other light fare.

Mr. Victor Rivera said that they would be preparing toast, sandwiches and smoothies. He said that they will be holding off on outdoor seating, but will return to the Commission for any such request in the future.

There being no comments from the general public, and no further comments or questions from Commission members, Ms. Gately made a motion to close the public hearing on this matter. That motion was seconded by Mr. Rand, and approved by a vote of 6-0.

At about 8:10 p.m., Chairman Olvany then read the next two public hearing agenda items:

Continuation of Public Hearing regarding Proposed Amendments to Darien Zoning Map (COZM #2-2021), 3 Parklands Drive, put forth by Parklands Darien, LLC. Proposal to apply the Designed Office Multi-Family Residential Overlay Zone (DOMR) to the subject property to permit multi-family residential dwellings as a principal use requiring a Special Permit. The 3.915+/- acre subject property is located at the southern end of Parklands Drive, approximately 1,100 feet south of its intersection with Old King's Highway North, and is shown on Assessor's Map #35 as Lot #34, Unit #2 in the Designed Office Zone (DO). The proposed zoning map amendments are on file and available for review in the Town Clerk's Office, the Planning & Zoning Office, and online at: darienct.viewpointcloud.com.

AND

Continuation of Public Hearing regarding Site Plan Application #309, Special Permit Application #42-I, Land Filling & Regrading Application #516, Parklands Darien, LLC, 1 Parklands Drive & 3 Parklands Drive. Proposal to raze the existing office building at 3 Parklands Drive, convert and redevelop the property as multi-family residential, consistent with the Designed Office Multi-Family Residential Overlay Zone (DOMR) Regulations; and perform related site development activities, including regrading of the property, installation of landscaping, lighting, and stormwater management. The applicant proposes to construct a three-story, multi-family apartment building with a total of 60 apartments (studio, 1- and 2-bedroom apartments), including 7 deed restricted affordable units. A total of 139 parking spaces will be created - 86 of which are proposed for the exclusive use by residents of 3 Parklands Drive and 53 of which are proposed to be shared with the adjacent assisted living facility at 1 Parklands Drive (Assessor's Map #35, Lot #34, Unit #1). Improvements to 1 Parklands Drive are limited to sidewalk extensions, underground utilities and parking related improvements. 3 Parklands Drive is 3.915+/- acres, and is located at the southern end of Parklands Drive, approximately 1,100 feet south of its intersection with Old King's Highway North and is shown on Assessor's Map #35 as Lot #34, Unit #2 currently in the Designed Office Zone (DO) (companion Zoning Map Change proposed to rezone 3 Parklands Drive to the Designed Office

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Multi-Family Residential Overlay Zone (DOMR)). Application materials are on file and available for review in the Planning & Zoning Office and online at: dariencr.viewpointcloud.com.

Ms. Gately noted that she was recused on the 3 Parklands applications, and she left the meeting. Mr. Ginsberg summarized the proposal, and noted that this was a continued hearing.

Professional engineer Craig Flaherty of Redniss & Mead explained that they propose to replace the existing office building constructed in 1985. The proposed new building complies with the proposed zoning regulations. The apartment building will contain six studio apartments; 29 one-bedroom apartments and 25 two-bedroom apartments. Of the sixty apartments, seven deed-restricted affordable apartments will be provided. Mr. Flaherty noted that all of the work is proposed to be on the 3 Parklands Drive property. There will be no work in or within 50 feet of wetlands, and no work proposed within the Conservation Easement. They are proposing the application with the permission of the Darien Land Trust. There will be no tree removal on the Selleck's Woods property.

Mr. Flaherty said that the first application is to "land" the DOMR overlay zone onto the 3.9 acre property. This subject property is served by public water and sewer. Mr. Flaherty noted that many other zoning districts in Darien allow multi-family housing. He explained that in 2016, the Darien Planning & Zoning Commission adopted the Town Plan of Conservation & Development (POCD). Mr. Flaherty noted the variety of housing in Darien. He referenced his November 3, 2021 response package submitted since the last public hearing. They will be replacing the office building, and at the peak hour, there will be less traffic than existing conditions. They propose to add to the existing sidewalk which comes in off of Old King's Highway North.

Mr. Flaherty said that the Planning & Zoning Commission has hired Michael Galante of Hardesty & Hanover to peer review the application relative to traffic and parking. Mr. Flaherty then summarized Mr. Galante's comments. Mr. Flaherty noted that the Legal Traffic Authority (LTA) said that the stop bar relocation is okay. He said that Ms. Maffucci of 2 Parklands Drive suggested the installation of a yellow line down the middle of the road to cue drivers.

Mr. Flaherty said that they aim to augment the crosswalk and elevate the raised table with striping and signage. He said that the application has been forwarded to the Darien Fire Marshal, and Mr. Flaherty confirmed that the applicant can address all of his concerns, including: fire hydrants; Aquarion Water Company confirmation on service; 360 degree access around the building; striping of fire lanes and standpipes.

Mr. Flaherty then noted that the proposed building will be 155 feet from the closest point to the nearest residential lot. The building meets the 35 foot height maximum in the Darien Zoning Regulations. The adjacent residential zones allow a 30 foot height maximum. He confirmed that the Architectural Review Board (ARB) has given this project a favorable report. Mr. Flaherty added that there are now two reserved parking spaces for visitors for Selleck's Woods, and the applicant proposes to increase that to eleven reserved parking spaces. Mr. Flaherty noted that an e-mail was received from Laurie Bora, the Chairman of the Parks and Recreation Commission.

At about 8:57 p.m., Chairman Olvany asked about the square footage of the proposed building. Mr. Flaherty responded that the existing building is two stories and about 35,000+/- square feet.

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The proposed building will be three stories, and about 67,000+/- square feet excluding the basement. The basement is below grade on three sides.

At about 9:10 p.m., Susan Conway of 21 Fairmead Road reviewed her Powerpoint presentation with the Commission. She said that the proposal is inconsistent with the 2016 Town Plan of Conservation & Development (POCD). She noted that the proposed site is surrounded by properties in the R-1 zone, and open space. She referred to page 98 and other pages within the POCD. Tom Conway also of 21 Fairmead Road said that one of the causes of the flooding is the new elevation of the 1 Parklands Drive property, and they need a performance bond to correct flaws. He said that the subject property is higher than Fairmead Road properties. Natural light will be eliminated. He believed that a new traffic light is warranted at the Parklands Drive/Old King's Highway North intersection and that it is a dangerous intersection.

At about 9:30 p.m., Mr. Olvany noted that there were a number of folks from the Residence at Selleck's Woods at 1 Parklands Drive who wished to speak. Liz OMeara noted that the residents are upset. Meg When, Sharron Roberts, Jack Grams, and Ken Hekkin of that address all spoke. Their concerns were about the potential noise during construction, and the fact that they moved to 1 Parklands Drive for its tranquility. Mr. Grams mentioned that he is opposed, and this is too large a scope, and that the applicant should reduce the size.

Ms. Erin Wright of 150 Old King's Highway North said that she has lived there for many years, and agrees with the comments of other neighbors. She said that the neighborhood has been slammed with redevelopment in the past few years. She said that a new traffic light would cause more congestion. She said that 60 units is way too much. She had concerns about the proposed blasting and hoe-ramming and potential shaking of nearby houses. She said that there are now water problems at the end of Fairmead Road near the Selleck's Woods entrance, and that the project is too much for this neighborhood.

Ms. Andrea Huntington of 18 Fairmead Road read from a letter she had submitted in an e-mail. The letter noted her strong opposition and grave concerns with the project. She said that the proposal is not consistent with the POCD and the building is too big.

At about 10:08 p.m., Ms. Christina Orsi-Lirot of 9 and 23 Fairmead Road was concerned about drainage, and the proposed number of schoolchildren. She said that there should be a "sun / shade" study and a sound study done. She believed that a traffic light will be required at the Parklands Drive/Old King's Highway North intersection. She said that there are a lot of people concerned about this project.

At about 10:36 p.m., Ms. Evan Flinn of 1 Fairmead Road said that she strongly opposes the application, and that less density should be considered. The assisted living facility at 1 Parklands Drive has created more highway noise.

Mr. Olvany then noted that due to the late hour, the Commission will have to continue the public hearing to Tuesday, November 30, 2021 at 7:30 p.m. via GoToMeeting.

Ms. Allison Costanzo of Little Brook Road read aloud from a prepared letter and said that the proposal is not compatible with its surroundings, and is not consistent with the POCD. She said

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the outdoor lighting will need to be shielded from the local wildlife. She said that the proposal is too big.

Ms. Loreina Rodriguez of 139 Old King's Highway North said that she was opposed to the project.

At about 10:55 p.m., Mr. Olvany again confirmed that due to the late hour, the Commission will have to continue the public hearing to Tuesday, November 30, 2021 at 7:30 p.m. via GoToMeeting.

There being no further business, the following motion was made: That the Commission adjourn the meeting. That motion was made by Mr. Ball, seconded by Mr. Rand, and approved, 5-0. The meeting was thus adjourned at 10:56 P.M.

Respectfully submitted,

Jeremy B. Ginsberg, AICP
Director of Land Use

11.09.2021min