

Referral No. 08-33 – Text Amendment, Zoning Regulations, Darien

Referrer: Darien Planning & Zoning Commission

Applicant: Darien Planning & Zoning Commission

Received: April 24, 2008

Hearing: May 27, 2008

Contact: Jeremy Ginsburg

Authority: 8-3b

Proposal: Applicant is requesting to add new Section 580 – Inclusionary Zoning to the Darien Zoning Regulations.

Description: The new regulations are intended to encourage the development of below market rate dwelling units and are in line with Section 8-2i of the Connecticut General Statutes. These regulations apply to all zoning district classifications in which residential uses are permitted.

Developments of multi-family dwelling units (no minimum number of dwelling units) and single-family subdivisions resulting in five or more lots shall designate a minimum of 12% of the dwelling units as below market rate. Of the designated below market rate units, half shall be affordable to households with incomes equal to or less than 80% of the *State* Median Income. The remaining below market rate units shall be affordable to households with incomes equal to or less than 110% of the *Area* Median Income for the Metropolitan Statistical Area (MSA) surrounding Darien. Currently, the State Median Household Income is \$82,100 and the Area Median Income for Darien is \$117,800. This means that under the new regulations, half of the required below market rate units shall be made available at \$65,680 and the remainder can be at \$129,580.

These regulations may be satisfied by: providing the units within the subject development; providing them at another location, but within Darien; paying a fee in lieu of creating them at all; or through a combination of these alternatives.

Multi-family developments subject to these regulations, may be eligible for an increase in permitted density of up to 50% greater than otherwise permitted. To be eligible, at least 25% of the resulting incentive units are designated as below market rate units. The Commission must also determine that the density bonus does not adversely affect the health, safety and welfare of the community. The density bonus may be realized via waivers approved by the commission. These waivers may include: reduction of recreational or open space requirements; reduction of minimum yard requirements; increase of maximum building coverage; reduction of parking requirements; and/or increase of maximum height to three stories.

The below market rate units shall be made available to eligible households in the following priority order:

1. Those who live and work in Darien and provide volunteer emergency/life savings services for Darien residents;
2. Those who are employed by the Darien or the Darien Public Schools system;
3. Those who live and work in Darien;
4. Those who work in Darien;
5. Those who previously lived for at least one year in Darien and wish to return;

6. All other individuals or families.

Additional regulations require that below market rate units provided on-site 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. The units shall also be developed simultaneously with the market rate units.

The below market rate units shall include deed restrictions ensuring their affordability that extend for 40 years or the life of the unit, whichever is greater.

Staff Comments & Recommendation: Section 580 – Inclusionary Zoning promotes the development of affordable housing units in a manner that directly benefits the Town’s employees and residents; indirectly benefits the region as a whole; and meets the requirements of Section 8-2i of the Connecticut General Statutes. Affordability issues have plagued the region for many years. This proposal is a positive step to addressing the problem. SWRPA staff recommends **Approval of Referral No. 08-33** to the Darien Planning & Zoning Commission.

TOWN OF DARIEN
PLANNING & ZONING COMMISSION

JEREMY B. GINSBERG, AICP
PLANNING AND ZONING DIRECTOR

DAVID J. KEATING
ASSISTANT DIRECTOR/
ZONING ENFORCEMENT OFFICER



TOWN HALL, 2 RENSHAW ROAD
DARIEN, CONNECTICUT 06820-5397
TELEPHONE 656-7351
FAX NUMBER 656-7385
www.darienct.gov

APR 24 2008

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VICE-CHAIRMAN

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SECRETARY

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M. REESE HUTCHISON, III

April 21, 2008

Dr. Floyd Lapp, Executive Director
South Western Regional Planning Agency
Stamford Government Center
888 Washington Boulevard, 3rd Floor
Stamford, CT 06904

CERTIFIED MAIL

RE: *Proposed Amendments to the Darien Zoning Regulations put forth by the Town of Darien Planning & Zoning Commission.*

Dear Dr. Lapp:

Please find enclosed a copy of the submitted materials regarding the following application:

Proposed Amendments to the Darien Zoning Regulations put forth by the Town of Darien Planning & Zoning Commission. Proposed amendments to the Darien Zoning Regulations to establish a new Section entitled "Inclusionary Zoning". This Section of the Regulations would require the construction of affordable housing either on or off-site, and /or a fee in-lieu of construction, for certain developments.

A Public Hearing regarding this application will be conducted at the meeting of the Planning and Zoning Commission scheduled for on or after May 27, 2008 in the Auditorium at Darien Town Hall, 2 Renshaw Road, Darien at 8:00 P.M. If you have any questions, comments, or need additional information, please contact our office.

Sincerely,

Jeremy B. Ginsberg
Planning and Zoning Director

Enclosures

Cc: Rob Young, SWRPA Representative
M. Reese Hutchison, SWRPA Representative

TOWN OF DARIEN
PLANNING AND ZONING COMMISSION

REPORT REQUEST

Proposed Amendments to the Darien Zoning Regulations
Put forth by the Darien Planning & Zoning Commission

TO:

- | | |
|---|---|
| <input type="checkbox"/> Dept. of Public Works/Sewer Services | <input type="checkbox"/> Harbor Advisory Commission |
| <input type="checkbox"/> Fire Marshal's Office | <input type="checkbox"/> Historical Society |
| <input type="checkbox"/> Building Department | <input type="checkbox"/> Five Mile River Commission |
| <input type="checkbox"/> Beautification Commission | <input type="checkbox"/> Aquarion Water Company |
| <input type="checkbox"/> Traffic Authority | <input checked="" type="checkbox"/> South Western Regional Planning Agency |
| <input type="checkbox"/> Health Department | <input checked="" type="checkbox"/> Connecticut Department of
Environmental Protection |
| <input type="checkbox"/> Environmental Protection Commission | |
- Other _____ City of Stamford, City of Norwalk, Town of New Canaan

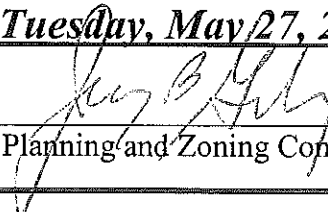
Subject: **Proposed Amendments to the Darien Zoning Regulations Put Forth by the Darien Planning and Zoning Commission.** Proposed amendments to the Darien Zoning Regulations to establish a new Section entitled "Inclusionary Zoning". This Section of the Regulations would require the construction of affordable housing either on or off-site, and/or a fee in-lieu of construction, for certain developments.

Recommendations and/or technical comments should be received in the Planning and Zoning Office by:

Tuesday, May 20, 2008
10:00 A.M.

Commission Hearing Scheduled:

On or after Tuesday, May 27, 2008

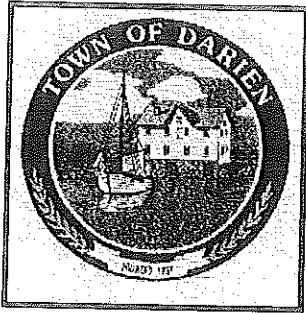


For Planning and Zoning Commission

Plan reviewed by: _____

Permit or approval from this Department ___ is/ ___ is not required.

Comments:



**TOWN OF DARIEN
PLANNING AND ZONING COMMISSION
APPLICATION FORM**

Application is hereby submitted for approval in accordance with the following Sections of the Darien Zoning Regulations (check all that apply).

- | | |
|---|---|
| <input type="checkbox"/> Section 810 Coastal Site Plan Review | <input type="checkbox"/> Section 1000 Special Permit Requirements |
| <input type="checkbox"/> Section 820 Flood Damage Prevention | <input type="checkbox"/> Section 1020 Site Plan Requirements |
| <input type="checkbox"/> Section 850 Land Filling, Excavation
and Earth Removal | <input type="checkbox"/> Section 1051 Protected Town Landmarks |
| <input checked="" type="checkbox"/> Section 1110 Change of Zoning Regulations and/or Zoning Map | <input type="checkbox"/> Subdivision Application |
| <input type="checkbox"/> Other (specify) _____ | |

Property Location:

Street Address: N/A

Assessor's Map(s) # _____ as Lot(s) # _____

Subject property is situated on the [north south east west] side of _____ (street)
(circle as appropriate)
approximately _____ feet [north south east west] from the corner formed by the
(circle as appropriate)
intersection of _____ and _____ (streets).

Zoning District(s): _____ Size of Site: _____ square feet, _____ acres

The subject property is is not within 500 feet of an adjoining municipality.

Applicant:

Name: Town of Darien Planning & Zoning Commission

Address: 2 Renshaw Rd
Darien, CT 06820

Phone #: 203-656-7351

Fax #: 203-656-7385

E-mail address: _____

Signature: _____

Property Owner:

Name: _____

Address: _____

Phone #: _____

Fax #: _____

E-mail address: _____

Signature: _____

DARIEN PLANNING AND ZONING COMMISSION
ZONING APPLICATION FORM
PAGE 2 OF 3

Representative or Contact Person (to whom all correspondence shall be addressed)

Name: Jeremy Ginsberg, Director of Planning and Zoning

Company/Firm: Town of Darien

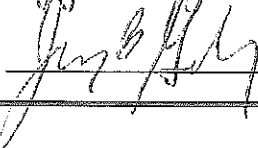
Phone #: 203-656-7351

Fax #: 203-656-7385

Address: 2 Renshaw Rd

Darien, CT 06820

Email address: jginsberg@darienct.gov

Signature: 

Summary of proposed activity and development:

The Commission proposes an addition to the Town of Darien's zoning regulations: Section 580:

Inclusionary Zoning in order to encourage the development of below-market rate dwelling units within the Town of Darien, consistent with Section 8-2(i) of the General Statutes of Connecticut.

(A more detailed explanation should be attached to this application).

Application Fee of N/A

See Appendix B - Schedule of Fees of Darien Zoning Regulations.

Make checks payable to the "Town of Darien"

See requirements under Section 1040 for the applicant's responsibility regarding notification of nearby property owners.

Unless specifically waived in advance and in writing by the Planning & Zoning Director, all required materials must be submitted as part of this application:

For Business Site Plan applications under Section 1020:

See Section 1020 of the Darien Zoning Regulations

For Subdivision Applications see the Darien Subdivision Regulations

DARLEN PLANNING AND ZONING COMMISSION
 ZONING APPLICATION FORM
 PAGE 3 OF 3

The following information is required:

*Development Plan(s) completed in accordance with "Site Plan Checklist" –
 Twelve (12) Sets of Plans including:*

	<u>Submitted</u>	<u>Waived</u>
Existing Conditions based on "A-2" Survey	<input type="checkbox"/>	<input type="checkbox"/>
Site Development Plan	<input type="checkbox"/>	<input type="checkbox"/>
Grading and Storm Drainage Management Plan	<input type="checkbox"/>	<input type="checkbox"/>
Computations and Analysis of Stormwater Runoff	<input type="checkbox"/>	<input type="checkbox"/>
Landscaping Plan	<input type="checkbox"/>	<input type="checkbox"/>
Architectural Floor Plans and Elevations	<input type="checkbox"/>	<input type="checkbox"/>
Utility Plans	<input type="checkbox"/>	<input type="checkbox"/>
Chart or Table of Zoning Data	<input type="checkbox"/>	<input type="checkbox"/>
Soil Erosion and Sedimentation Control Plan	<input type="checkbox"/>	<input type="checkbox"/>
Staging or Phasing Plan	<input type="checkbox"/>	<input type="checkbox"/>
<hr/> <i>For Coastal Site Plan Reviews under Section 810 of the Zoning Regulations:</i>		
Base Map showing regulated area(s)	<input type="checkbox"/>	<input type="checkbox"/>
Environmental Assessment Report	<input type="checkbox"/>	<input type="checkbox"/>
Review of CAM policies & goals	<input type="checkbox"/>	<input type="checkbox"/>
<hr/> <i>For Flood Damage Prevention Applications under Section 820 of the Zoning Regulations:</i>		
Base Map of Flood Zones and Elevations	<input type="checkbox"/>	<input type="checkbox"/>
Architectural Floor Plans including elevation of each floor level within the structure	<input type="checkbox"/>	<input type="checkbox"/>
Engineering Report and certification regarding impact on flood conditions	<input type="checkbox"/>	<input type="checkbox"/>
Engineering Report and certification regarding structural stability	<input type="checkbox"/>	<input type="checkbox"/>
<hr/> <i>For Land Filling & Regrading Applications under Section 850 of the Zoning Regulations:</i>		
Detailed Plans of Existing and Proposed Conditions	<input type="checkbox"/>	<input type="checkbox"/>
Report Detailing Operation methods, and Evaluating Impacts	<input type="checkbox"/>	<input type="checkbox"/>
<hr/> <i>For Special Permit Applications under Section 1000 of the Zoning Regulations:</i>		
Detailed Statement of Existing & Proposed Uses	<input type="checkbox"/>	<input type="checkbox"/>
Traffic Report addressing Trip Generation, Traffic Movement and Parking Requirements	<input type="checkbox"/>	<input type="checkbox"/>

Proposed Inclusionary Zoning Regulations

PUT FORTH BY THE PLANNING AND ZONING COMMISSION

(proposed additions shown in bold)

SECTION 580. INCLUSIONARY ZONING

581. Background and Purposes

These regulations are intended to encourage the development of below market rate dwelling units within the Town of Darien, consistent with Section 8-2(i) of the General Statutes of Connecticut.

582. Applicability

Inclusionary Zoning Regulations shall apply to all zones that allow dwelling units as a principal or special permit use.

583. 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. 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 405.e. 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 as below market rate. All other single family subdivisions are exempt from the requirements of this regulation.

The below market rate requirement shall be satisfied by: providing below market rate dwelling units on the subject property; providing below market rate 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 dwelling units shall be affordable to households with an income equal to or less than 80 percent of the State Median Income 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. 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.

584. Below Market Rate Dwelling Unit

A below market rate dwelling unit is defined as a dwelling unit occupied by an income-eligible household as described in the Section 583 where the maximum sales price or rent shall be restricted for forty years or the life of the unit, which ever is longer, using the methodology for maximum housing payment calculations outlined in Section 8-30g-8 of the regulations of Connecticut State Agencies.

585. Incentives

Developments subject to the provisions of Section 580, except for single-family subdivisions, may be eligible for an increase in permitted density up to 50 percent greater than the allowed density provided at least 25 percent of such incentive units are designated as below market rate and the Commission determines that such incentives do not adversely affect the health, safety and welfare of the public in general, and the immediate neighborhood. In such cases, the Commission may allow any or all of the following waivers, provided the Commission finds that such waiver encourages the development of below market rate housing:

- a. Recreational or open space requirements may be reduced.
- b. Minimum yard requirements may be reduced.
- c. Maximum building coverage requirements may be increased.
- d. Parking requirements may be reduced.
- e. Height may be increased to allow three stories.

In no case shall the Commission approve a waiver described in a. through e. above resulting in a requirement that deviates by more than 25% from the originating regulation.

586. Priority Population

The below market rate dwelling units shall be offered for sale or rent to income-eligible households in accordance with the following priority designations:

- a. Individuals or families who live and work in the Town of Darien who provide volunteer emergency/life saving services for residents of the Town.
- b. Individuals or families who are employed by the Town of Darien or Darien Public School system.
- c. Individuals or families who live and work in the Town of Darien.
- d. Individuals or families who live in the Town of Darien.
- e. Individuals or families who work in the Town of Darien.
- f. Individuals or families who previously lived for a minimum of one (1) year in the Town and wish to return.
- g. All other individuals or families.

587. Program Administration

Prior to the issuance of any Certificate of Occupancy, any application under Section 580 shall identify the non-profit entity or property manager who will be responsible for program administration. The program administrator is subject to the approval of the Commission or its designated representative. The program administrator shall:

- a. Annually review and certify to the Commission the annual income of households residing in below market rate dwelling units in accordance with a procedure established in advance and approved by the Commission.**
- b. Maintain a list of eligible households in each category, as described in Section 586, who have applied for participation in the program. Applicants within each category shall be selected by lottery, conducted in accordance with a procedure established in advance of said lottery and approved by the Commission, or its designated representative.**
- c. Annually certify to the Commission that the selected household actually resides in the below market rate dwelling unit.**
- d. Certify to the Commission that below market rate dwelling units sold or re-sold do not exceed the maximum purchase price as calculated in a manner consistent with the methodology for maximum housing payment calculations in set-aside developments outlined in Section 8-30g-8 of the regulations of Connecticut State Agencies, as adjusted for family size.**
- e. Certify to the Commission that below market rate dwelling units for rent shall not exceed the maximum monthly rent as calculated in a manner consistent with the methodology for maximum housing payment calculations in set-aside developments outlined in Section 8-30g-8 of the regulations of Connecticut State Agencies, as adjusted for family size.**

588. Additional Standards

- a. On-Site: 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.**
- b. Phasing: Below market rate dwelling units shall be developed simultaneously with or prior to the development of the other units on a pro rata basis.**
- c. Deed Restrictions: In order to maintain below market rate dwelling units for forty years or the life of the unit, whichever is longer, the following restrictions shall apply:**
 - (1) 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) 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.
- d. **Alternative Sites:** The Commission may approve the construction or rehabilitation of the required below market rate dwelling units on another site in Darien, provided that such off-site below market dwelling units shall be maintained for 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 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.
- e. **Payment of a Fee:** The applicant may elect, or based upon the practicality on each project, the Commission may require the applicant, to pay a fee in lieu of constructing some, or all, of the required 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 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 below market rate in the same manner as required in Section 584. 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 for the State of Connecticut require a cash contribution equal to 300% of the Area 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 1: cash contribution based on 2008 data:
The total number of on-site units proposed is five (5).
The number of BMR dwelling units required: $5 \times 12\% = 0.6$.
The number of units required to be affordable to households at 80% of State Median Income: $50\% \times 0.6 = 0.3$.
The number of units required to be affordable to households at 110% of Area Median Income: $50\% \times 0.6 = 0.3$.

The Area Median Income for a family of four is \$117,800 (2008).

The cash contribution is calculated as follows:

$0.3 \times \$117,800 \times 300\% = \$106,020$

$0.3 \times \$117,800 \times 225\% = \$79,515$

The total fee in lieu payment is \$185,535.

- f. Where the contribution is targeted to assist an identified off-site project providing below market rate dwelling units, the Commission may condition the issuance of certificates of occupancy for the development project with the completion of the off-site 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.**