

PLANNING AND ZONING COMMISSION
ADOPTED RESOLUTION
May 11, 2021

Application Number: Amendments to the Darien Zoning Regulations (COZR #4-2020)

Name and Address of Applicant: 7-Eleven, Inc.
3200 Hackberry Road
Irving, TX 75063

Name and Address of & Applicant's Representative: Amy Souchuns, Esq.
John W. Knuff
Hurwitz Sagarin Slossberg & Knuff LLC
147 N. Broad St.
Milford, CT 06460

Name and Address of Property Owners: Duchess Family Restaurant of Darien, Inc.
425 King's Highway East, Suite 2C
Fairfield, CT 06825

Activities Being Applied For: Proposal to amend Sections 210, 755, 904, and 1056 of the Darien Zoning Regulations relative to Motor Vehicle Service Stations, including gas stations. The intent of the proposed Regulation amendments are to distinguish gas stations from motor vehicle repair shops and to modernize standards to reflect customary, accessory convenience store and food related offerings. The full text of the proposed amendment is on file and available in the Town Clerk's office and the Planning and Zoning Office for inspection, and online at www.darienct.gov/pzcpendingapplications.

Associated with the zoning regulation amendment request is a proposal to raze the existing Duchess Restaurant on the site and to redevelop the site as a 7-Eleven gas station with associated convenience retail and an accessory Quick Service Restaurant in a new 4,050+/- square foot building; and to perform related site development activities. Twelve self-service fueling positions, with an overhead canopy, would occupy the site. **A decision on those aspects of the submitted application is in a separate written decision by the Planning & Zoning Commission.**

Date of Public Hearing: September 22, 2020; October 27, 2020; November 10, 2020; November 24, 2020; December 9, 2020; January 26, 2021; February 2, 2021; March 16, 2021.

Deliberations Held: April 6, 2021; April 20, 2021; May 4, 2021; May 11, 2021

Time and Place: 8:00 p.m. and 7:30 p.m. online via GoToMeeting Darien Town Hall (The 2020 meetings were held at 8:00 p.m. and the 2021 meetings held at 7:30 p.m.)

Publication of Hearing Notices

Dates: September 10 and 17, 2020

Newspaper: Darien Times

Date of Action: May 11, 2021

ADOPTED IN PART WITH MODIFICATIONS
WITH AN EFFECTIVE DATE OF SUNDAY,
MAY 30, 2021 AT 12:01 P.M.;
AND DENIED IN PART

PLANNING & ZONING COMMISSION
ADOPTED RESOLUTION
PROPOSED AMENDMENTS TO THE DARIEN ZONING REGULATIONS (COZR #4-2020)
PUT FORTH BY 7-ELEVEN, INC.
MAY 11, 2021
PAGE 2

Scheduled Date of Publication of Action: Newspaper: Darien Times
Thursday, May 20, 2021

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:

1. The submitted application consists of a proposal to amend Sections 210 (Definitions), 755 (Service Business [SB] Zone Accessory Uses), 904 (Parking), and 1056 (Motor Vehicle Service Stations) of the Darien Zoning Regulations. As noted above, these zoning regulation amendment proposals are part of an application to raze the existing Duchess Restaurant on the site and to redevelop the site as a 7-Eleven gas station with associated convenience retail use and an accessory Quick Service Restaurant in a new 4,050+/- square foot building.

APPLICANT'S PROPOSAL

2. In the applicant's August 12, 2020 three-page Application Narrative, two goals are listed for these proposed zoning regulation amendments at the bottom of the first page:
 - a. distinguishing gas stations from repair shops (and not requiring associated car repair and/or disabled vehicle storage); and
 - b. modernizing the Town's zoning standards to reflect a 21st century use (such as allowing only self-service use).
3. It was noted during the public hearing that Section 1056 of the Zoning Regulations has not been modified in over 30 years, and no new gas stations in Darien have been established during that 30+ year period. At the public hearing, there was concern regarding potential impacts of the proposed regulations to other existing motor vehicle service stations/gas stations now in Darien.
4. The applicant has noted the following overall objectives of the proposed zoning amendments:
 - a. Intended to addresses an evolution in the gas station market that has occurred over the past 25+ years – since the Town's regulations were last amended relative to motor vehicle and gas station uses.
 - b. Differentiates between convenience-oriented gas stations with accessory retail and traditional repair facilities with a more industrial component; uses are licensed differently by the State of Connecticut Department of Consumer Protection.
 - c. Establishes a level of consistency with other gas station/convenience store approvals decided by the Commission in prior years.

PLANNING & ZONING COMMISSION
ADOPTED RESOLUTION
PROPOSED AMENDMENTS TO THE DARIEN ZONING REGULATIONS (COZR #4-2020)
PUT FORTH BY 7-ELEVEN, INC.
MAY 11, 2021
PAGE 3

NEIGHBORS' CONCERNS VOICED AT PUBLIC HEARING

5. At the public hearings, members of the general public voiced concerns regarding the zoning regulation amendments as well as the Site Plan and Special Permit.
6. The Commission acknowledges that even if the proposed zoning regulation amendments were adopted, the applicant still requires Site Plan review and an associated Special Permit application approval to proceed with any development. During the Commission's review of the Site Plan and Special Permit, issues such as landscaping, proposed accessory uses, hours of operation, traffic, signage, parking and potential impacts on abutting properties and the neighborhood were reviewed and addressed. Those issues would be inappropriate to specifically address here as part of a zoning regulation amendment application. The Commission will review and decide the Site Plan and Special Permit aspects of the application proposal in a separate, written decision.
7. It is noted that the application for the redevelopment of the site would have to comply with the following sections of the zoning regulations:
 - Section 750—Service Business (SB) Zone
 - Section 880—Stormwater Management
 - Section 904—Off Street Parking Requirements
 - Section 1000—Special Permit Requirements and Procedures
 - Section 1020—Site Plan Requirements and Procedures
 - Section 1056—Motor Vehicle Service StationsThese sections of the zoning regulations contain numerous standards and design controls which will need to be met as part of any Site Plan/Special Permit application. Depending on the nature of the proposal, other sections of the zoning regulations may also need to be complied with, but, at a minimum, the aforementioned sections would apply.

DESCRIPTION OF PROPOSALS AND COMMISSION FINDINGS

8. The Commission notes that there is nothing specific in the 2016 Town Plan of Conservation & Development regarding Motor Vehicle Service Stations or gas stations. The proposals put forth by the applicant vary widely and are described in greater detail in finding #9 below.
9. The applicant requests to amend the following sections of the Zoning Regulations, and finds as follows:
 - a) *Section 210—Definitions*

Proposal to modify the definition of Motor Vehicle Service Station to allow self-service gas stations in addition to solely full-service or combined full-service/self-service gas stations.

The current Darien Zoning Regulations do not allow “self-serve only” gas stations. This proposal seeks to modify the definition now in the Regulations, to allow specifically for “self-serve only” gas stations, in addition to full-service only, and a combined full service/self-service, both of which are now allowed.The Commission believes that such a change is logical, and is in keeping with what appears to be now occurring at other Motor Vehicle Service Stations currently

PLANNING & ZONING COMMISSION
ADOPTED RESOLUTION
PROPOSED AMENDMENTS TO THE DARIEN ZONING REGULATIONS (COZR #4-2020)
PUT FORTH BY 7-ELEVEN, INC.
MAY 11, 2021
PAGE 4

operational in Darien. The Commission finds that this aspect of the proposal IS consistent with the 2016 Plan of Conservation & Development (POCD).

b) *Section 755—Service Business (SB) Zone Accessory Uses*

Proposal to allow small Quick Service Restaurants when located in a retail store co-located with a gas station (minimum of 100 square feet of seating area when compared to other Quick Service Restaurants in the SB Zone requiring 1,200 square feet of seating area).

The current Darien Zoning Regulations require 1,200 square feet of indoor space for customer tables and seating areas for Quick Service Restaurants in the Service Business Zone. The proposal would allow smaller Quick Service Restaurants if located in a retail store co-located with a gas station. The Commission notes that a comprehensive rewrite of the commercial regulations was completed in 2019, and the existing wording regarding Quick Service Restaurants was reviewed at that time. The proposal for much smaller Quick Service Restaurants would be directly contrary to past policy established by the Commission in the Regulations. Thus, the Commission finds that this aspect IS NOT consistent with the 2016 Plan of Conservation & Development (POCD).

c) *Section 904w—Parking standard for Motor Vehicle Service Stations*

Proposal to distinguish between stations that include automotive repair and those that do not; clarify the resulting zoning standards for stations that are co-located with a retail store and/or quick service restaurant; reflects parking requirements for the building uses, rather than car repair and storage.

The current Darien Zoning Regulations require that Motor Vehicle Service Stations have 14 parking spaces and a disabled vehicle storage area. The applicant seeks to modify the regulations to not require such if the gas station does not have automobile repair. The proposal also seeks to clarify how parking should be treated if a gas station is co-located with a retail store and/or quick service restaurant. The Commission confirms that currently there is no parking standard in the Regulations for a “standalone” gas station with no accessory/auxiliary uses such as a convenience store or service use. The decision herein would establish such a standard of three parking spaces, since the presumption would be that patrons would pay for their gas and then leave the premises, since there are no other uses on-site. The three parking spaces would be primarily intended for employee and delivery parking. The Commission finds that the aspect relative to establishing a parking standard consistent with the requirement for an accessory retail/convenience store use on the site IS consistent with the 2016 Plan of Conservation & Development. The aspect relative to Quick Service Restaurants as an accessory use IS NOT consistent with the 2016 Plan of Conservation & Development (POCD).

d) *Section 1056.1—Principal Uses Requiring Special Permit*

Proposal to eliminate the prohibition of retail sales of goods unrelated to motor vehicle service stations; Clarifying services provided by full- and self-service gas stations.

The Commission believes that the changes proposed by the applicant in Section 1056.1 are related to: clarifying that retail sales of nonrelated products are allowed; distinguishing between self-service and full service gas stations; and correcting an incorrect reference in Section 1056.1c. The Commission finds that the changes proposed

PLANNING & ZONING COMMISSION
ADOPTED RESOLUTION
PROPOSED AMENDMENTS TO THE DARIEN ZONING REGULATIONS (COZR #4-2020)
PUT FORTH BY 7-ELEVEN, INC.
MAY 11, 2021
PAGE 5

in Section 1056.1 ARE consistent with the 2016 Plan of Conservation & Development (POCD). The Commission is also correcting the incorrect spelling “Principle” with “Principal”.

e) *Section 1056.2—Accessory Uses Requiring Special Permits*

To create a new Section 1056.2e to specifically allow a Quick Service Restaurant by Special Permit.

The current Darien Zoning Regulations do not allow Quick Service Restaurants as Accessory Uses for Motor Vehicle Service Stations, including gas stations. The Commission finds that this proposed regulation amendment IS NOT consistent with the 2016 Plan of Conservation & Development (POCD).

f) *Section 1056.3—Service and Repair*

To clarify that this section only applies to motor vehicle service stations that include service and repair of automobiles.

The existing Section 1056.3 of the Darien Zoning Regulations requires that a Motor Vehicle Service Station also include a building designed for the servicing and repair of vehicles. The Commission finds that there are now a number of Motor Vehicle Service Stations in Darien that do not have such a building and do not provide vehicle repair services. Thus, it would be appropriate to not require such for future Motor Vehicle Service Stations. Therefore, the Commission finds that the changes proposed in Section 1056.3 ARE consistent with the 2016 Plan of Conservation & Development (POCD).

g) *Section 1056.5—Storage of Vehicles*

To eliminate the requirement for disabled vehicle storage areas for uses which will be licensed solely as gas stations.

The existing Section 1056.5 of the Darien Zoning Regulations requires that a Motor Vehicle Service Station also include a disabled vehicle storage area. The Commission finds that there are now a number of Motor Vehicle Service Stations in Darien that do not have such a building and do not provide vehicle repair services. Thus, it would be appropriate to not require such for future Motor Vehicle Service Stations. The Commission finds that the changes proposed in Section 1056.5 ARE consistent with the 2016 Plan of Conservation & Development (POCD).

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

10. As part of the application, the applicant claimed that the proposal is consistent with the 2016 Town Plan of Conservation & Development. To support this claim, specific pages from the 2016 Town Plan were submitted for the record by the applicant, including the following which can be found on pp 108:

“...Darien should continue to promote and encourage appropriate business and economic development.”

“The quality of residential life in such a community is enhanced by well-planned commercial uses within the Town.”

Policies to Guide Business and Economic Development:

PLANNING & ZONING COMMISSION
ADOPTED RESOLUTION
PROPOSED AMENDMENTS TO THE DARIEN ZONING REGULATIONS (COZR #4-2020)
PUT FORTH BY 7-ELEVEN, INC.
MAY 11, 2021
PAGE 6

1. "Continue to encourage business and economic development to provide jobs, provide goods and services, and enhance the tax base." and;
3. "Continue to encourage vibrant commercial areas."

Commission Review Standard for Zoning Regulation Amendment—Consistency with the 2016 Town Plan of Conservation & Development (POCD).

- *Encourage economic development and the provision of goods and services, pp.108 POCD.*
 - *Promote Business/Economic Development Policy, pp. 108 POCD.*
11. The Commission therefore finds that only certain aspects of the applicant's proposed regulation amendments are consistent with the Town POCD. These are the proposed amendments to Sections 210, 1056.1, 1056.3 and 1056.5, which: clarify current regulations to specifically allow self-service only gas stations; correct references to various sections of the regulations; and for businesses solely licensed as gas stations by the State of Connecticut, to no longer require a repair building, vehicle repair services, or disabled vehicle storage areas.
 12. The Commission therefore finds that the proposed modifications to Sections 755, 904, and 1056.2 are NOT consistent with the Town POCD. These are the aspects of the proposed modifications which proposed: allowing smaller Quick Service Restaurants within Motor Vehicle Service Stations in the SB Zone in Section 755; redefining the parking requirements in Section 904w for Motor Vehicle Service Stations; and allowing Quick Service Restaurants as an Accessory Use Requiring a Special Permit in Section 1056.2 of the Regulations.

NOW THEREFORE BE IT RESOLVED that the Amendment to the Darien Zoning Regulations (COZR #4-2020) is hereby *adopted in part with modifications and denied in part*, subject to the foregoing and following modifications and understandings:

To summarize, the amendments are:

Section 210--ADOPTED

Section 755--DENIED

Section 904--ADOPTED IN PART WITH MODIFICATIONS, DENIED IN PART

Section 1056.1--ADOPTED

Section 1056.2--DENIED

Section 1056.3--ADOPTED

Section 1056.5--ADOPTED

PLANNING & ZONING COMMISSION
ADOPTED RESOLUTION
PROPOSED AMENDMENTS TO THE DARIEN ZONING REGULATIONS (COZR #4-2020)
PUT FORTH BY 7-ELEVEN, INC.
MAY 11, 2021
PAGE 7

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

Section 210--

Motor Vehicle Service Station: Includes **self-service**, full service, or combined full service/self-service gas stations, auto repair shops and garages and similar uses but does not include body repair or painting.

904. Off Street Parking Spaces

w. Motor Vehicle Service Stations	<p><u>When a site is operated solely as a gas station, with no auxiliary uses, three (3) parking spaces shall be required.</u></p> <p><u>When stations are operated as gas stations co-located with a retail/convenience store, parking shall be provided in accordance with the requirements for the retail/convenience store use.</u></p> <p><u>When stations include automotive repair,</u> at at least 14 parking spaces plus a disabled vehicle storage area of at least 500 sq. ft. for lots up to 21,780 sq. ft. or 1,000 sq. ft. for lots over 21,780 sq. ft. for overnight parking and/or storage of motor vehicles, equipment and parts of vehicles. An additional 5 parking spaces shall be required if an accessory towing service is permitted by Special Permit. Additional appropriate parking spaces are to be determined by the Commission for any other accessory uses.</p>
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1056. Motor Vehicle Service Stations

The following standards shall apply to all new, expanded, renovated or modified motor vehicle service stations:

1056.1 **Principle** Uses Requiring Special Permit

PLANNING & ZONING COMMISSION
ADOPTED RESOLUTION
PROPOSED AMENDMENTS TO THE DARIEN ZONING REGULATIONS (COZR #4-2020)
PUT FORTH BY 7-ELEVEN, INC.
MAY 11, 2021
PAGE 8

Motor vehicle service stations shall include facilities commonly known as gas stations, automotive repair shops, garages and similar uses. Auto body repair, **and** painting, ~~and retail sales of nonrelated products~~ shall not be permitted uses in a motor vehicle service station.

The Commission shall find as follows:

- a. Full and self service gas stations. A ~~full and self service~~ **self-service, full service or combined full service/self-service** gas station shall **may** provide ~~both~~ **any combination of** full and self service during regular business hours as determined by Special Permit. ~~Self service only may be offered exclusively during other business hours.~~ Any such facility must comply with subsection 1056.4.
- b. ~~Full and self service gas~~ **Gas** stations shall have fire suppression equipment and at least one attendant on duty while the station is open to the public.
- c. Signs relating to full and self service shall comply with Section ~~923.1~~ **930**.

1056.3 Service and Repair

When service and repair of automobiles is proposed, there shall be at least one building on the site which shall be designed and of adequate size for the internal servicing and repair of automobiles. All major repair and service work (but excluding emergency service and the sale of fuels and lubricants from pumps) shall be conducted entirely within an enclosed building. **No such repair building shall be required when the station will be licensed by the State of Connecticut solely as a gas station.**

1056.5 Storage of Vehicles

There shall be an area of at least 500 square feet (1,000 sq. ft. for lots over 21,780 sq. ft. in size) which shall be designed and designated as a disabled vehicle storage area. This area shall be adequately screened from adjoining properties and streets and shall be used for all overnight storage and/or parking of vehicles, equipment and parts of vehicles. No more than three unregistered or inoperable vehicles (or major portions thereof) shall be stored on, or parked at, a site overnight. **No such storage area shall be required when the station will be licensed by the State of Connecticut solely as a gas station.**