

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

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

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

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

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

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

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

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

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

Zone: Service Business (SB) Zone

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

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

Publication of Hearing Notices  
Dates: October 16 & 23, 2015

Newspaper: Darien News

**Zoning Regulation Amendments**

Date of Action: January 26, 2016

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

PLANNING & ZONING COMMISSION  
ADOPTED RESOLUTION  
PROPOSED AMENDMENTS TO THE DARIEN ZONING REGULATIONS (COZR #5-2015)  
ATRIA DARIEN, 50 LEDGE ROAD  
JANUARY 26, 2016  
PAGE 2

Scheduled Date of Publication of Action:                      Newspaper: Darien News  
February 5, 2016

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

The submitted subject application consist of two parts:

- A. **Zoning Regulation amendments.** Proposed zoning regulation amendments to Sections 664h, 667f, 668c, 668g, and 668h to:
  - 1) correct existing references;
  - 2) eliminate the distinction between Independent Living Facility (ILF) and Assisted Living Facility (ALF) units;
  - 3) provide minimum and maximum size units;
  - 4) modify parking standards; and
  - 5) allow the Commission to waive or reduce setback or buffering requirements.
  
- B. **Special Permit Application #153-D/Site Plan, Land Filling & Regrading Application #366**  
Proposing to construct additions and alterations to the existing structure at 50 Ledge Road, modify the driveway, add on-site parking, and perform related site development activities.

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

**A. ZONING REGULATION AMENDMENTS**

1. The first part of this Resolution addresses the proposed zoning regulation amendments. The Zoning Regulation amendments submitted by the applicant are a prerequisite to the Special Permit/Site Plan submitted with the application. None of the zoning regulation amendments are specific to the 50 Ledge Road property owned by the applicant. These ALF/ILF regulations will apply Town-wide.

**GENERAL BACKGROUND AND HISTORY**

2. The Darien Zoning Regulations were amended in 1996 to allow the Independent Living Facility (ILF) / Assisted Living Facility (ALF) use. The Commission's subsequent Special Permit/Site Plan approval allowed for a maximum of 86 units in the building—19 Independent Living Facility units (ILF) units and 67 Assisted Living Facility (ALF) units, and 71 on-site parking spaces. Over time, some units have been combined, resulting in the existing facility containing less than the maximum number approved by the Commission, and the number of on-site parking spaces increased. Also throughout the years, the number of ALF/ILF units within the facility has changed. The applicant has noted that distinguishing between ILF units and ALF units is no longer appropriate, since residents are encouraged to "age in place". This combination Independent/Assisted Living Facility will be expanded as part of the associated Special Permit/Site Plan application, and additional parking created.

PLANNING & ZONING COMMISSION  
ADOPTED RESOLUTION  
PROPOSED AMENDMENTS TO THE DARIEN ZONING REGULATIONS (COZR #5-2015)  
ATRIA DARIEN, 50 LEDGE ROAD  
JANUARY 26, 2016  
PAGE 3

3. Atria came before the Planning and Zoning Commission informally regarding the subject application in February 2015. At that time, it was explained that residents sometimes move into the facility as independent living and age in place. While in some situations, assisted living units may be in a different floor, wing, or part of a building than independent living units, that is apparently not the situation in this case, where the different types of units are interspersed, and less of a distinction made, than possibly in other situations in other communities.
4. The existing building is approximately 80,000 square feet within two stories. The proposed Special Permit/Site Plan application requests an increase from 80 existing units to 86 units, and an increase of two on-site parking spaces. They are proposing to increase from 18% building coverage to 19%. Again, issues related to the proposed specific development proposal are addressed in the separate decision.
5. The five separate proposed regulation amendments are reviewed individually below, and are reviewed and analyzed individually.  
(new wording underlined; deletions in ~~strikeout~~)

***A1. MODIFICATIONS TO SECTION 664h TO CORRECT REFERENCE***

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

*664h. Assisted Living Facility, Independent Living Facility or a combination thereof. See Section 66~~87~~.*

***A2. MODIFICATIONS TO SECTION 667f TO CORRECT REFERENCE***

7. Similar to the previous amendment request, this amendment proposal is to correct an incorrect reference. The Commission agrees that this amendment is appropriate, and approves the typographical correction as proposed by the applicant, from Section 667 to 668 in existing subsection 667f.

*667f. Except for ILFs and ALFs, (which are included in Section 66~~87~~), one additional off-street parking space per bedroom shall be required. The total number of dwelling units shall not exceed six (6) dwelling units on any site. If there will be more than two (2) dwelling units, then at least 30 percent of the total number of units shall be limited to one bedroom.*

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

8. The existing regulation 668c allows ALFs to not be less than 400 square feet, and ILFs to not be less than 600 square feet. Throughout the years, the applicant has found a desire of the residents to combine units, thereby creating larger units than originally envisioned or approved. As noted previously, in this facility, there is less of a distinction by physical area of which units are ALF units, and which are ILF units, and the number of on-site units of each changes throughout time, depending on the existing residents' needs. Thus, the Commission agrees with the applicant

PLANNING & ZONING COMMISSION  
ADOPTED RESOLUTION  
PROPOSED AMENDMENTS TO THE DARIEN ZONING REGULATIONS (COZR #5-2015)  
ATRIA DARIEN, 50 LEDGE ROAD  
JANUARY 26, 2016  
PAGE 4

that having a distinction and a cap on average unit size is no longer appropriate. Any Special Permit/Site Plan approval will determine the maximum number of units in any ALF/ILF building.

9. The Commission believes that there should continue to be a square foot minimum for an ALF or ILF. The submitted floor plans by Stein | Troost Architecture dated 9/10/15 show three units now under 400 square feet in size (Unit 218 is a 378 square foot studio; Unit 235 is a 396 square foot studio; and Unit 242 is a 396 square foot studio). No other units are currently below that threshold, and based upon the submitted plans, no new proposed units are below 400 square feet. Thus, the Commission believes that a 400 square foot minimum continues to be appropriate, and since there is a desire to eliminate distinctions, this 400 square foot minimum would apply to both ALFs and ILFs.
10. The Commission agrees with the applicant that the existing standard which regulates average floor area should also be addressed, since the ALF/ILF distinction will be eliminated. The applicant proposes lowering the existing average, with a provision that all units have an average gross floor area of no less than 325 square feet. The Commission notes that the smallest unit is now 378 square feet, and thus, to have an allowance for an average unit size of 325 is too low. The Commission believes that an average of at least 400 square feet would be appropriate, and modifies the applicant's proposal accordingly.
11. Similarly, the average gross floor area standard should also have a maximum. In this case, a 1,000 square foot maximum should be created for either an ALF or ILF.
12. The Commission agrees with the applicant regarding the need for regulation of minimum and maximum average gross floor areas of units in the future, and therefore approves the following wording, which is modified from that proposed by the applicant.

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

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

**PARKING**

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

PLANNING & ZONING COMMISSION  
ADOPTED RESOLUTION  
PROPOSED AMENDMENTS TO THE DARIEN ZONING REGULATIONS (COZR #5-2015)  
ATRIA DARIEN, 50 LEDGE ROAD  
JANUARY 26, 2016  
PAGE 5

14. At the public hearing, the applicant’s parking and traffic expert, David Sullivan of Milone and Macbroom reviewed his October 13, 2015 Parking Adequacy Evaluation. He said that some reserved signs have been removed, and there are now sixty employees in three separate shifts. Mr. Sullivan noted that any reserved spaces are only for the residents, not the workers or visitors.
15. This Atria facility is a combination of ILF and ALF both as defined in the Zoning Regulations and as licensed by the State of Connecticut. Since there is change in the occupancy of the units on a frequent basis, from a zoning enforcement standpoint, arriving at an appropriate combined parking standard is essential. This would eliminate the need for the zoning officer to get continuous determinations from Atria regarding the status of its residents. It was acknowledged that any revised parking standard be sensitive to the presence of private aides and the possible occasional use by outside groups. At the public hearing, it was acknowledged that there are now some residents with private aides—about 20 of the 80 units have part-time aides. The facility is now 60% ILF and 40% ALF. It is usually 30-45% assisted living (ALF). It was noted that there is a high vehicle occupancy rate at this location in Darien, relative to other such facilities in other communities. That also needs to be taken into account by the Commission.
16. As part of this application, the applicant did specific parking counts for this site. At no time during those counts did the number of vehicles on-site exceed the on-site parking supply. The largest documented count during the week of November 9-14, 2015 was for one hour on November 11, 79 vehicles were parked on-site. That still resulted in 12% vacancy. Other counts were done by Milone and MacBroom on two dates in February 2015 and on September 10 and 16. While those counts were not hourly, they also showed that at no point were more than 69 vehicles parked on-site.
17. The chart below shows the changes in on-site units and parking spaces through time for this property.

	<b>ALF/ILF UNITS</b>	<b>ON-SITE PARKING SPACES</b>	<b>PARKING RATIO PARKING SPACES/UNIT</b>
<b>Original P&amp;Z Commission approval in 1995</b>	<b>86</b>	<b>71</b>	<b>0.825</b>
<b>As of October 2015</b>	<b>80</b>	<b>89</b>	<b>1.11</b>
<b>ITE STANDARD</b>	<b>N/A</b>	<b>N/A</b>	<b>0.70</b>
<b>Proposed as part of 2015 application</b>	<b>86</b>	<b>91</b>	<b>1.05</b>

PLANNING & ZONING COMMISSION  
ADOPTED RESOLUTION  
PROPOSED AMENDMENTS TO THE DARIEN ZONING REGULATIONS (COZR #5-2015)  
ATRIA DARIEN, 50 LEDGE ROAD  
JANUARY 26, 2016  
PAGE 6

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

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

**BUFFERING**

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

PLANNING & ZONING COMMISSION  
ADOPTED RESOLUTION  
PROPOSED AMENDMENTS TO THE DARIEN ZONING REGULATIONS (COZR #5-2015)  
ATRIA DARIEN, 50 LEDGE ROAD  
JANUARY 26, 2016  
PAGE 7

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

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

#### OVERALL CONCLUSIONS

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

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

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

#### TO SUMMARIZE THE AMENDMENTS APPROVED ABOVE:

New wording underlined; deleted wording in ~~strikeout~~.

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

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

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

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

PLANNING & ZONING COMMISSION  
ADOPTED RESOLUTION  
PROPOSED AMENDMENTS TO THE DARIEN ZONING REGULATIONS (COZR #5-2015)  
ATRIA DARIEN, 50 LEDGE ROAD  
JANUARY 26, 2016  
PAGE 8

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