

TOWN OF DARIEN

AFFORDABLE HOUSING PLAN



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THE TOWN OF DARIEN AFFORDABLE HOUSING PLAN

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THE TOWN OF DARIEN AFFORDABLE HOUSING PLAN IS ADVISORY AND SHOULD NOT BE CONSTRUED TO REFLECT THE POSITION OF THE BOARD OF SELECTMEN ON ANY SPECIFIC PAST, PRESENT OR FUTURE AFFORDABLE HOUSING APPLICATION(S). INDIVIDUAL AFFORDABLE HOUSING APPLICATIONS ARE SUBJECT TO THE JURISDICTION OF THE DARIEN PLANNING AND ZONING COMMISSION AND IN SOME CASES, THE DARIEN ENVIRONMENTAL PROTECTION COMMISSION.

INTRODUCTION

In 2008, the Darien Board of Selectmen commissioned the creation of The Town of Darien Affordable Housing Plan to address the local need for affordable housing as well as to maintain control of the growth and development of affordable housing in Darien. The local need for affordable housing was first identified by the Selectmen's Committee on Housing for Elderly in 1981 and has been reaffirmed by the lengthy waitlists that exist for Allen O' Neill - 124, Old Town Hall Homes (Senior Housing) - 53 and Clock Hill Homes - 66. The 2006 survey conducted by the Darien Affordable Housing Advisory Commission (DAHAC) further demonstrated that there continues to be a need for affordable housing in Darien. The DAHAC survey was based on responses from over 2,500 participants and identified the following demographic groups as having a need for affordable housing in Darien:

1. Workers employed in Darien who cannot afford to live in town, especially teachers, police officers, Town Hall and library employees and retail workers;
2. Seniors living on fixed or limited incomes;
3. Single-parent families; and
4. Young households, many of whom grew up in the community.¹

In Fairfield County, and especially in Darien, the costs of land and housing are high. These factors present particular challenges for young people and seniors. As US Census statistics indicate - Darien's younger population and senior population are moving from Darien at a higher rate than the State's Average. DAHAC's 2007 Report to the Board of Selectmen noted that:

"Fairfield County is one of the most expensive areas [as listed in CNN Money] to live in the United States. It is no wonder that affordable housing is a challenge that requires the best efforts of the public and private communities to address. With the average sales prices of a house last year [2006] at \$1,870,000 in Darien, an increase of 185% in a single house in the last 10 years, it is no wonder that affordability is a huge question. Even rental prices are the highest in the nation. Workers must earn \$90,000 [or more] per year to afford a two-bedroom apartment.

According to the Connecticut Single Family Home Sales: 2008:Q4 report by the Warren Group, "Darien, always among the top five [in town ranks per median sales price], came in for the first time with the second highest median price for all towns in the state"

¹ Darien Affordable Housing Advisory Committee 2007 Report

The State of Connecticut has long recognized the need for affordable housing and took action to encourage municipalities to increase their stock of affordable housing available to Connecticut's residents by adopting "An Act Establishing a State Affordable Housing Land Use Appeals Procedure" effective July 1, 1990, now contained in Chapter 126a, Section 8-30g of the General Statutes (8-30g). This legislation set a goal for, and encourages each municipality to have, 10% of its housing stock as affordable.

Darien is primarily comprised of single family home residential neighborhoods. Commercial development is centered along the Boston Post Road (Route 1), which is parallel to Interstate Highway I-95, and in the Noroton Heights area near the Noroton Heights Train Station. The Darien Planning and Zoning Commission has identified areas in Town located close to Downtown Darien, transportation and business districts as appropriate places to increase density for multi-family housing. This Town of Darien Affordable Housing Plan is intended to encourage development of affordable housing within Darien while permitting the Town to maintain control of appropriate development as it relates to location, density and conformity to the Town Plan of Conservation and Development.

The Town of Darien Affordable Housing Plan identifies opportunities and strategies which may be used to increase the availability of affordable housing in the Town of Darien.

AFFORDABLE HOUSING CURRENTLY IN DARIEN

According to the 2000 Census, Darien has 6,792 units of housing with 162 units of deed-restricted affordable housing.

In 1953, housing for war veterans, returning home from World War II, was developed in Noroton Heights called Allen O'Neill Housing (AON). AON is currently State moderate rental housing which has forty-one (41) single-family houses and one 12-unit apartment building.

In 1985 Old Town Hall Homes (OTHH), were built for senior citizens. OTHH provides thirty (30) units of rental housing for seniors, which is owned and operated by the Darien Housing Authority.

Villager Pond Condominiums, built in 1987, includes two (2) deed restricted units.

Thirty (30) moderate-income owner-occupied condominiums were built in 1995 at Clock Hill Homes. These units were built by a private developer. This development has been cited as a model affordable housing site.

In December 2003, AvalonBay Communities completed a 189 unit rental complex of which forty-seven (47) units are affordable.

The Cottage of Darien, a home for physically and mentally challenged adults, was completed in 2009. The Cottage was designed for six (6) residents. Homes for the disabled qualify as affordable housing.

The Town of Darien faces a number of significant challenges in increasing its affordable housing stock. The most identifiable of which are:

- 1) the fact that the Town of Darien is more than 98% developed so that any new construction necessarily entails the redevelopment of existing developed property;
- 2) the extremely high cost of land in Darien; and
- 3) the desire of the community to preserve and maintain the predominantly single family home character of the vast majority of neighborhoods in Darien.

The Board of Selectmen has, therefore, determined that it is in the Town of Darien's interest to obtain moratoria as allowed by 8-30g to enable the Town to plan and develop affordable housing in a manner that best suits the community.²

² A moratorium is a four year period during which certain applications for affordable housing development, as provided in Section 8-30g of the Connecticut General Statutes, are not subject to the procedure for appeals to the Superior Court. The First Selectman may request a moratorium from the Connecticut Department of Economic and Community Development (DECD) when the housing

As of the date of this Plan, the Town of Darien has 162 affordable housing units. Under 8-30g, each unit is assigned a certain number of housing equivalency points for the purposes of determining the percentage of affordable housing in the town. Darien has a total of 112 housing equivalency points. Of the 162 units, seventy-seven (77) qualify for housing equivalency points needed to obtain a moratorium under 8-30g. Those 77 units would generate 112 moratorium points of the 135.84 points which are needed for a moratorium. Darien currently needs 23.84 points to reach a moratorium. However, this number will increase when the 2010 U.S. Census releases the latest housing data for Darien, which is expected sometime in 2012.

Based on the estimates of the Darien Planning and Zoning Department, the number of housing units expected to be identified in the 2010 Census is 7,154. Assuming that these estimates are correct, this will increase the required housing equivalency points needed to achieve a moratorium by 31.08 points, for a total of 143.08 points when the 2010 Census results become official.

equivalent points equal 2% of the total number of housing units. The units must have been built after 1990, and must not be included in a previous or existing moratorium.

AFFORDABLE HOUSING OPPORTUNITIES IDENTIFIED

Near Term 2007 – 2012 – The First Moratorium

Currently, there are two affordable housing developments proposed for Darien which are in various stages of the design and approvals process. They are located at the Town-owned property at 35 Leroy Avenue, near downtown Darien, and Allen O'Neill in Noroton Heights. In addition, the recently completed group home known as the Cottage of Darien at the site of the Senior Center on Edgerton Street qualifies as affordable housing. These developments should be sufficient to qualify the Town for a first moratorium under 8-30g if Certificates of Occupancy for what is currently proposed are issued before the 2010 Census results are released in 2012. If 35 Leroy Avenue and Allen O'Neill are not completed in that time-frame, there are other potential opportunities for the Town to obtain housing equivalency points in the near term.

35 Leroy Avenue

In 2009, the Board of Selectmen selected Mutual Housing Association (MHA) to develop 35 Leroy and have entered into an option to lease permitting MHA to construct up to 21 affordable housing units at this site subject to MHA obtaining land use approvals, financing, and negotiating a satisfactory ground lease with the Town of Darien. The final yield from the development will be a result of a number of factors, including, but not limited to, approval by the Planning and Zoning Commission. As a result, it must be noted that the number of units shown in this Plan and the income levels are for illustrative purposes only, and do not reflect an approved plan.

The exhibit below assumes that 23 units of owner-occupied housing will be constructed on the former Darien Library property at 35 Leroy Avenue. It is also assumed that those units at the former Darien Library property will be owner-occupied, and be restricted to persons earning less than 80% of the State Median Income.³ This project is in its early stages and an application has not been filed with the Planning and Zoning Commission for review; therefore, the exact number of housing equivalency points this development will ultimately yield may be subject to change.

Allen O'Neill

The Darien Housing Authority has received Darien Planning and Zoning Commission approval to renovate and expand Allen O'Neill from 53 units to 107 rental units. Only

³ State Median Income (SMI) is the amount which divides the income distribution of families in the State of Connecticut into two equal groups: half of the families having incomes above the median and half of the families having incomes below the median. The State Median Income as of Fiscal Year 2009 is \$85,700.

Area Median Income (AMI) is the amount which divides the income distribution of families in the lower Fairfield County area into two equal groups: half of the families having incomes above the median and half of the families having incomes below the median. The Area Median Income in this region as of Fiscal Year 2009 is \$122,300. Only affordable housing units sold or rented at less than 80% of SMI will count towards a moratorium. However, all housing rented or sold at less than 80% of AMI will be counted towards the 10% goal of 8-30g.

affordable housing units in excess of those already existing at the site are eligible to be counted under 8-30g for a moratorium. Replacement units will not increase Darien's affordable housing stock, and, therefore, do not qualify for housing equivalency points in calculating whether the Town is entitled to a moratorium. Each unit must have a Certificate of Occupancy to receive housing equivalency points.

**POTENTIAL HOUSING EQUIVALENCY POINTS FOR
ACHIEVING FIRST MORATORIUM USING THE 2000 CENSUS RESULTS**

	Number of Affordable Units	Points Per Unit	Total Potential Housing Equivalency Points
The Cottage, 30A Edgerton Street ⁴	6	1 per 5 bedrooms	1.2
Former Darien Library property, 35 Leroy Avenue	21	1 – 1.5	23.0
Allen O'Neill redevelopment ⁵ (the 54 th -55 th units which get a Certificate of Occupancy, assuming these are rental units at 80% of AMI)	2	1.5	3.0
TOTAL:	24		25.2

In the event that 35 Leroy Avenue and Allen O'Neill are not completed before the 2010 Census results are made official, additional housing equivalency points may be available from the following sources:

1020 Post Road

Baywater Properties recently constructed six units of housing on the third floor of a mixed use building at 1020 Post Road. Two of those units are currently being rented at affordable rates to a town employee and to a downtown retail employee. The property owner is considering deed restrict these two units as affordable housing. However, the owner may choose to restrict

⁴ (DECD) in their December 17, 1999 "Status of Group Homes as Assisted Units Under the Affordable Housing Land Use Appeals Procedure" states that if assisted units were constructed or substantially rehabilitated with government funds, towns can ask DECD to include group homes or other units that are not on its list. DECD determines the number of units in a group home or other similar facility based on the number of beds. A facility with five or fewer beds counts as one unit. For those facilities with more than five beds, DECD divides the total number of beds by five to determine the number of units. Therefore, The Cottage, with 6 bedrooms, counts as 1.2 points.

⁵ A neighbor to the Allen O' Neill property filed an appeal of the Commission's decision on July 27, 2009. That appeal is still pending as of the date of this Plan.

the units to persons making less than 80% of the AMI, in which case those units will not count towards a moratorium. They will, however, count towards the 10% goal of 8-30g.

Garden Homes, 397 Boston Post Road

The property owner submitted an application to the Planning and Zoning Commission on August 7, 2009 to convert the existing 17,000+/- square foot office building to 35 small studio and 1 bedroom apartments, with a portion of those (11 apartments) being affordable.

CareVentures, 599 Brookside Road

In 2008, the Planning and Zoning Commission held informal discussions regarding the potential for affordable housing units at this site (former site of a nursing home). The preliminary assumption was that at a minimum 3-4 units of affordable housing can be included in an adaptive reuse development of the building. No plan has been submitted to Planning and Zoning to date.

Inclusionary Zoning Units

The Inclusionary Zoning Regulations were adopted by the Planning and Zoning Commission on January 6, 2009 and became effective May 31, 2009. These regulations require that each development of five (5) building lots in a subdivision or the building of any multi-family housing unit (i.e., more than one dwelling unit) on a property shall designate at least twelve percent (12%) of the dwelling units as affordable housing using the income limits applicable to 8-30g. In the alternative, the developer may, at the discretion of the Planning and Zoning Commission, pay a fee in lieu of building such affordable units into a Darien Housing Trust Fund established by the Town, or provide affordable units at an alternate site within Darien.

ADDITIONAL OPPORTUNITIES FOR NEAR TERM AFFORDABLE HOUSING CONSTRUCTION AND HOUSING EQUIVALENCY POINTS

	Total Number Units	NET Affordable Units	Total Potential Housing Equivalency Points
<u>Near Term (2007-2012)</u>			
Baywater Properties , 1020 Post Road	6	2	0
The six bedroom Cottage, 30A Edgerton Street	6	1 per every 5 bedrooms	1.2
Former Darien Library property, 35 Leroy Avenue	21	21	21
Allen O'Neill, Allen O'Neill Drive	107	51	76.5
Care Ventures, 599 Brookside Road		3-4	4
Inclusionary Zoning Units	To Be Determined	To Be Determined	

Mid-Term 2012 – 2017 – The Second Moratorium

Those opportunities for affordable housing development obvious to us today have been identified in this Plan. The housing equivalency points have also been identified where possible. Each and every year opportunities will present themselves to the Darien community, and below are some examples.

**POTENTIAL HOUSING EQUIVALENCY POINTS
FOR ACHIEVING A SECOND MORATORIUM**

	Number of Affordable Units	Points Per Unit	Total Potential Housing Equivalency Points
Allen O'Neill redevelopment (the 56th-107th units which get a Certificate of Occupancy)	51	1.5	76.5
Senior Center site ⁵	15	1.5	22.5
Careventures, Former Mediplex property, 599 Boston Post Road	3-4	1.5	4.5-6
Units constructed as part of Inclusionary Zoning.	5	1.5	7.5
Increased density at existing housing sites	20	1.5	30.0
TOTAL:	94-95		141-142.5

Further opportunities to reach a second moratorium may also become available on the following properties:

Duhaime Property, Hollow Tree Ridge Road

The 3.7 acre property is immediately to the east of AvalonBay properties, is now zoned 3.7 Small Acreage Zone for Affordable Housing (3.7AH). This zoning designation allows between 27-33 units to be constructed on this site. 30% of those units would be required to be affordable units, resulting in a possible nine to eleven (9-11) affordable housing units.

Senior Center Property, Edgerton Street

The site at 30 Edgerton Street was analyzed by Redniss and Mead as part of a 2006 feasibility report, and even more recently, Perkins-Eastman prepared a draft Master Plan. The site is 3.6+/- usable acres on which the Senior Center and The Cottage of Darien are located. There remains the potential for some additional housing to be built at this location.

⁶ The Senior Center site does not currently have an application for development.

HOMEConnecticut Housing Incentive Zones

Appropriate areas of the Town identified in the Town Plan of Conservation & Development should be evaluated for affordable housing overlay zones. The incentives currently include a \$2,000 payment for every unit built. It should be noted that this is a new State incentive and the financial incentives are dependent upon the number of municipalities who take advantage of this program as well as the amount of the State appropriation.

**ADDITIONAL OPPORTUNITIES FOR MID-TERM AFFORDABLE HOUSING
CONSTRUCTION AND HOUSING EQUIVALENCY POINTS**

	Total Number Units	NET Affordable Units	Total Potential Housing Equivalency Points
<u>Mid-Term (2012-2017)/5-10 years</u>			
Duhaime property, Hollow Tree Ridge Road	27-33	9-11	11
Senior Center property, Edgerton Street	10	10	
HOMEConnecticut Incentive Zones and Inclusionary Zoning	To be determined	To be determined	

Note: There are no current plans, nor any applications, to build affordable housing on either of these sites.

Long -Term 2017 -- And Beyond

Old Town Hall Homes Renovation/Additions

The Darien Housing Authority, who owns and operates this complex of senior rental housing, may seek to redevelop and expand the housing. Currently, there are 30 units of senior housing: 20 one-bedroom units and 10 efficiencies-moderate income senior housing. Typically, a building will have a fifty-year lifespan. It can be assumed that these buildings and this property, when redeveloped, could potentially increase in density.

AvalonBay Additional Density

There may be some possibility for the expansion of this development in the future. Currently, there are a total of 47 units of affordable housing on 31.5 +/- acres.

Downtown and Noroton Heights

The DAHAC October 2007 report identifies additional zoning opportunities in the Downtown and Noroton Heights and identifies the need to create a master land use plan for both areas. To accommodate more commercial and residential development the goals would include promoting development of second and third floor housing, thus creating a mixed use development.

Additionally, the 2006 Plan of Conservation and Development identifies the need for a diversity of housing choices close to transportation and within walking distance to local shopping both in Noroton Heights and Downtown Darien.

Leroy West Commuter Parking Lot

The Leroy West Commuter Parking Lot is 4.0 +/- acres now zoned Parking Residential (PR). This site is located on Leroy Avenue across from the Darien Train Station. The potential exists for the construction of affordable housing above the existing surface parking lot.

Existing Multi-Family Properties

The existing multi-family properties in Darien are Villager Pond, Middlesex Commons, Pine Brook, Sedgwick Village, Darien Close and AvalonBay. AvalonBay has 47 units of affordable rental housing and Villager Pond has two (2) affordable housing units. It may be possible to create additional affordable, deed-restricted units at Villager Pond and in the other condominium complexes by: 1) changing zoning regulations to allow higher density in those locations and/or 2) purchasing and deed restricting existing units.

Koons Property, West and Leroy Avenues

The Koons property is currently used for commuter parking. Like the Leroy West Parking Lot, there is potential for affordable housing to be constructed above the existing surface parking lot.

AFFORDABLE HOUSING STRATEGIES IDENTIFIED

Twelve (12) suggested strategies have been identified and are included in the Town of Darien Affordable Housing Plan for future discussion and consideration by the relevant town bodies. Their inclusion in this Plan is not an endorsement by the Board of Selectmen, nor does their inclusion herein mean that they are to be construed as the stated policy of the Town of Darien with regard to affordable housing.

The following suggested strategies are grouped by category. They are:

PLANNING AND ZONING REGULATION STRATEGIES

Strategy #1: *Provide "workforce" housing through HOMEConnecticut Affordable Housing Incentive Overlay Zone.*

Objective: *This would allow additional "affordable" units to be built while providing funding from the State of Connecticut to the developers for each affordable unit built following certificates of occupancy.*

Entities Needed to Implement: Planning and Zoning Commission

<u>Activities</u>	<u>Implementation Timeframe</u>
Map out zones/Public Hearings	2009

Strategy #2: *Implement Zoning Regulation Changes as outlined in the Planning and Zoning Subcommittee report.*

Objective: *This includes multi-family zoning districts.*

Entities Needed to Implement: Planning and Zoning Commission

<u>Activities</u>	<u>Implementation Timeframe</u>
Staff Mapping/Public Hearings	2009-2010

Strategy #3: Amend the Town Plan of Conservation & Development to include a master plan for Noroton Heights, Downtown Darien and possibly other commercial areas in Darien which would allow a mix of affordable and market-rate housing on the upper-floors of commercial developments.

Objective: This master plan, would be an amendment to the 2006 Town Plan of Conservation & Development, formally reviewed and approved by the Planning and Zoning Commission, could be the impetus for future zoning regulation amendments. These amendments could change the existing zoning to allow mixed-use development, and possibly incentives to create affordable housing. Because this area is on public water and sewer and near the Noroton Heights Train Station and a bus line, is a logical area to consider for affordable housing.

Entities Needed to Implement: Planning and Zoning Commission

<u>Activities</u>	<u>Implementation Timeframe</u>
Research/Public Hearings/Adoption	2009-2010

Strategy #4: Consider allowing accessory apartments and require these units to be affordable, deed restricted units.

Objective: DAHAC and Board of Selectmen have completed their review of draft regulations and have made a final recommendation to the Planning and Zoning Commission for their consideration.

Entities Needed to Implement: Planning and Zoning Commission, Planning Staff

<u>Activities</u>	<u>Implementation Timeframe</u>
Study issue; review draft regulations	2009-2010
Hold public hearing(s); Possible adoption	

Strategy #5: Establish benchmark criteria that best harmonizes any affordable housing development with the existing zoning.

Objective: Encourage the creation of affordable housing while addressing the concerns of the neighbors and the community as a whole. A "zoning template" for such housing would be consistent as related to:

- Minimum lot size;
- Number of units per acre (density);
- Setbacks and buffers – front/side/rear;
- Maximum building height;
- Required on-site parking;
- Designated open space.

Entities Needed to Implement: Planning and Zoning Commission

<u>Activities</u>	<u>Implementation Timeframe</u>
Create "template"	2010 - 2011

HOUSING PRODUCTION AND PRESERVATION STRATEGIES

Strategy #6: *Fund the Housing Trust Fund.*

Objective: *1) Redevelop and maintain current affordable housing stock; and 2) Purchase sites that where affordable housing could be developed.*

Entities Needed to Implement: Board of Selectmen, Board of Finance, RTM

<u>Activities</u>	<u>Implementation Timeframe</u>
Use funds to achieve Objective	Ongoing

Strategy #7: *Consider a condominium purchase program whereby the Town could subsidize the purchase or "buy down" the purchase of units that become available and deed restrict them as affordable in perpetuity.*

Objective: *Future funds within the Affordable Housing Trust Fund could be used for this purpose.*

Entities Needed to Implement: Board of Selectmen, Board of Finance, Representative Town Meeting

<u>Activities</u>	<u>Implementation Timeframe</u>
Use Housing Trust Funds	Ongoing

Strategy #8: *Maximize the Potential of Existing Properties.*

Objective: *Encourage the conversion of existing housing stock by offering homeowners a tax reduction in exchange for temporary deed restriction on their houses. The duration of this temporary deed restriction or covenant could be limited to the period of the individual need. Study possible zoning changes to allow deed-restricted accessory apartments. The lease shall include a deed restriction. Consider the addition of new dwellings such as cottages or caretaker quarters on larger existing properties provided the unit qualifies as affordable. Consider, where appropriate, converting existing commercial space into affordable housing.*

Entities Needed to Implement: Board of Selectmen, Board of Finance, Representative Town Meeting, Town Staff

<u>Activities</u>	<u>Implementation Timeframe</u>
Establish Criteria and plan	2010 - ongoing

BUILD LOCAL CAPACITY STRATEGIES

Strategy #9: *Create an information clearinghouse through the Planning and Zoning Department.*

Objective: *Provide potential developers with needed information such as median income levels, appropriate locations for development, and Towns' needs. Create and maintain an inventory of properties suitable for affordable housing. Provide information to the community on affordable housing. Monitor the actions other municipalities are taking to address affordable housing. Provide information on training opportunities for staff and commission members.*

Entities Needed to Implement:

<u>Activities</u>	<u>Implementation Timeframe</u>
	Ongoing

Strategy #10: *Pursue available grants for the construction and maintenance of affordable housing.*

Objective: *Seek and obtain State and Federal grants, minimizing tax impacts to Darien residents.*

Entities Needed to Implement: Planning Staff

<u>Activities</u>	<u>Implementation Timeframe</u>
HOMEConnecticut	June 2008 – December 2009
Other Grants: To Be Determined	Ongoing

Strategy #11: *Work within the legislative process to address the implications of 8-30g for the Town.*

Objective: *Continue to lobby for changes to CGS 8-30g such as: 1) Designate the housing equivalency points for Area Median Income restricted units as points that count towards a moratorium; 2) Allow caretakers' quarters and other housing for on-site workers (such as the country clubs) to count towards a moratorium; and 3) Allow regional consideration, which may allow entire regions to qualify for a moratorium. Pursue further clarification from DECD on existing affordable housing.*

Entities Needed to Implement: Board of Selectmen, Planning Staff, Legal Counsel, Town's legislative delegation to the General Assembly.

<u>Activities</u>	<u>Implementation Timeframe</u>
Meetings with Various State Departments And Legislators	Ongoing

Strategy #12: *Work with charitable and other organizations to increase the stock of affordable housing in Darien.*

Objective: Invite religious community and non-profits to work with the Town to deed restrict current affordable housing units that exist on their properties.

Entities Needed to Implement: Planning Staff

<u>Activities</u>	<u>Implementation Timeframe</u>
Outreach	Ongoing

CONCLUSION

The Town of Darien Affordable Housing Plan is intended to be a fluid document focused on increasing affordable housing within Darien in a manner that is consistent with the needs and challenges faced by the community. The strategies set forth in this Plan are intended to identify opportunities and to suggest potential paths which are currently foreseeable for consideration by Darien's land use and policy making bodies to assist them in continuing the progress made by Darien in addressing its need for affordable housing.

As time moves on, future opportunities and strategies may become apparent and suggest themselves to the Town's leadership. Darien should be prepared to take advantage of any and all future events and situations which may assist the Town in meeting the goals of this Plan. It is, therefore, recommended that this Plan be reviewed and amended by the Darien Board of Selectmen on an annual basis to take into account new and changing circumstances and to incorporate new potential strategies for addressing Darien's need for affordable housing as they become apparent.

APPENDIX 1

AN ACT ESTABLISHING A STATE AFFORDABLE HOUSING LAND USE APPEALS PROCEDURE

Sec. 8-30g. Affordable housing land use appeals procedure. Definitions. Affordability plan; regulations. Conceptual site plan. Maximum monthly housing cost. Percentage-of-income requirement. Appeals. Modification of application. Commission powers and remedies. Exempt municipalities. Moratorium. Model deed restrictions. (a) As used in this section:

(1) "Affordable housing development" means a proposed housing development which is (A) assisted housing, or (B) a set-aside development;

(2) "Affordable housing application" means any application made to a commission in connection with an affordable housing development by a person who proposes to develop such affordable housing;

(3) "Assisted housing" means housing which is receiving, or will receive, financial assistance under any governmental program for the construction or substantial rehabilitation of low and moderate income housing, and any housing occupied by persons receiving rental assistance under chapter 319uu or Section 1437f of Title 42 of the United States Code;

(4) "Commission" means a zoning commission, planning commission, planning and zoning commission, zoning board of appeals or municipal agency exercising zoning or planning authority;

(5) "Municipality" means any town, city or borough, whether consolidated or unconsolidated;

(6) "Set-aside development" means a development in which not less than thirty per cent of the dwelling units will be conveyed by deeds containing covenants or restrictions which shall require that, for at least forty years after the initial occupation of the proposed development, such dwelling units shall be sold or rented at, or below, prices which will preserve the units as housing for which persons and families pay thirty per cent or less of their annual income, where such income is less than or equal to eighty per cent of the median income. In a set-aside development, of the dwelling units conveyed by deeds containing covenants or restrictions, a number of dwelling units equal to not less than fifteen per cent of all dwelling units in the development shall be sold or rented to persons and families whose income is less than or equal to sixty per cent of the median income and the remainder of the dwelling units conveyed by deeds containing covenants or restrictions shall be sold or rented to persons and families whose income is less than or equal to eighty per cent of the median income;

(7) "Median income" means, after adjustments for family size, the lesser of the state median income or the area median income for the area in which the municipality containing the affordable housing development is located, as determined by the United States

Department of Housing and Urban Development; and

(8) "Commissioner" means the Commissioner of Economic and Community Development.

¹ The Regulations of Connecticut State Agencies may be amended from time to time, thus the Regulations recited in this Appendix C may be subject to change.

(b) (1) Any person filing an affordable housing application with a commission shall submit, as part of the application, an affordability plan which shall include at least the following: (A) Designation of the person, entity or agency that will be responsible for the duration of any affordability restrictions, for the administration of the affordability plan and its compliance with the income limits and sale price or rental restrictions of this chapter; (B) an affirmative fair housing marketing plan governing the sale or rental of all dwelling units; (C) a sample calculation of the maximum sales prices or rents of the intended affordable dwelling units; (D) a description of the projected sequence in which, within a set-aside development, the affordable dwelling units will be built and offered for occupancy and the general location of such units within the proposed development; and (E) draft zoning regulations, conditions of approvals, deeds, restrictive covenants or lease provisions that will govern the affordable dwelling units.

(2) The commissioner shall, within available appropriations, adopt regulations pursuant to chapter 54 regarding the affordability plan. Such regulations may include additional criteria for preparing an affordability plan and shall include: (A) A formula for determining rent levels and sale prices, including establishing maximum allowable down payments to be used in the calculation of maximum allowable sales prices; (B) a clarification of the costs that are to be included when calculating maximum allowed rents and sale prices; (C) a clarification as to how family size and bedroom counts are to be equated in establishing maximum rental and sale prices for the affordable units; and (D) a listing of the considerations to be included in the computation of income under this section.

(c) Any commission, by regulation, may require that an affordable housing application seeking a change of zone shall include the submission of a conceptual site plan describing the proposed development's total number of residential units and their arrangement on the property and the proposed development's roads and traffic circulation, sewage disposal and water supply.

(d) For any affordable dwelling unit that is rented as part of a set-aside development, if the maximum monthly housing cost, as calculated in accordance with subdivision (6) of subsection (a) of this section, would exceed one hundred per cent of the Section 8 fair market rent as determined by the United States Department of Housing and Urban Development, in the case of units set aside for persons and families whose income is less than or equal to sixty per cent of median income, then such maximum monthly housing cost shall not exceed one hundred per cent of said Section 8 fair market rent. If the maximum monthly housing cost, as calculated in accordance with subdivision (6) of subsection (a) of this section, would exceed one hundred twenty per cent of the Section 8 fair market rent, as determined by the United States Department of Housing and Urban Development, in the case of units set aside for persons and families whose income is less than or equal to eighty per cent of median income,

then such maximum monthly housing cost shall not exceed one hundred twenty per cent of such Section 8 fair market rent.

(e) For any affordable dwelling unit that is rented in order to comply with the requirements of a set-aside development, no person shall impose on a prospective tenant who is receiving governmental rental assistance a maximum percentage-of-income-for-housing requirement that is more restrictive than the requirement, if any, imposed by such governmental assistance program.

(f) Any person whose affordable housing application is denied or is approved with restrictions which have a substantial adverse impact on the viability of the affordable housing development or the degree of affordability of the affordable dwelling units in a set-aside development, may appeal such decision pursuant to the procedures of this section. Such appeal shall be filed within the time period for filing appeals as set forth in section 8-8, 8-9, 8-28, 8-30 or 8-30a, as applicable, and shall be made returnable to the superior court for the judicial district where the real property which is the subject of the application is located. Affordable housing appeals, including pretrial motions, shall be heard by a judge assigned by the Chief Court Administrator to hear such appeals. To the extent practicable, efforts shall be made to assign such cases to a small number of judges, sitting in geographically diverse parts of the state, so that a consistent body of expertise can be developed. Unless otherwise ordered by the Chief Court Administrator, such appeals, including pretrial motions, shall be heard by such assigned judges in the judicial district in which such judge is sitting. Appeals taken pursuant to this subsection shall be privileged cases to be heard by the court as soon after the return day as is practicable. Except as otherwise provided in this section, appeals involving an affordable housing application shall proceed in conformance with the provisions of said section 8-8, 8-9, 8-28, 8-30 or 8-30a, as applicable.

(g) Upon an appeal taken under subsection (f) of this section, the burden shall be on the commission to prove, based upon the evidence in the record compiled before such commission that the decision from which such appeal is taken and the reasons cited for such decision are supported by sufficient evidence in the record. The commission shall also have the burden to prove, based upon the evidence in the record compiled before such commission, that (1) (A) the decision is necessary to protect substantial public interests in health, safety, or other matters which the commission may legally consider; (B) such public interests clearly outweigh the need for affordable housing; and (C) such public interests cannot be protected by reasonable changes to the affordable housing development, or (2) (A) the application which was the subject of the decision from which such appeal was taken would locate affordable housing in an area which is zoned for industrial use and which does not permit residential uses, and (B) the development is not assisted housing, as defined in subsection (a) of this section. If the commission does not satisfy its burden of proof under this subsection, the court shall wholly or partly revise, modify, remand or reverse the decision from which the appeal was taken in a manner consistent with the evidence in the record before it.

(h) Following a decision by a commission to reject an affordable housing application or to approve an application with restrictions which have a substantial adverse impact on the viability of the affordable housing development or the degree of affordability of the affordable dwelling units, the applicant may, within the period for filing an appeal of such decision,

submit to the commission a proposed modification of its proposal responding to some or all of the objections or restrictions articulated by the commission, which shall be treated as an amendment to the original proposal. The day of receipt of such a modification shall be determined in the same manner as the day of receipt is determined for an original application. The filing of such a proposed modification shall stay the period for filing an appeal from the decision of the commission on the original application. The commission shall hold a public hearing on the proposed modification if it held a public hearing on the original application and may hold a public hearing on the proposed modification if it did not hold a public hearing on the original application. The commission shall render a decision on the proposed modification not later than sixty-five days after the receipt of such proposed modification, provided, if, in connection with a modification submitted under this subsection, the applicant applies for a permit for an activity regulated pursuant to sections 22a-36 to 22a-45, inclusive, and the time for a decision by the commission on such modification under this subsection would lapse prior to the thirty-fifth day after a decision by an inland wetlands and watercourses agency, the time period for decision by the commission on the modification under this subsection shall be extended to thirty-five days after the decision of such agency. The commission shall issue notice of its decision as provided by law. Failure of the commission to render a decision within said sixty-five days or subsequent extension period permitted by this subsection shall constitute a rejection of the proposed modification. Within the time period for filing an appeal on the proposed modification as set forth in section 8-8, 8-9, 8-28, 8-30 or 8-30a, as applicable, the applicant may appeal the commission's decision on the original application and the proposed modification in the manner set forth in this section. Nothing in this subsection shall be construed to limit the right of an applicant to appeal the original decision of the commission in the manner set forth in this section without submitting a proposed modification or to limit the issues which may be raised in any appeal under this section.

(i) Nothing in this section shall be deemed to preclude any right of appeal under the provisions of section 8-8, 8-9, 8-28, 8-30 or 8-30a.

(j) A commission or its designated authority shall have, with respect to compliance of an affordable housing development with the provisions of this chapter, the same powers and remedies provided to commissions by section 8-12.

(k) Notwithstanding the provisions of subsections (a) to (j), inclusive, of this section, the affordable housing appeals procedure established under this section shall not be available if the real property which is the subject of the application is located in a municipality in which at least ten per cent of all dwelling units in the municipality are (1) assisted housing, or (2) currently financed by Connecticut Housing Finance Authority mortgages, or (3) subject to binding recorded deeds containing covenants or restrictions which require that such dwelling units be sold or rented at, or below, prices which will preserve the units as housing for which persons and families pay thirty per cent or less of income, where such income is less than or equal to eighty per cent of the median income, or (4) mobile manufactured homes located in mobile manufactured home parks or legally-approved accessory apartments, which homes or apartments are subject to binding recorded deeds containing covenants or restrictions which require that such dwelling units be sold or rented at, or below, prices which will preserve the units as housing for which, for a period of not less than ten years, persons and families pay thirty per cent or less of income, where such income is less than or equal to eighty per cent of

the median income. The Commissioner of Economic and Community Development shall, pursuant to regulations adopted under the provisions of chapter 54, promulgate a list of municipalities which satisfy the criteria contained in this subsection and shall update such list not less than annually. For the purpose of determining the percentage required by this subsection, the commissioner shall use as the denominator the number of dwelling units in the municipality, as reported in the most recent United States decennial census. As used in this subsection, "accessory apartment" means a separate living unit that (A) is attached to the main living unit of a house, which house has the external appearance of a single-family residence, (B) has a full kitchen, (C) has a square footage that is not more than thirty per cent of the total square footage of the house, (D) has an internal doorway connecting to the main living unit of the house, (E) is not billed separately from such main living unit for utilities, and (F) complies with the building code and health and safety regulations.

(1) (1) Notwithstanding the provisions of subsections (a) to (j), inclusive, of this section, the affordable housing appeals procedure established under this section shall not be applicable to an affordable housing application filed with a commission during a moratorium, which shall be the four-year period after (A) a certification of affordable housing project completion issued by the commissioner is published in the Connecticut Law Journal, or (B) after notice of a provisional approval is published pursuant to subdivision (4) of this subsection. Any moratorium that is in effect on October 1, 2002, is extended by one year.

(2) Notwithstanding the provisions of this subsection, such moratorium shall not apply to (A) affordable housing applications for assisted housing in which ninety-five per cent of the dwelling units are restricted to persons and families whose income is less than or equal to sixty per cent of median income, (B) other affordable housing applications for assisted housing containing forty or fewer dwelling units, or (C) affordable housing applications which were filed with a commission pursuant to this section prior to the date upon which the moratorium takes effect.

(3) Eligible units completed after a moratorium has begun may be counted toward establishing eligibility for a subsequent moratorium.

(4) (A) The commissioner shall issue a certificate of affordable housing project completion for the purposes of this subsection upon finding that there has been completed within the municipality one or more affordable housing developments which create housing unit-equivalent points equal to the greater of two per cent of all dwelling units in the municipality, as reported in the most recent United States decennial census, or seventy-five housing unit-equivalent points.

(B) A municipality may apply for a certificate of affordable housing project completion pursuant to this subsection by applying in writing to the commissioner, and including documentation showing that the municipality has accumulated the required number of points within the applicable time period. Such documentation shall include the location of each dwelling unit being counted, the number of points each dwelling unit has been assigned, and the reason, pursuant to this subsection, for assigning such points to such dwelling unit. Upon receipt of such application, the commissioner shall promptly cause a notice of the filing of the application to be published in the Connecticut Law Journal, stating that public comment on

such application shall be accepted by the commissioner for a period of thirty days after the publication of such notice. Not later than ninety days after the receipt of such application, the commissioner shall either approve or reject such application. Such approval or rejection shall be accompanied by a written statement of the reasons for approval or rejection, pursuant to the provisions of this subsection. If the application is approved, the commissioner shall promptly cause a certificate of affordable housing project completion to be published in the Connecticut Law Journal. If the commissioner fails to either approve or reject the application within such ninety-day period, such application shall be deemed provisionally approved, and the municipality may cause notice of such provisional approval to be published in a conspicuous manner in a daily newspaper having general circulation in the municipality, in which case, such moratorium shall take effect upon such publication. The municipality shall send a copy of such notice to the commissioner. Such provisional approval shall remain in effect unless the commissioner subsequently acts upon and rejects the application, in which case the moratorium shall terminate upon notice to the municipality by the commissioner.

(5) For purposes of this subsection, "elderly units" are dwelling units whose occupancy is restricted by age and "family units" are dwelling units whose occupancy is not restricted by age.

(6) For purposes of this subsection, housing unit-equivalent points shall be determined by the commissioner as follows: (A) No points shall be awarded for a unit unless its occupancy is restricted to persons and families whose income is equal to or less than eighty per cent of median income, except that unrestricted units in a set-aside development shall be awarded one-fourth point each. (B) Family units restricted to persons and families whose income is equal to or less than eighty per cent of median income shall be awarded one point if an ownership unit and one and one-half points if a rental unit. (C) Family units restricted to persons and families whose income is equal to or less than sixty per cent of median income shall be awarded one and one-half points if an ownership unit and two points if a rental unit. (D) Family units restricted to persons and families whose income is equal to or less than forty per cent of median income shall be awarded two points if an ownership unit and two and one-half points if a rental unit. (E) Elderly units restricted to persons and families whose income is equal to or less than eighty per cent of median income shall be awarded one-half point. (F) A set-aside development containing family units which are rental units shall be awarded additional points equal to twenty-two per cent of the total points awarded to such development, provided the application for such development was filed with the commission prior to July 6, 1995.

(7) Points shall be awarded only for dwelling units which were (A) newly-constructed units in an affordable housing development, as that term was defined at the time of the affordable housing application, for which a certificate of occupancy was issued after July 1, 1990, or (B) newly subjected after July 1, 1990, to deeds containing covenants or restrictions which require that, for at least the duration required by subsection (a) of this section for set-aside developments on the date when such covenants or restrictions took effect, such dwelling units shall be sold or rented at, or below, prices which will preserve the units as affordable housing for persons or families whose income does not exceed eighty per cent of median income.

(8) Points shall be subtracted, applying the formula in subdivision (6) of this subsection, for any affordable dwelling unit which, on or after July 1, 1990, was affected by any action taken by a municipality which caused such dwelling unit to cease being counted as an affordable dwelling unit.

(9) A newly-constructed unit shall be counted toward a moratorium when it receives a certificate of occupancy. A newly-restricted unit shall be counted toward a moratorium when its deed restriction takes effect.

(10) The affordable housing appeals procedure shall be applicable to affordable housing applications filed with a commission after a three-year moratorium expires, except (A) as otherwise provided in subsection (k) of this section, or (B) when sufficient unit-equivalent points have been created within the municipality during one moratorium to qualify for a subsequent moratorium.

(11) The commissioner shall, within available appropriations, adopt regulations in accordance with chapter 54 to carry out the purposes of this subsection. Such regulations shall specify the procedure to be followed by a municipality to obtain a moratorium, and shall include the manner in which a municipality is to document the units to be counted toward a moratorium. A municipality may apply for a moratorium in accordance with the provisions of this subsection prior to, as well as after, such regulations are adopted.

(m) The commissioner shall, pursuant to regulations adopted in accordance with the provisions of chapter 54, promulgate model deed restrictions which satisfy the requirements of this section. A municipality may waive any fee which would otherwise be required for the filing of any long-term affordability deed restriction on the land records.

Sec. 8-30g-8. Maximum housing payment calculations in set-aside developments

(a) The maximum price for any affordable unit that is sold or resold within a setaside development, for the period of affordability restrictions, to a household earning eighty percent of the median income or less, shall be determined as follows:

(1) Step 1. Determine area median income and the statewide median as published by the U.S. Department of Housing and Urban Development for the subject municipality, and use the lesser of these figures.

(2) Step 2. Adjust median income identified in Step 1 by family size by assuming that 1.5 persons will occupy each bedroom of an affordable unit, except in the case of a studio or zero-bedroom unit, in which case 1.0 person shall be assumed. Family size adjustment shall be made with reference to the following percentages:

NUMBER OF PERSONS IN FAMILY								
	1	2	3	4	5	6	7	8
PERCENTAGE ADJUSTMENT (BASE)	70%	80%	90%	100%	108%	116%	124%	132%

The family size adjustment that involves a half person (such as 4.5 persons) shall be calculated by taking the midpoint between the relevant figures above and below the half. For example, the adjustment for a 4.5 person household is 104 percent.

(3) Step 3. Calculate eighty percent (80%) of Step 2.

(4) Step 4. Calculate thirty percent (30%) of Step 3, representing that portion of household income deemed to be used for housing costs.

(5) Step 5. Divide step 4 by twelve (12) months to determine the maximum monthly housing payment.

(6) Step 6. Determine by reasonable estimate monthly housing expenses, including real property taxes; real property insurance; any common interest ownership or similar fee required of all unit purchasers or owners; and heat and utility costs, excluding television, telecommunications, and information technology services.

(7) Step 7. Subtract Step 6 from Step 5 to determine the amount available for mortgage principal and interest.

(8) Step 8. Using the amount resulting from Step 7, apply a mortgage term and interest rate that is commercially reasonable and available to households likely to apply to purchase such units, in order to determine the financeable amount.

(9) Step 9. Calculate down payment, which shall comply with subsection (c) of this section.

(10) Step 10. Add Steps 8 and 9 to determine the maximum sale or resale price.

(b) For a unit required to be sold or resold to a household earning sixty percent (60%) or less of the median income, the formula stated above shall be used, except that in Step 3, sixty percent (60%) shall be used instead of eighty percent (80%).

(c) The maximum allowable down payment used in calculating the maximum sale or resale price of an affordable unit that is sold shall be the lesser of twenty percent (20%) of the total sale price or twenty percent (20%) of the Connecticut Housing Finance Authority (CHFA) maximum sales price limit for a comparably-sized unit in the area, as published by CHFA.

(d) The maximum monthly payment for a rental unit in a set-aside development, for the period of affordability restrictions, for a household earning eighty percent of the median income or less, shall be determined as follows:

(1) Step 1. Determine area median income and the statewide median as published by the U.S. Department of Housing and Urban Development for the subject municipality, and use the lesser of these figures.

(2) Step 2. Adjust median income identified in Step 1 by family size by assuming that 1.5 persons will occupy each bedroom of an affordable unit, except in the case of a studio or zero-bedroom unit, in which case 1.0 person shall be assumed. Family size adjustment shall be made with reference to the following percentages:

NUMBER OF PERSONS IN FAMILY

	1	2	3	4	5	6	7	8
PERCENTAGE	70%	80%	90%	100%	108%	116%	124%	132%
ADJUSTMENT (BASE)								

The family size adjustment that involves a half person (such as 4.5 persons) shall be calculated by taking the midpoint between the relevant figures above and below the half. For example, the adjustment for a 4.5 person household is 104 percent.

(3) Step 3. Calculate eighty percent (80%) of Step 2.

(4) Step 4. Calculate thirty percent (30%) of Step 3, representing that portion of household income deemed to be used for housing costs.

(5) Step 5. Divide Step 4 by twelve (12) months to determine the maximum monthly housing payment.

(6) Step 6. Determine the fair market rent for a unit with the same number of bedrooms in the subject municipality as published by the U.S. Department of Housing and Urban Development.

(7) Step 7. Multiply the U.S. Department of Housing and Urban Development fair market rent as determined in Step 6 by one hundred twenty percent (120%).

(8) Step 8. The maximum monthly housing payment for occupants of the subject rental unit shall be the lesser of the calculations in Steps 5 and 7.

(9) Step 9. Determine by reasonable estimate monthly expenses for heat and utility costs for which the tenant is directly responsible, excluding television, telecommunications, and information technology services, but including any other periodic fees for which the tenant is directly responsible, such as common charges in the case of a common interest ownership community.

(10) Step 10. Deduct the estimate of tenant-paid utilities and fees determined in Step 9 from the maximum monthly housing payment in Step 8, which will result in the maximum amount that the developer/owner may charge for this rental unit as the monthly contract rent.

(e) For a unit required to be rented to a household earning sixty percent (60%) or less of the median income, the formula stated above shall be used, except that in Step 3, sixty percent (60%) shall be used instead of eighty percent (80%), and in Step 7, the U.S. Department of Housing and Urban Development fair market rent shall be used instead of one hundred twenty percent (120%) of the U.S. Department of Housing and Urban Development fair market rent.

(f) The elements of annual household income, and documentation of such income, used for the purposes of determining whether a household's annual income qualifies it for occupancy of a price-restricted unit, shall be conducted using the guidelines published by the U.S. Department of Housing 24 CFR 5.609. New section published in Conn. Law Journal June 11, 2002, effective April 29, 2002; amendment published in Conn. Law Journal June 7, 2005, effective May 3, 2005.

**APPENDIX 2
HOMECONNECTICUT LEGISLATION**

June Special Session, Public Act No. 07-4

***AN ACT IMPLEMENTING THE PROVISIONS OF THE BUDGET CONCERNING
GENERAL GOVERNMENT.***

Sec. 38. (NEW) (*Effective July 1, 2007*) As used in this section and sections 39 to 49, inclusive, of this act:

- (1) "Approved incentive housing zone" means an overlay zone that has been adopted by a zoning commission and for which a letter of final eligibility has been issued by the secretary under section 42 of this act.
- (2) "Building permit payment" means the one-time payment, made pursuant to section 44 of this act, for each qualified housing unit located within an incentive housing development for which a building permit has been issued by the municipality.
- (3) "Developable land" means the area within the boundaries of an approved incentive housing zone that feasibly can be developed into residential or mixed uses consistent with the provisions of sections 38 to 49, inclusive, of this act, not including: (A) Land already committed to a public use or purpose, whether publicly or privately owned; (B) existing parks, recreation areas and open space that is dedicated to the public or subject to a recorded conservation easement; (C) land otherwise subject to an enforceable restriction on or prohibition of development; (D) wetlands or watercourses as defined in chapter 440 of the general statutes; and (E) areas exceeding one-half or more acres of contiguous land that are unsuitable for development due to topographic features, such as steep slopes.
- (4) "Duplex" means a residential building containing two units.
- (5) "Eligible location" means: (A) An area near a transit station, including rapid transit, commuter rail, bus terminal, or ferry terminal; (B) an area of concentrated development such as a commercial center, existing residential or commercial district, or village district established pursuant to section 8-2j of the general statutes; or (C) an area that, because of existing, planned or proposed infrastructure, transportation access or underutilized facilities or location, is suitable for development as an incentive housing zone.
- (6) "Historic district" means an historic district established pursuant to chapter 97a of the general statutes.
- (7) "Incentive housing development" means a residential or mixed-use development (A) that is proposed or located within an approved incentive housing zone; (B) that is eligible for financial incentive payments set forth in sections 38 to 49, inclusive, of this act; and (C) in which not less than twenty per cent of the dwelling units will be conveyed subject to an incentive housing restriction requiring that, for at least thirty years after the initial occupancy

of the development, such dwelling units shall be sold or rented at, or below, prices which will preserve the units as housing for which persons pay thirty per cent or less of their annual income, where such income is less than or equal to eighty per cent or less of the median income.

(8) "Incentive housing restriction" means a deed restriction, covenant, zoning regulation, site plan approval condition, subdivision approval condition, or affordability plan constituting an obligation with respect to the restrictions on household income, sale or resale price, rent and housing costs required by sections 38 to 49, inclusive, of this act, enforceable for thirty years as required by said sections, and recorded on the land records of the municipality where the housing is located.

(9) "Incentive housing zone" means a zone adopted by a zoning commission pursuant to sections 38 to 49, inclusive, of this act, as an overlay to one or more existing zones, in an eligible location.

(10) "Incentive housing zone certificate of compliance" means a written certificate issued by the secretary in accordance with sections 38 to 49, inclusive, of this act.

(11) "Letter of eligibility" means a preliminary or final letter issued to a municipality by the secretary pursuant to section 42 of this act.

(12) "Median income" means, after adjustments for household size, the area median income as determined by the United States Department of Housing and Urban Development for the municipality in which an approved incentive housing zone or development is located.

(13) "Mixed-use development" means a development containing one or more multifamily or single-family dwelling units and one or more commercial, public, institutional, retail, office or industrial uses.

(14) "Multifamily housing" means a building that contains or will contain three or more residential dwelling units.

(15) "Open space" means land or a permanent interest in land that is used for or satisfies one or more of the criteria listed in subsection (b) of section 7-131d of the general statutes.

(16) "Secretary" means the Secretary of the Office of Policy and Management or the designee of the secretary.

(17) "Townhouse housing" means a residential building consisting of a single-family dwelling unit constructed in a group of three or more attached units, in which each unit extends from foundation to roof and has open space on at least two sides.

(18) "Zone adoption payment" means a one-time payment, made pursuant to section 44 of this act.

(19) "Zoning commission" means a municipal agency designated or authorized to exercise zoning powers under chapter 124 of the general statutes or a special act, and includes an agency that exercises both planning and zoning authority.

Sec. 39. (NEW) (*Effective July 1, 2007*) (a) Notwithstanding the provisions of a charter or special act, a zoning commission may adopt, as part of the zoning regulations adopted under section 8-2 of the general statutes or any special act, regulations establishing an incentive housing zone in accordance with the provisions of sections 38 to 49, inclusive, of this act.

(b) An incentive housing zone shall satisfy the following requirements:

(1) The zone shall be consistent with the state plan of conservation and development and be located in an eligible location.

(2) The regulations of the zone shall permit, as of right, incentive housing development.

(3) The minimum allowable density for incentive housing development, per acre of developable land, shall be: (A) Six units per acre for single-family detached housing; (B) ten units per acre for duplex or townhouse housing; and (C) twenty units per acre for multifamily housing, provided that a municipality whose population as determined by the most recent federal decennial census is less than five thousand, when applying to the secretary for a letter of eligibility under section 42 of this act, may request approval of minimum as of right densities of not less than four units per acre for single-family detached housing, not less than six units per acre for duplex or townhouse housing, and not less than ten units per acre for multifamily housing. In making such request, the municipality shall provide the Secretary of the Office of Policy and Management with evidence of sewage disposal, water supply, traffic safety or other existing, substantial infrastructure limitations that prevent adoption of the minimum densities set forth in this subdivision. If the proposed incentive housing zone otherwise satisfies the requirements of this section, the secretary may issue the requested letter of eligibility. A municipality may request a waiver of the density requirements of this subdivision and the secretary may grant a waiver if the municipality demonstrates in the application that the land to be zoned for incentive housing development is owned or controlled by the municipality itself, an agency thereof, or a land trust, housing trust fund or a nonprofit housing agency or corporation. The proposed incentive housing zone regulation shall require, in an enforceable manner, that one hundred per cent of the proposed residential units will be subject to an incentive housing restriction, and the proposed incentive housing zone will otherwise satisfy the requirements of this section.

(4) In order to qualify for financial incentive payments set forth in section 44 of this act, the regulations of an incentive housing zone concerning the minimum as of right densities set forth in subdivision (3) of this subsection shall constitute an increase of at least twenty-five per cent above the density allowed by the underlying zone, notwithstanding the provisions of said section 44 with regard to zone adoption and building permit payments.

(5) The minimum densities prescribed in subdivision (3) of this subsection shall be subject only to site plan or subdivision procedures, submission requirements and approval standards

of the municipality, and shall not be subject to special permit or special exception procedures, requirements or standards.

(6) An incentive housing zone may consist of one or more subzones, provided each subzone and the zone as a whole comply with the requirements of sections 38 to 49, inclusive, of this act.

(7) The land area of an incentive housing zone shall not exceed ten per cent of the total land area in the municipality. The aggregate land area of all incentive housing zones and subzones in a municipality shall not exceed twenty-five per cent of the total land area in the municipality.

(c) A zoning commission may modify, waive or delete dimensional standards contained in the zone or zones that underlie an incentive housing zone in order to support the minimum or desired densities, mix of uses or physical compatibility in the incentive housing zone. Standards subject to modification, waiver or deletion include, but shall not be limited to, building height, setbacks, lot coverage, parking ratios and road design standards.

(d) If a zoning commission adopts a regulation for an incentive housing zone that permits single-family detached homes on subdivided lots, requiring subdivision approval under the subdivision regulations of the municipality, the zoning commission shall make a written finding that the applicability of such subdivision regulations will not unreasonably impair the economic or physical feasibility of constructing housing at the minimum densities and subject to an incentive housing restriction as required in sections 38 to 49, inclusive, of this act. If housing on subdivided lots is proposed in an incentive housing zone, the zoning commission shall use its best efforts to adopt or encourage the planning commission to adopt subdivision standards that will ensure consistency of the single-family detached housing with the purposes of sections 38 to 49, inclusive, of this act.

(e) The regulations of an incentive housing zone may allow for a mix of business, commercial or other nonresidential uses within a single zone or for the separation of such uses into one or more subzones, provided that the zone as a whole shall comply with the requirements of sections 38 to 49, inclusive, of this act, and that such uses shall be consistent with as-of-right residential uses and densities required under this section.

(f) An incentive housing zone may overlay all or any part of an existing historic district or districts, and a municipality may establish an historic district within an approved incentive housing zone, provided, if the requirements or regulations of such historic district render the approved housing incentive zone not in compliance with the provisions of sections 38 to 49, inclusive, of this act, the secretary shall deny a preliminary or final letter of eligibility, deny or revoke a certificate of compliance, or deny any financial incentive payments set forth in section 44 of this act.

(g) An applicant for site plan or subdivision approval to construct an incentive housing development within an approved zone may, through an incentive housing restriction, exceed the minimum requirements for such a development as follows: (1) More than twenty per cent of the total proposed dwelling units may be subject to the restriction; (2) the maximum annual

income of qualifying households may be less than eighty per cent of the area median income; or (3) the duration of the restriction may be longer than thirty years. An application for approval of an incentive housing development may not be denied on the basis that the proposed incentive housing restriction contains one or more of the provisions set forth in this subsection.

(h) The provisions of this section shall not be construed to affect the power of a zoning commission to adopt or amend regulations under chapter 124 of the general statutes or any special act.

Sec. 40. (NEW) (*Effective July 1, 2007*) (a) A zoning commission, at the time of and as part of its adoption of regulations for an incentive housing zone, may adopt design standards for incentive housing developments within such zone. Such design standards (1) may ensure that construction within the incentive housing zone is complementary to adjacent and neighboring buildings and structures, and consistent with the housing plan provided for in section 41 of this act, and (2) may address the scale and proportions of buildings; site coverage; alignment, width and grade of streets and sidewalks; type and location of infrastructure; location of building and garage entrances; off-street parking; protection of significant natural site features; location and design of open spaces; signage; and setbacks and buffering from adjacent properties.

(b) A design standard shall not be adopted if such standard will unreasonably impair the economic or physical feasibility of constructing housing at the minimum densities and with the required incentive housing restriction set forth in sections 38 to 49, inclusive, of this act. The Secretary of the Office of Policy and Management shall not approve a request for a letter of preliminary or final eligibility under section 42 of this act if a proposed design standard will violate the provisions of this subsection.

Sec. 41. (NEW) (*Effective July 1, 2007*) On or before June 30, 2017, a municipality may file with the Secretary of the Office of Policy and Management an application for preliminary determination of eligibility for a zone adoption payment pursuant to subsection (a) of section 44 of this act. Such application shall:

- (1) Identify and describe the boundaries of the proposed incentive housing zone or zones;
- (2) Identify, describe and calculate the developable land within the proposed incentive housing zone or zones;
- (3) Identify and describe existing and potential residential development and the potential for reuse of existing or underutilized buildings within the zone or zones;
- (4) Calculate the number of residential units that may be constructed in the zone or zones if the proposed regulations are approved based on developable land and the minimum as-of-right densities set forth in subdivision (3) of subsection (b) of section 39 of this act;
- (5) Include a housing plan that describes the anticipated build-out of the zone or zones, including information on available and proposed infrastructure, compatibility of proposed

incentive housing development with existing and proposed buildings and uses, and efforts that the municipality is making or intends to make to support and promote the residential construction permitted by the proposed regulations;

(6) Include the text of the proposed incentive housing zone regulations and design standards and, if applicable, the text of the subdivision regulations; and

(7) Include the text of the proposed incentive housing restriction and a plan for administering and enforcing its requirements and limitations.

Sec. 42. (NEW) (*Effective July 1, 2007*) (a) Upon application by a municipality under section 41 of this act, the Secretary of the Office of Policy and Management shall, not later than sixty days after receipt, issue, in writing, a preliminary determination of the eligibility of the municipality for the financial incentive payments set forth in section 44 of this act. At least thirty days before making such preliminary determination, the secretary shall electronically give notice of the application to all persons who have provided the secretary with a current electronic mail address and a written request to receive such notices. If the secretary determines that the application is incomplete or the proposed incentive housing zone is not eligible or does not comply with the provisions of sections 38 to 49, inclusive, of this act, the secretary shall, within the sixty-day response period, notify the municipality, in writing, of the reasons for such determination. A municipality may thereafter reapply for approval after addressing the reasons for ineligibility. The secretary's failure to issue a written response within sixty days of receipt shall be deemed to be disapproval, after which the municipality may reapply.

(b) After a municipality has received from the secretary a preliminary letter of eligibility, the zoning commission of the municipality may adopt the incentive housing zone regulations and design standards as proposed to the secretary for preliminary approval. Not later than thirty days after receipt from the municipality of a written statement that its zoning commission has adopted the proposed regulations and standards, the secretary shall issue a letter of final approval of the incentive housing zone. The secretary's failure to issue a letter of final approval not more than thirty days after receipt of the written statement shall be deemed disapproval of the zone after which the municipality may reapply for determination of eligibility under this section.

(c) The secretary shall not approve any proposed incentive housing zone for which the proposed regulations or design standards have the intent or effect of discriminating against, making unavailable, denying or impairing the physical or financial feasibility of housing which is receiving or will receive financial assistance under any governmental program for the construction or substantial rehabilitation of low or moderate income housing, or any housing occupied by persons receiving rental assistance under chapter 319uu of the general statutes or Section 1437f of Title 42 of the United States Code.

(d) Any amendment to the regulations or design standards approved by the secretary for preliminary or final eligibility shall be submitted to the secretary for approval as set forth in this section. The secretary shall approve or disapprove such amendment not more than sixty days after receipt of the amendment. If the secretary fails to approve or disapprove such

amendment within such period, the amendment shall be deemed to be disapproved. Thereafter, the commission may reapply for approval of the amendment.

Sec. 43. (NEW) (*Effective July 1, 2007*) (a) Each municipality whose zoning commission has received a final determination of eligibility and has adopted an approved incentive housing zone shall annually, in accordance with procedures established by the Secretary of the Office of Policy and Management, apply to the secretary for an incentive housing zone certificate of compliance. To receive a certificate, the municipality shall verify within the time specified by the secretary that:

(1) The zoning commission of the municipality has not amended or repealed any portion of the regulations or design standards in the incentive housing zone without approval of the secretary as required by sections 40 and 42 of this act;

(2) The approval of the incentive housing zone has not been revoked by the secretary;

(3) The municipality is making reasonable efforts to assist and promote approval of incentive housing development and construction of housing within the approved zone or zones; and

(4) The zoning commission has not unreasonably denied any application for site plan or subdivision approval, or other necessary coordinating permits or approvals, and has only denied applications in a manner consistent with the provisions of section 45 of this act.

(b) If the information required pursuant to subsection (a) of this section has been submitted by a municipality in a timely manner, and the secretary makes a determination that the municipality has met the requirements of sections 38 to 49, inclusive, of this act, the secretary shall issue compliance certificates by October first annually. If the secretary determines that the municipality is in material noncompliance with the requirements of sections 38 to 49, inclusive, of this act, the secretary, after notice and hearing pursuant to chapter 54 of the general statutes, may revoke certification. Any revocation of certification, or other sanctions imposed by the secretary under section 47 of this act, shall not affect the validity of the incentive housing zone regulations or the application of such regulations to a pending or approved development application within the incentive housing zone, but shall render the municipality ineligible for financial incentive payments set forth in section 44 of this act.

Sec. 44. (NEW) (*Effective July 1, 2007*) (a) Upon the determination that (1) the housing incentive zone has been adopted; (2) the time for appeal of the final adoption of the regulations has expired or a final and unappealable judgment upholding such regulations has been issued in any civil action challenging or delaying such regulations; and (3) the municipality has otherwise complied with the requirements of sections 38 to 49, inclusive, of this act, the Secretary of the Office of Policy and Management shall, subject to the availability of funds, make a zone adoption payment to the municipality in the amount of two thousand dollars for each unit of housing that can, as-of-right, be built as part of an incentive housing development within such zone or zones based on the definition of developable land and the minimum as-of-right densities set forth in subdivision (3) of subsection (b) of section 39 of this act.

(b) Subject to the availability of funds secretary shall issue to the municipality a one-time building permit payment for each building permit for a residential housing unit in an approved incentive housing development upon submission by a municipality to the secretary of proof of issuance of such building permit and after determining that (1) no appeal from or challenge to such building permit has been filed or is pending, and (2) such building permit was issued for housing in an incentive housing development not later than five years after the date of the final adoption of incentive housing zone regulations by the zoning commission in accordance with the provisions of subsection (b) of section 42 of this act. The amount of payment shall be two thousand dollars for each multifamily housing unit, duplex unit or townhouse unit and five thousand dollars for each single-family detached unit. Such payment shall be made by the secretary not more than sixty days after receipt of proof of the issuance of building permits and verification of the absence of any appeal or challenge.

(c) Residential units that are located within an approved incentive housing zone that are part of a development that constitutes housing for older persons permitted by the federal Fair Housing Act, 42 USC 3607 or sections 46a-64c and 46a-64d of the general statutes, shall not be eligible for payments under this section.

Sec. 45. (NEW) (*Effective July 1, 2007*) (a) A zoning commission shall prescribe, consistent with the provisions of sections 38 to 49 inclusive, of this act, the form of an application for approval of an incentive housing development. The time for and procedures for receipt and processing of applications shall be as provided in chapters 124 and 126 of the general statutes, as applicable. A zoning commission or its agent may, to the extent allowed by the Freedom of Information Act, conduct one or more preliminary or preapplication planning or workshop meetings with regard to an incentive housing zone or development. A zoning commission shall conduct a public hearing in connection with an application for site plan or subdivision approval of an incentive housing development.

(b) The regulations of an incentive housing zone may require the applicant for approval of an incentive housing development to pay the cost of reasonable consulting fees for peer review of the technical aspects of the application for the benefit of the zoning commission. Such fees shall be accounted for separately by the municipality from other moneys and used only for expenses associated with the technical review of the application by consultants who are not otherwise salaried employees of the municipality or the zoning commission. Any amount in the account remaining after payment of all expenses for technical review, including any interest accrued, shall be returned to the applicant not later than forty-five days after the completion of the technical review.

(c) The regulations of the incentive housing zone may provide for the referral of a site plan or subdivision application to other agencies, boards or commissions of the municipality for comment. If a site plan or subdivision application is referred to another agency, board or commission, such agency, board or commission shall provide any comments within the time period contained in section 8-7d of the general statutes, that is applicable to such application. The provisions of this section shall not be construed to affect any other referral required by the general statutes.

(d) An incentive housing development shall be approved by the zoning commission subject only to conditions that are necessary to (1) ensure substantial compliance of the proposed development with the requirements of the incentive housing zone regulations, design standards and, if applicable, subdivision regulations; or (2) mitigate any extraordinary adverse impacts of the development on nearby properties. An application may be denied only on the grounds: (A) The development does not meet the requirements set forth in the incentive housing zone regulations; (B) the applicant failed to submit information and fees required by the regulations and necessary for an adequate and timely review of the design of the development or potential development impacts; or (C) it is not possible to adequately mitigate significant adverse project impacts on nearby properties by means of conditions acceptable to the applicant.

(e) The duration and renewal of an approval of an incentive housing development shall be governed by subsection (i) of section 8-3, subsection (j) of section 8-3, section 8-26c or section 8-26g of the general statutes, as applicable. The time to complete the work approved shall be extended (1) by the time required to adjudicate to final judgment any appeal from a decision of the commission on an incentive housing development site plan or subdivision plan or any required coordinate permit; (2) by the zoning commission if the applicant is actively pursuing other permits needed for the development; (3) if there is other good cause for the failure to complete such work; or (4) as provided in an approval for a multiphase development.

(f) An applicant for approval of an incentive housing development within an approved incentive housing zone may not make such an application utilizing the provisions of section 8-30g of the general statutes.

(g) Approval of or amendment to regulations or design standards for an incentive housing zone or subzone, or site plan or subdivision approval of an incentive housing development, may be appealed to the Superior Court pursuant to the provisions of section 8-8 or 8-28 of the general statutes.

Sec. 46. (NEW) (*Effective July 1, 2007*) (a) The Secretary of the Office of Policy and Management shall be responsible for the administration, review and reporting on the incentive housing zone program as provided in sections 38 to 49, inclusive, of this act.

(b) On or before January 1, 2009, and annually thereafter, the secretary shall submit an annual report on the program to the Governor and the General Assembly in accordance with section 11-4a of the general statutes. Each municipality shall submit to the secretary any data requested by the secretary on the incentive housing program. The report shall be based on such data and shall be for the period ending the last day of the prior fiscal year. The report shall (1) identify and describe the status of municipalities actively seeking letters of eligibility; (2) identify approved incentive housing zones and the amounts and anticipated schedule of zone adoption and building permit payments under section 44 of this act during the prior and current fiscal year; (3) summarize the amount of land area zoned for particular types of development in both proposed and approved zones and the number of developments being reviewed by zoning commissions under section 45 of this act, including the number and type of proposed residential units, the number of building permits issued, the number of

completed housing units and their type; (4) state the amount of zone adoption and building permit payments made to each municipality; and (5) for the current and immediately succeeding fiscal years, estimate (A) the anticipated number and size of proposed new incentive housing zones over such time period; (B) the number and size of new incentive housing zones that may be approved over such time period; (C) the potential number of residential units to be allowed in such new and proposed incentive housing zones; and (D) anticipated construction of housing over such time period.

Sec. 47. (NEW) (*Effective July 1, 2007*) (a) The Secretary of the Office of Policy and Management may require the municipality to repay to the state all or part of the payments or reimbursements made to a municipality under sections 38 to 49, inclusive, of this act upon determination by the secretary that the municipality has (1) amended or repealed the designation of an incentive housing zone without the approval of the secretary; or (2) acted to discourage incentive housing development or to impose arbitrary or unreasonable standards, requirements, delays or barriers to the construction of housing following approval of an incentive housing zone.

(b) The secretary may adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, to implement the provisions of this section.

Sec. 48. (NEW) (*Effective July 1, 2007*) Within available appropriations, the Secretary of the Office of Policy and Management may make grants to municipalities for the purpose of providing technical assistance in the planning of incentive housing zones, the adoption of incentive housing zone regulations and design standards, the review and revision as needed of applicable subdivision regulations and applications to the secretary for preliminary or final approval as set forth in sections 38 to 49, inclusive, of this act. The secretary may adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, to implement the provisions of this section.

Sec. 49. (NEW) (*Effective July 1, 2007*) Within available appropriations, the Commissioner of Economic and Community Development, in consultation with the Secretary of the Office of Policy and Management, may make grants to nonprofit housing assistance or nonprofit housing development organizations in order to support technical assistance planning, predevelopment, development, construction and management of housing developments. The commissioner may adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, to implement the provisions of this section.

Sec. 50. Subsection (c) of section 4b-21 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2007*):

(c) If the secretary determines that such land, improvement, interest or part thereof may properly be treated as surplus, he shall notify the Commissioner of Public Works. If the secretary also determines that such land, improvement or interest or part thereof was purchased or improved with proceeds of tax exempt obligations issued or to be issued by the state, he shall also notify the Treasurer. The Commissioner of Public Works may sell, exchange or lease, or enter into agreements concerning, such land, improvement, interest or part thereof, after (1) notifying (A) the municipality or municipalities in which such land,

improvement or interest is located, [and] (B) the members of the General Assembly representing such municipality or municipalities, and (C) any potential developer of an incentive housing development, as defined in section 38 of this act, who has registered with the Commissioner of Economic and Community Development to be notified of any such state surplus land, and (2) obtaining the approval of (A) the Secretary of the Office of Policy and Management, (B) the State Properties Review Board, and (C) the joint standing committees of the General Assembly having cognizance of matters relating to (i) state revenue, and (ii) the purchase and sale of state property and facilities, and (3) if such land, improvement, interest or part thereof was purchased or improved with proceeds of tax-exempt obligations issued or to be issued by the state, obtaining the approval of the Treasurer. The Treasurer may disapprove such a transaction only if the transaction would affect the tax-exempt status of such obligations and could not be modified to maintain such tax-exempt status. If a proposed agreement for such a conveyance has not been submitted to the State Properties Review Board within three years after the Commissioner of Public Works provides such notice to such municipality and such members of the General Assembly, or if the board does not approve the proposed agreement within five years after such notice, the Commissioner of Public Works may not convey such land, improvement or interest without again so notifying such municipality and such members of the General Assembly. In the case of a proposed lease of land, an improvement to land or an interest in land, or any part thereof, with a person, firm or corporation in the private sector, for a term of six months or more, the Commissioner of Public Works shall comply with such notice requirement by notifying in writing the chief executive officer of the municipality in which the land, improvement or interest is located and the members of the General Assembly representing such municipality, not less than two weeks before seeking the approval of said secretary, board and committees, concerning the proposed lease and the manner in which the lessee proposes to use the land, improvement or interest. Each agency, department or institution which informs the secretary that any land, improvement or interest in land is not needed shall retain responsibility for its security and maintenance until the Commissioner of Public Works receives custody and control of the property, if any. The Treasurer shall execute and deliver any deed or instrument necessary to convey the title to any property the sale or exchange of which or a contract for the sale or exchange of which is authorized by this section.

APPENDIX 3

BOARD OF SELECTMEN AFFORDABLE HOUSING POLICY STATEMENT

The Darien Board of Selectmen is committed to increasing the availability of diverse affordable housing in the Town of Darien, including that which qualifies as affordable housing under C.G.S. §8-30g. The Board recognizes the need that exists to increase affordable housing not only in the Town of Darien, but also in the region for our senior and workforce populations and housing that will attract the young adults Population.

The Board of Selectmen recognizes that Darien has a number of opportunities to provide more affordable housing to seniors, working families and young adult population.

The Board of Selectmen is committed to taking a proactive approach to control growth and to ensure that the character of the Town will be maintained. The Town of Darien is a premier municipality in the State of Connecticut and the Board is entrusted to maintain that status. Significant progress in increasing the availability of affordable housing will ensure Darien's health and viability and also the health and economic viability of our southwestern region.

Approved by the Board of Selectmen on January 2008.

APPENDIX 4

AREA AND STATE MEDIAN INCOME

Area Median Income (AMI) is the middle point of area incomes. It divides the income distribution of area families into two equal groups: half of the families having incomes above the median and half of the families having incomes below the median.

FAMILY INCOME LEVELS RELATIVE TO AREA MEDIAN INCOME (AMI)

Area Median Income \$122,300		Family of <u>1</u>	Family of <u>2</u>	Family of <u>3</u>	Family of <u>4</u>
Low Income Housing	below 80% of Area Median Income (AMI)	\$55,600	\$63,550	\$71,500	\$79,450
Very Low Income Housing	below 50% of Area Median Income (AMI)	\$42,800	\$48,900	\$55,050	\$61,150
Extremely Low Income Housing	below 30% of Area Median Income (AMI)	\$25,700	\$29,350	\$33,050	\$36,700

Source: US Dept. of Housing and Urban Development FY 2009

According to the US Department of Housing and Urban Development (HUD), the “Area” is defined as the Stamford-Norwalk HMFA which includes the following towns: Darien, Greenwich, New Canaan, Norwalk, Stamford, Weston, Westport, and Wilton. The Area Median Income in this region as of Fiscal Year 2009 is \$122,300.

STATE MEDIAN INCOME

State Median Income (SMI) divides the income distribution of State families into two equal groups: half of the families having incomes above the median and half of the families having incomes below the median. The State Median Income as of Fiscal Year 2009 is \$85,700.

FAMILY INCOME LEVELS RELATIVE TO STATE MEDIAN INCOME

State Median Income (SMI) is: \$ 85,700		Family of <u>1</u>	Family of <u>2</u>	Family of <u>3</u>	Family of <u>4</u>
Low Income Housing	below 80% of State Median Income (SMI)	\$44,800	\$51,200	\$57,600	\$64,000
Very Low Income Housing	below 50% of State Median Income (SMI)	\$30,000	\$34,300	\$38,550	\$42,850
Extremely Low Income Housing	below 30% of State Median Income (SMI)	\$18,000	\$20,550	\$23,150	\$25,700

Source: US Dept. of Housing and Urban Development, FY2009.

AMI AND SMI COMPARED

The housing equivalency points assigned to households that earn 80% or less of the Area Median Income (AMI) residing in affordable housing count towards the State of Connecticut’s 10% goal. The housing equivalency points assigned to households earning the State Median Income (SMI) not only counts towards State of CT’s 10% goal, but also towards moratorium points.

**HOUSING-UNIT EQUIVALENT POINTS UNDER CGS 8-30g
AS APPLIED TO A MORATORIUM**

<u>Type of Unit</u>	<u>Point Value Per Unit</u>
Market-rate units in a set-aside development	0.25
Elderly Units, owned or rented Restricted to households at or below 80% of SMI	0.50
Family units, owned, that are Restricted to households with Annual income of no more than:	
80% of SMI	1.00
60% of SMI	1.50
40% of SMI	2.00
Family units, rented, that are Restricted to households with Annual income of no more than:	
80% of SMI	1.50
60% of SMI	2.00
40% of SMI	2.50

Source: CGS Section 8-30g

APPENDIX 5

RECENT ACTIONS TAKEN BY TOWN TO INCREASE DARIEN'S STOCK OF AFFORDABLE HOUSING

The Town has been proactive in addressing affordable housing in Darien during the past fifty (50) years with the development of Allen O'Neill, Old Town Hall Homes, Villager Pond Condominiums, Clock Hill Homes and AvalonBay. In addition to this development, recent noteworthy progress includes the following:

- 2005: the Board of Selectmen identified housing as a priority
- 2006: the Boards of Selectmen and Finance and Representative Town Meeting (RTM) funded predevelopment grant for the redevelopment of Allen O'Neill
- 2006: the Board of Selectmen established the Darien Affordable Housing Advisory Commission (DAHAC)
- 2006-2007: Board of Selectmen, Darien League of Women Voters, Darien Community Association, Darien United Way and Darien Clergy Association sponsored affordable housing educational forums
- 2007: the Board of Selectmen voted to accept DAHAC's Final Report
- In 2007—the Planning and Zoning Commission had an informal discussion with a representative of 599 Boston Post Road regarding redevelopment of that property to include affordable housing.
- The approvals and start of construction of the Cottage, on Edgerton Street (approved in 2007);
- The possibility of two affordable units at 1020 Boston Post Road (approved in 2007);
- purchase of the former Darien Library property at 35 Leroy Avenue (approved by the Board of Selectmen on July 11, 2007);
- The preparation of an RFP for redevelopment of that former Darien Library property at 35 Leroy Avenue (RFP responses were received in October 2008).
- The Housing Authority created plans for the redevelopment of the existing Allen O'Neill housing. A formal application was submitted to the Planning and Zoning Commission in October 2008, and a public hearing will be held in November 2008.
- 2008: the Board of Selectmen approved an Affordable Housing Policy
- 2008: the Board of Selectmen voted to support Inclusionary Zoning Regulations
- December 2, 2008: the Planning and Zoning Commission considered the adoption of Inclusionary Zoning Regulations.
- January 6, 2009—Inclusionary Zoning Regulations adopted by the Planning & Zoning Commission.
- May 31, 2009—Effective Date of Inclusionary Zoning Regulations
- Spring 2009: Former Darien Library Property, 35 Leroy Avenue: Developer was selected.
- Summer 2009: Board of Selectmen vote to refer Accessory Apartment Regulations to Planning and Zoning Commission.
- Summer 2009: Board of Selectmen vote to enter into Option to Lease for Leroy property.

APPENDIX 6

PLANNING AND ZONING SUBCOMMITTEE ON AFFORDABLE HOUSING JULY 2007 REPORT

Objectives

This subcommittee of the Planning and Zoning Commission was asked to study the zoning issues and locations that the Planning and Zoning Commission might need to address as it relates to applications and initiatives driven by the State's affordable housing statute-- Connecticut General Statutes (CGS) Section 8-30g. The subcommittee chose to look at inventory first and then consider some of the zoning issues that might arise from those locations. During this multi-month process, input was sought and received from the Darien Affordable Housing Advisory Committee (DAHAC), the Planning and Zoning Department, and others. Our subcommittee also reviewed the June 2007 draft Southwestern Regional Planning Agency (SWRPA) Regional Housing Needs and Supply Assessment, and Darien's 2006 Town Plan of Conservation & Development.

The Planning and Zoning Commission has noted that there are many entities now working on addressing affordable housing in Darien. These include, but may not be limited to, the Darien Affordable Housing Advisory Commission (DAHAC), the Darien Housing Authority, the Board of Selectmen, property owners and prospective property owners, as well as developers and builders. While others may need to work on financing and managing the affordable housing, the purpose of this memo is to give those parties some of the Planning and Zoning Commission's preliminary thoughts (from a zoning standpoint) on the affordable housing issue, and to provide guidance on sites which have the most potential for affordable housing. Chapter 6 of the 2006 Town Plan of Conservation & Development should also be used as reference to gain additional information.

How the "Potential Development Areas" were established

As the 2006 Town Plan of Conservation & Development clearly states, Darien continues to be primarily a single-family residential community. Thus, the subcommittee first took a "planners look" at the Town, and tried to identify locations that, if developed with affordable housing, would provide the most harmonious blend with the existing character of the town. The primary criteria included: being served by town water and sewer and other major utilities; proximate to public transportation routes, such as bus lines and the two train stations; and proximate to services and retail uses such as shopping. The subcommittee also included all Town-owned property, which by definition is for use and/or development for the common good. The subcommittee believed that the prime areas for affordable housing were those that are close to train stations, bus routes and/or shopping. The availability of public water and sewer was also a priority. Other attributes are listed below:

Criteria/attributes:

- 1) served by town water and sewer and other major utilities;
- 2) little or no impact on existing single-family residential neighborhoods. Preferably adjacent to existing multi-family housing or in "transitional areas";
- 3) where higher density housing now exists;

- 4) preferably on or near collector or arterial roads, not generally on local dead-end roads which would concentrate all traffic flow in a restricted area;
- 5) near the two train stations and/or near bus lines. The term “Transit Oriented Development” refers generally to the concept of having higher density development located near public transit such as train stations. This would include Noroton Heights, downtown Darien, and possibly some areas along Boston Post Road;
- 6) near services and shopping.

The resulting map showing “Potential Development Areas” was created. These sites meet the following criteria:

- 1) now serviced or easily serviced by public water and sewer;
- 2) a Town-owned property OR a property on one of the following streets:
 West Avenue, Noroton Avenue from West Ave to Maple St, Boston Post Road,
 Old King’s Highway North, Hoyt Street, Heights Road
- 3) Properties which already contain affordable housing:
 AvalonBay property;
 Allen O’Neill properties;
 Old Town Hall Homes property/ies
- 4) Properties which are already zoned for higher densities
 The 3.7 Acre “Duhaime” property on Hollow Tree Ridge Road
 Existing multi-family properties: Villager Pond, Middlesex Commons, Pine Brook, Darien Close, etc.

The following streets were included:

Old King’s Highway South, West Avenue, Noroton Avenue, Boston Post Road
 Old King’s Highway North, Tokeneke Road, Heights Road, Hoyt Street

Properties owned by all of the churches were included. Property owned by the Darien Land Trust were excluded, since most, if not all, are restricted as to use.

The subcommittee understands the need to minimize impacts to, and be harmonious with nearby and adjacent properties, many of which are single family residential sites. Others may have a different prospective of where would make as good, or better locations, however the subcommittee believes that the selected criteria are reasonable examples of where in Darien affordable housing might be proposed. One major caveat is that this is a “macro-view”.

Specific characteristics of these properties, such as the location of wetlands, steep slopes, related street intersections and sight lines were not interpreted or taken into account. It would be expected that upon a closer examination of the site specific circumstances and conditions, some potential sites are ruled out due to one or a combination of these or other factors.

Analysis of Map results

The initial result was identifying over 1,000 acres in virtually all of the Town’s residential and non-residential zones. Many of the properties were in residential zones that are less than one acre in size, making the financial feasibility for development into affordable housing and/or the probability that a property accumulation might take place unlikely. When the

subcommittee looked at only properties of one acre or more, the total acreage identified would be reduced greatly.

While the seven public school properties are shown on the map, much of those school properties are now occupied by existing school buildings and their related fields. It is not expected that near term those properties could provide more than a just a few, if any, units of affordable housing per property, except for the former Hollow Tree School site. It is believed that some of that area behind Middlesex Middle School may be earmarked for a new senior citizens center.

TABLE 1: NUMBER AND ACREAGE OF PROPERTIES BY CATEGORY

	<u>No. Properties</u>	<u>Total Acreage</u>	<u># Properties > 1 acre</u>	<u>Total Acreage of Properties > 1 acre</u>
Schools *	10	140+/-	10	140+/-
Churches and Cemeteries greater than 0.5 ac.	31	146+/-	20	141+/-
Town Parks & Beaches	17	199+/-	17	199+/-
Other Town Properties	24	100/-	13	59+/-
State Owned Properties	11	83+/-	5	81+/-
Residential Properties**	507	280+/-	39	124+/-
Condominiums**	7	55+/-	7	55+/-
Commercial Properties**	283	194+/-	50	108+/-
Special Permit Uses	3	8+/-	2	8+/-

*Reflects number of lots that make up the school properties.

**Some lots were missing acreage from both GIS and CAMA databases, so acreage was calculated based on GIS geometry.

***There are some properties that are shown on the map as Commercial and Residential.

Although these criteria give general standards, there may be areas that meet these criteria which are not appropriate for affordable housing. For example, such factors such as sight lines, intersection locations, proximity to and unavoidable impacts upon single family homes, the presence of wetlands and/or watercourses and their associated regulated areas, and other environmental factors may have an impact on the exact location of such housing. Of course, the specific site plan (including grading, drainage and other details) will ultimately determine the feasibility of, and density of, the construction of affordable housing in a specific location.

Conclusions from the Map

Affordable housing can be developed in generally two different ways: 1) through larger projects (such as AvalonBay Communities on over 30 acres); or 2) in smaller numbers as part of a mixed-use development such as the condominiums/apartments now being constructed at 1014-1020 Boston Post Road, or through other methods such as inclusionary zoning or accessory apartments.

Some of the larger parcels which may accommodate a greater number of units are described herein. In short, the subcommittee quickly quantified that there are not enough lots of considerable size that exist to handle the potential need for affordable housing unless zoning is addressed. The subcommittee also realized that any affordable housing project would likely require compromise so to be most harmonious with the neighboring zoning no matter where in town it is proposed and/or located.

Sites which may meet the criteria/attributes listed above:

The largest identified properties within the review area include (listed in order of size—with all listed sites being at least 1.9 acres):

- AvalonBay Communities property, Hollow Tree Ridge Road.—This 31.5+/- acre property now contains 189 dwelling units, 42 of which are affordable. It is zoned Designed Multi-Family Residential (DMR). This property may provide an opportunity for additional density, and a related number of affordable units being constructed. A rezoning to allow additional on-site density would be needed to accomplish this.
- “Procaccini” Property, Hoyt Street.—12-15+/- acres, now zoned mostly R-1. The subcommittee acknowledges that an application is now pending for 62 market-rate condominium units. Again, if affordable housing were to be constructed, a rezoning would need to occur.
- Allen O’Neill properties, Allen O’Neill Drive.—10+ acres, now zoned R-1/3 and owned by the Housing Authority of Darien. Presently, there are 41 houses and one twelve unit apartment building. The Town web site notes that the housing was completed in 1953. If the properties are rezoned to one of the Town’s existing multi-family zones, then a range of 60-100+ units (20-60 more than currently exist) could potentially be sited here.
- 85 Old King’s Highway North.—5+/- acres on Old King’s Highway North now zoned OB. This site contains a large office building and related on site parking. The property is located between Old King’s Highway North and the Connecticut Turnpike.
- “Howard Johnson’s” property, Ledge Road.—5 acres now zoned Service Business (SB). The site now contains a Howard Johnson’s hotel and restaurant. A proposal to demolish those buildings and their associated parking area and replace it with a Whole Foods Market with associated parking area was recently denied by the Planning and Zoning Commission. That denial has been appealed and is pending in Court.
- Leroy West parking lot, Leroy Avenue.—4.0+/- acres now zoned PR. Located across Leroy Avenue from the Darien Train Station, there is potential for affordable housing to be constructed above the existing parking lot. Zoning regulation amendments would be required to implement such a project. The project should be designed to not reduce the availability of parking spaces for train commuters.
- “Duhaimé” Property, Hollow Tree Ridge Road.—3.7 acres, now zoned 3.7AH. This property is already zoned for up to 9 units per net acre provided it is affordable housing. Under this zoning, 27-33 units could be constructed here, with 30% of those being affordable units, resulting in 9-11 units of affordable housing.
- Senior Center property, between Hollow Tree Ridge Road and Edgerton Street.—3.6+/- acres now zoned R-1/2. This area is described in the October 2006 Feasibility Report Senior Center Site by Redniss & Mead.
- “Koons” property, located at the corner of West Avenue and Leroy Avenue.—2.0+/- acres, now zoned Designed Commercial (DC). This is now used exclusively for commuter parking. Similar to the Leroy West parking lot, there is potential for affordable housing to be constructed above the existing parking. Zoning regulation amendments would be required to implement such a project. The project should be designed to not reduce the availability of parking spaces for train commuters.

- Darien Library, Leroy Avenue.—1.98+/- acres, now zoned R-1/3 and DB-1/DBR. The northern part of the site, consisting of the building and 43 parking spaces is 1.5 acres is in the R1/3 Zone. The southern part of the site, consisting of 38 parking spaces is in the DB-1/DBR Zone and is 486+/- acres. The Library site is currently in two different zones. The northern part of the property is zoned R-1/3. The southern part of the property is zoned Designed Business-1 (DB-1) with a Designed Business and Residential (DBR) overlay. This southern portion of the site was given to the Library by the developers of the Middlesex Commons project. Rezoning will be necessary to build affordable housing on the entire property. It is expected that with rezoning, 11-24 units could be constructed here.

Most of these sites are located within the radius around the Darien or Noroton Heights Train Stations as shown in the draft Southwestern Regional Planning Agency (SWRPA) Regional Housing Needs and Supply Assessment.

The subcommittee next looked at what zones are within the identified locations that most logically lend themselves to affordable housing. As all zones – residential as well as non-residential -- are impacted, it is not possible to adapt any one zone exclusively to accommodate affordable housing. Most likely larger developments of or incorporating affordable housing units might take place in both residential and/or areas now zoned for condominiums, while auxiliary affordable units most likely will be incorporated mostly into existing commercial areas.

This suggests that the Planning & Zoning Commission may well need to have a two pronged strategy toward reviewing zoning as it relates to affordable housing: 1) being to develop a “zoning template” for units built as part of a developed housing complex (such as AvalonBay communities); and 2) being zoning incentives for adding affordable units to commercial or mixed use commercial developments (such as the construction now ongoing at 1014-1020 Boston Post Road).

Zoning Issues

Incentive and Inclusionary Zoning

Incentive zoning is a practice that encourages property owners and/or developer to construct what is desired, in this case- affordable housing, by making it easier and more economically worthwhile to do so. Inclusionary zoning is a practice that requires that each development must include affordable housing. It would be a mandatory requirement that each subdivision or multi-family project or commercial development must create affordable housing units in accordance with a pre-set schedule depending on the number of lots, number of units, amount of square feet of floor space, or value/cost of the project. If the developer wishes to opt out of actually creating affordable housing, they would need to make a ”payment in lieu” of construction or a “buy out” fee to an affordable housing fund. The fund would then be used to acquire land and/or construct affordable housing at a different site.

To encourage affordable housing the Commission could include in the Zoning Regulations the zones that allow affordable housing, increased densities, minimize setbacks, reduce road construction standards, allow greater building height, or relax other standards.

Existing Zoning Districts/Density

In the past, the Commission has approved density in the range of six units per acre (AvalonBay Communities) to fourteen units per acre (Clock Hill Homes). The Town of Darien now has three separate zoning districts related to affordable and/or higher density housing. They are:

- ***Designed Multi-Family Residential (DMR)—Section 520 of the Zoning Regulations.*** This is the zoning district covering the AvalonBay property on Hollow Tree Ridge Road. It allows a maximum of four (4) units per acre if all of the units are to be sold or rented at market rate. Six (6) dwelling units per acre are permitted for affordable housing projects. AvalonBay developed an affordable housing project at 6 units per acre—189 dwelling units on 31.5+/- acres.
- ***3.7 Acre Hollow Tree Ridge Road Small Acreage Zone for Affordable Housing (3.7AH)—Section 540 of the Zoning Regulations.*** This zoning district covers the property to the east of the AvalonBay property commonly referred to as the “Duhaime” property. It is located to the west of Hollow Tree Ridge Road, south of the railroad tracks and north of the Connecticut Turnpike. Its maximum allowable density is 9 units per net acre. This net acre calculation subtracts out any wetlands, land under water, or steep slopes from the acreage calculation.
- ***Designed Business and Residential (DBR overlay zone on DB-1 and DB-2 properties)—Section 500 of the Zoning Regulations.*** This is the zoning district of the Middlesex Commons property as well as other condominiums in Town, including Sedgwick Village, Darien Close, and Villager Pond. It is also the zoning designation of Clock Hill Homes. This zone allows up to eight (8) dwelling units per gross acre if the units are to be sold or rented at market rate. Up to twelve (12) dwelling units per gross acre are allowed as a senior housing incentive, or, there is an incentive for the inclusion of moderate income units. A Special Permit provision allows for an additional increase in density. The condominiums are developed generally at a density of four to eight (4-8) units per acre, and Clock Hill Homes (a moderate-income condominium project) at a density of fourteen (14) units per acre.

These three zoning districts would address larger housing development opportunities. In the recommendations herein, other opportunities are identified for including smaller amounts of housing within mixed-use developments.

Economic Issues

While the subcommittee acknowledges that economic issues play a large role in the development of affordable housing both during construction and thereafter, this area is outside the scope of the Commission. Existing market forces have driven land prices so high that it is often very difficult to develop affordable housing under the present zoning regulations on small lots. Often, a large parcel of undeveloped land is needed to have enough units to create an economy of scale. In some cases, it may be necessary to have a private or government subsidy to make affordable housing feasible.

Conclusions and Recommendations

- As the Commission further investigates the affordable housing issue, it may be proper to recommend modifications to the 2006 Town Plan of Conservation and Development and/or zoning regulation amendments to implement these ideas.
- The Planning & Zoning Commission will need to commence a comprehensive review of zoning regulation amendments relative to affordable housing.
- The Commission should re-evaluate the three existing multi-family zoning districts to determine their applicability to other areas of Town. Quite possibly, a more general overlay zone could be created, giving the Commission more flexibility in the future. Any affordable housing overlay zone would likely focus on the areas described herein.
- Establish benchmark criteria that best harmonizes any affordable housing development with the existing zoning. Such criteria need to encourage the creation of affordable housing while addressing the concerns neighbors and the community as a whole. A “zoning template” for such housing would be consistent as related to:
 - minimum lot size;
 - number of units per acre (density);
 - setbacks and buffers– front/side/rear;
 - maximum building height;
 - required on-site parking;
 - designated open space.
- The Commission should consider rezoning some of the properties listed herein to a zone which allows affordable housing.
- While many existing non-residential properties may meet the criteria described in this memo, it is important to recognize the role that these businesses play in the community. For example, a policy question is whether to allow housing within existing office parks. Another is how much of the Town’s existing commercial base may be converted to affordable housing and/or housing in general. The subcommittee believes that the Town needs to balance the need for affordable housing with other needs of the community.
- Mixed use development – identify incentives that best support the affordable housing initiative. These could include the provision that in certain commercial zones (such as the CBD and/or DC Zones) to allow third floor housing as a permitted use as-of-right or as a Special Permit use, if at least a certain percentage of it is affordable housing.

APPENDIX 7

INCLUSIONARY ZONING REGULATIONS ADOPTED BY THE PLANNING AND ZONING COMMISSION EFFECTIVE MAY 31, 2009

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 405e. are exempt from the requirements of this regulation.

Single-family subdivisions or re-subdivisions resulting in a total of five or more building lots shall designate a minimum of twelve percent (12%) of the total number of dwelling units 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 (BMR) 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. If an odd number of below market rate units is being constructed, the higher number of units shall be constructed at the 80 percent number. For example, if the requirement is to construct one BMR unit, then it shall be at the 80

percent number. Household incomes are published by the United States Census Bureau and periodically updated by the U.S. Department of Housing and Urban Development (HUD). Income levels are to be adjusted for household size per HUD requirements.

584. Below Market Rate Dwelling Unit

A below market rate (BMR) 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, whichever 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, at the absolute discretion of the Commission, 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, at the absolute discretion of the Commission, allow any or all of the following waivers, provided the Commission finds that such waiver encourages the development of below market rate housing and is consistent with the surrounding neighborhood:

- 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. Those units shall be designed and located to maintain the architectural elements and character of the neighborhood.

(1) Example: Nine lot subdivision:

The total number of on-site units proposed is nine (9).

The number of BMR dwelling units required: $9 \times 12\% = 1.08$.

The number of units required to be affordable to households at 80% of State Median Income: $50\% \times 1.08 = .54$.

The number of units required to be affordable to households at 110% of Area Median Income: $50\% \times 1.08 = .54$.

Since only one unit is required (the 1.08 rounds down to 1.0), that unit shall be at the 80% level, and no unit is needed for the 110% level. The remaining .08 units would have to be fulfilled via fee in lieu at the 110% level standard

$$0.08 \times \$117,800 \times 225\% = \$21,204.$$

(2) Example: Nine multi-family units to be constructed:

The total number of on-site units proposed is nine (9).

The number of BMR dwelling units required: $9 \times 12\% = 1.08$.

The number of units required to be affordable to households at 80% of State Median Income: $50\% \times 1.08 = .54$.

The number of units required to be affordable to households at 110% of Area Median Income: $50\% \times 1.08 = .54$.

Since only one unit is required (the 1.08 rounds down to 1.0), that unit shall be at the 80% level, and no unit is needed for the 110% level.

The Commission could grant up to 4 additional units as a bonus (1/2 of 9 rounded down), provided that these units meet a 25% affordability standard (Section 585).

Now there are 13 units

The number of BMR dwelling units required: $9 \times 12\% = 1.08$.

25% of the 4 bonus units will need to be affordable = 1.00.

Now, there are two required affordable units, one at the 80% level, and one at the 110% level, with the remainder being a fee-in-lieu calculated as:

The number of units required to be affordable to households at 80% of State Median Income: $50\% \times .08 = .04$

The number of units required to be affordable to households at 110% of Area Median Income: $50\% \times .08 = .04$

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

The cash contribution is calculated as follows:

$$0.04 \times \$117,800 \times 300\% = \$14,136$$

$$0.04 \times \$117,800 \times 225\% = \$10,602$$

The total fee in lieu payment is: \$24,738

- 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, at its absolute discretion, 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 Commission, at its absolute discretion, 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: 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.

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

- f. Where the contribution is targeted to assist an identified off-site project providing below market rate dwelling units, the Commission may, at its absolute discretion, 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.
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APPENDIX 8

RENTAL COSTS IN DARIEN

RENTALS IN DARIEN	Yearly Rental	Income Needed to Afford Unit (Based on 1/3 Gross Income on Housing)
1 Bedroom apartments: \$1,500 - \$2,800	\$18,000 - \$33,600	\$60,000 - \$112,000 (avg: \$86,000)
2 Bedroom apartments: \$1,800 - \$2,300	\$21,600 - \$27,600	\$70,000 - \$ 90,000 (avg: \$80,000)
3 Bedroom House Rentals: \$2,500 - \$3,200	\$30,000 - \$38,400	\$100,000 - \$128,000 (avg: \$114,000)

Source: Darien News Review November 2008, Realtor.com as of July 2009.

APPENDIX 9

**MAXIMUM MONTHLY RENT CALCULATIONS
PER SECTION 8-30G-8 OF THE REGULATIONS OF
CONNECTICUT STATE AGENCIES**

**FAMILY OF 2 AT 60% OF SMI
COMPARED TO A FAMILY OF 2 AT 80% OF SMI**

<i>Family Size % of SMI</i>	<i>Family of 2 60% of SMI</i>	<i>Family of 2 80% of SMI</i>
State Median Income (SMI)	\$85,700	\$85,700
Adjust Family Size		
Per HUD requirements (x80%)	68,560	68,560
Adjust Percent of Income	41,136	54,848
x 30% income	12,341	16,454
Divide by 12 months	1,028	1,371
x 120% (HUD Fair Mkt Rent)	1,703	2,044
lesser of two	1,028	1,371
Reasonable monthly expenses (heat and utilities)	- 250	-350
MAX MONTHLY RENT	\$778	\$1,021

APPENDIX 10

SURVEY OF COURT CASES ADDRESSING 8-30G

As of 2007, there were 144 judicial decisions involving 97 separate appeals of affordable housing developments. Developers prevailed in 70% of the cases and municipalities prevailed in 30% of the cases. From 1992 – 2006, there were 138 judicial decisions with an average of 9.2 per year.

Source: Connecticut Land Use Law for Municipal Land Use Agencies, Boards, and Commissions (2007)

8-30g Cases Per Category

The courts have upheld the denial of 8-30g applications that were based on specific health, safety and environmental issues that were established by sufficient evidence in the record. The courts have overturned the denial of 8-30g applications when a commission has based its decision on either an inadequate issue or an insufficient factual record. Many of these cases involve a mixed question of law and fact.

Several court cases have specifically considered this burden of proof issue in accordance with 8-30g. The most notable Connecticut Supreme Court decisions are the Glastonbury (1999), Quarry Knoll II (2001), River Bend Associates (2004) and AvalonBay Communities (2007). In 2000, Section 8-30g was amended, and in 2001 the Supreme Court therefore needed to modify its prior decision in the Glastonbury case. In Quarry Knoll II, the court, recognized that the standard of judicial review had been clarified by the legislature, found that if a commission had met its burden of proof that the decision was supported by sufficient evidence in the record, the trial court must then make an independent review of the record to decide if the commission has also met its burden of proof on the other three factors which is a mixed question of law and fact. The decision in Quarry Knoll case was affirmed and restated in the more recent River Bend Associates and AvalonBay decisions.

Under the case law it is clear that a court may uphold a commission denial if there is some quantifiable probability of harm from the defect or problem in the application and reasonable changes cannot be made to address the problem.

Public Safety

Ensign-Bickford Realty Corporation v. Simsbury Zoning Commission

Potential safety problems can be grounds for denial, such as where the commission did not have adequate information to decide that residential uses on or near the site would be adequately protected from previous industrial uses involving explosives on the land of the applicant.

Lack of Local Inland Wetlands Permit/Stormwater Runoff

Landworks Development LLC v. Farmington Planning and Zoning Commission

The denial of an application to amend the zoning regulations, change the zone of 67.5 acres of land, and a site plan for a 384 rental unit affordable housing development was upheld where

the commission met its burden of proof that the applicant had to obtain an approval from the inland wetlands agency where there was sufficient evidence of a wetlands impact due to storm water runoff and drainage on the site, and the applicant had not filed an application for a regulated activities permit before filing the site plan application with the planning and zoning commission under CGS 8-3(g), which was required by that statute even though the zoning application was for affordable housing under 8-30g.

AvalonBay Communities v. Wilton Planning and Zoning Commission

The denial of a regulated activities permit by the local inland wetlands agency is a valid reason to deny the affordable housing proposal.

Emergency Access

AvalonBay Communities Inc. v. Stratford Zoning Commission

The court found there was sufficient evidence to support the commission's concern over fire safety which outweighed the need for affordable housing. Upon remand the application was reduced from 160 units to 146 units and changes were made to the original plan to make the site more accessible to fire fighting equipment and address traffic concerns of the commission.

Nonconformity with Zoning

Wisniowski v. Planning Commission of Berlin

Nonconformity with zoning regulations is not in and of itself a valid reason to deny an affordable housing application, but the agency can do so if it proves that the zoning regulations are necessary to protect substantial public interests in health, safety and other matters.

Noise Level

Phoenix Housing of Shelton, LLC v. Planning and Zoning Commission of City of Shelton

The denial of an affordable housing application for four residential units on a parcel containing 48,000 square feet in a zone with a 40,000 minimum lot size was overturned on appeal. The court rejected the finding that the noise level in the area would increase substantially from four additional residences. The court also did not accept the commission's other reasons for denial which were that: the applicant failed to identify the agent to be responsible for managing the housing project in conformity with 8-30g, adverse impact on the adjacent residential neighborhood; unavailability of public transportation which is not a necessary component of an affordable housing application; problems with utility services in the area; and the fact that only one affordable housing unit was obtained from the property.

Downzoning

Greene v. Ridgefield Planning and Zoning (1993)

The court did not uphold the Commission's determination that downzoning was inappropriate because there was an inadequate factual basis for such a finding and because it was inconsistent with amendments to CGS 8-2 requiring the plan of development to address low and moderate income housing. The court determined that there was no evidence in the record that a zone change would adversely affect property values in the area, and imposing additional burdens on the school system was not a proper reason for denying a zone change.

Impact on School System

Wisniowski v. Planning Commission of Town of Berlin

The fiscal impact on the municipal school system is not an adequate reason to reject an affordable housing application.

Source: *Connecticut Practice Series: Connecticut Land Use Law and Practice, Fuller Chapter 51, 2007*

Quantifiable Probability That Specific Harm Will Result

AvalonBay Communities v. Wilton Planning and Zoning Commission

Court determined that there must be evidence in the record of a quantifiable probability that specific harm will result if the application is granted, and mere concerns alone is insufficient.

Quarry Knoll II Corp v. Planning and Zoning Commission of Town of Greenwich

When determining whether the record contains sufficient evidence to support the reasons stated for the commission's decision the commission must show more than a theoretical harm to the public interest, but not necessarily that a specific harm to the public interest was likely if the application was granted.

Inadequate Factual Record

Mackowski v. Planning Commission of Town of Stratford

The court found that the zoning commission improperly denied an application when it only made general statements about adverse impact on public health and safety as to traffic and sewer capacity, and the specific evidence before the commission established that there would be no significant problems with traffic or the sewer system from the project. The expression of concerns on these subjects was inadequate absent the possibility of substantial harm.

Smith-Groh, Inc. v. Planning and Zoning Commission Town of Greenwich

The court found that the zoning commission did not meet its burden of proof in denying an application for a 36 unit affordable housing building in a multi-family residential zone where 27 conventional units were allowed with a special permit. The court found that the commission's reasons for denying the application such as claimed on site and off site traffic problems were not supported by substantial evidence in the record.

These sample cases show that not only is the burden of proof on the commission, but reasons for denial must be clearly defined and valid. It is not adequate to deny an 8-30g application simply for reasons like aesthetics, possible increase in traffic or impacts on schools.

The courts have upheld the denial of an 8-30g application based on public health, safety and environmental issues when the record contained sufficient evidence to support such a denial.

APPENDIX 11

AVAILABLE FUNDING FOR MUNICIPALITIES

The following websites provide more detailed information on financial programs for housing listed below:

<http://www.ct.gov/ecd/cwp/view.asp?a=3680&q=433350&PM=1&ecdNav=>
http://www.lisc.org/section/products_services/loans/loan_types/

Source: Connecticut Department of Economic and Community Development and Local Initiatives Support Corporation websites.

Affordable Housing Program (AHP)

History: P.A. 01-7(June Special Session) - The program was effective on July 1, 2001 and provides grants, loans, loan guarantees, deferred loans or any combination thereof for the development and preservation of affordable housing.

Purpose: The Affordable Housing Program (AHP) aka Flex is DECD's primary housing production program and is frequently referred to as the "flexible" housing program. The program provides quality, affordable housing for Connecticut residents, promotes and supports homeownership and mixed income developments, and assists in the revitalization of urban and rural centers.

HOME Investment Partnerships Program - State of Connecticut

History: Program was authorized by the Cranston-Gonzalez National Affordable Housing Act of 1990 (P.L. 101-625). The HOME program is a federal block grant program that provides funding to states and localities to be used exclusively for affordable housing activities to benefit low-income households. HOME funds are awarded as loans and/or grants to eligible applicants.

Purpose: HOME is the largest federally-funded program administered by the DECD and is designed to create affordable housing for low and moderate-income households. The HOME program is designed to:

- Provide quality, affordable housing for Connecticut residents
- Strengthen communities
- Expand the capacity of non-profit housing development organizations and
- Leverage private sector participation

The Housing Trust Fund Program

History: The Housing Trust Fund Program was effective on July 1, 2005. The program provides gap financing, grants, loan guarantees, low- and no-interest loans, and funding for

the Connecticut Individual Development Account housing program. Additionally, an Advisory Committee advises the Commissioner on the management and objectives of the program, and on the development of regulations, procedures and rating criteria for the program.

Purpose: P.A. 05-5(June Special Session) - The Housing Trust Fund Program is administered by the DECD and is designed to create affordable housing for low and moderate-income households. The funds are awarded as loans and/or grants to eligible sponsors of affordable housing. The program encourages the creation of homeownership housing for low and moderate income families, promotes the rehabilitation, preservation and production of rental housing and the development of housing which aids the revitalization of communities.

Pre-Development Loan Program

History: P.A. 88-268 - The program provides interest-free loans or deferred loans to eligible applicants for predevelopment costs associated with constructing, rehabilitating or renovating affordable housing for low and moderate-income households.

Purpose: To assist eligible applicants cover predevelopment cost associated with design, development and financing of affordable housing. Loan amounts are limited to \$250,000 per project. Loans are provided at 0% interest with repayment due upon permanent financing. The term of the loan varies with the project but averages 18 to 24 months. In the case of homeownership projects, the loans may be pro-rated and repaid upon sale of individual units to low and moderate-income buyers. For projects approved for financing at the State Bond Commission, loan repayment can occur by internal DECD transfer of funds from the project development account.

Land Bank & Land Trust Program

History: P.A. 87-441 - The program provides eligible applicants with grants, loans and deferred loans for the costs of acquiring land or interest in land and the costs of holding and managing land to be developed as housing for low and moderate-income families.

Purpose: The program is divided into two components: (1) Land Bank – grants, loans or deferred loans to purchase land, which an eligible applicant can "bank" or hold the land for a period of up to two years, and (2) Land Trust – grants, loans and deferred loans for acquisition, holding and managing costs, but land must be developed right away. The land underlying the units must be held in trust.

Congregate Facilities Operating Cost Program

History: P.A. 77-582 created the Congregate Housing for the Elderly program. The program responded to a growing segment of the older population who, because of increasing age, infirmity and other functional limitations, are not able to perform all personal and household functions associated with complete independent living.

Purpose: The program provides grants, interim loans, permanent loans, deferred loans or any combination thereof for the development of congregate housing for frail elderly persons. Additionally, subject to available appropriations, the Commissioner may provide financial assist to offset the cost of congregate services in state-financed congregate housing for frail elderly persons. Congregate services include one main meal a day, housekeeping services, and a 24-hour emergency service to enable semi-independent living in a residential setting.

Elderly Rental Assistance Program

History: P.A. 97-2 (June Special Session) - The program was effective on July 1, 1997 and created a rental assistance program in state-assisted elderly housing.

Purpose: The Elderly Rental Assistance Program provides rental assistance to low-income elderly persons residing in state-assisted rental housing for the elderly. Such housing must comply with applicable state and local health, housing, building and safety codes. DECD contracts with not-for-profit organizations as well as housing authorities who provide rental subsidies in accordance with an approved contract.

Assisted Living in Federal Facilities

History: P.A. 01-02 (June Special Session) - In 2001, an assisted living demonstration program was created for up to four (4) United States Department of Housing and Urban Development (HUD), Section 202 or Section 236 elderly housing developments.

Purpose: The demonstration program was designed to provide assisted living services to existing tenants in HUD Section 202 or Section 236 housing to preclude premature institutionalization.

State-Assisted Housing Sustainability Fund

History: P.A. 07-04 and 07-05 (June Special Session) – The Department, in consultation with the State-Assisted Housing Sustainability Advisory Committee, established a State-Assisted Housing Sustainability Fund for the purpose of the preservation of eligible housing.

Purpose: The Commissioner may provide financial assistance to the owners of eligible housing for the maintenance, repair, rehabilitation, and modernization of eligible housing and for other activities consistent with preservation of eligible housing. The program provides below market-rate financial assistance for repairs to "eligible housing" pursuant to CGS Sec. 8-37uu. Types of assistance may be in the form of grants, loans and deferred loans. Grants will be provided solely when it is determined that there is no probability that a deferred loan would be re-paid either by future operating funds, refinancing or residual value of the property.

Moderate Rental PILOT (Payment in Lieu of Taxes) Program

History: The Moderate Rental Payment in Lieu of Taxes (PILOT) Program was created by the 1967 Public Act 522.

Purpose: The program allows the Commissioner to enter into a contract with a municipality and the housing authority of the municipality to make payments in lieu of taxes to the municipality on land and improvements owned or leased by the housing authority under the provisions of Part II of Chapter 128 of the Connecticut General Statutes. DECD provides those municipalities with state-assisted Moderate Rental housing operated by a local housing authority an amount equal to the taxes that would be paid on such property were the property not exempt from taxation.

Resident Services Coordinator (RSC) Program

History: P. A. 98-263 created the Resident Service Coordinator Program.

Purpose: To assist residents in state-assisted elderly housing developments to maintain an independent living status.

Section 8 New Construction/Substantial Rehabilitation

History: The Program was authorized by Congress in 1974. HUD has not approved any new projects since 1983, but projects approved prior to that time still receive subsidy.

Purpose: Developed by HUD, the Section 8 Program provides rental subsidies for eligible tenants residing in newly constructed, rehabilitated and existing rental and cooperative apartment projects. Section 8 rental subsidies are provided to project owners on behalf of families that are eligible low-income families at the time of their admission by the project owners to the program. Under the Act, "low income families" are defined as those families whose annual incomes do not exceed eighty percent (80%) of the median income for the area in which the project is located, adjusted for family size, as determined by HUD at least annually.

The Section 8 New Construction/Substantial Rehabilitation program through the Department provides project-based federal rental assistance to 23 projects throughout Connecticut in order to assist very low and low income families afford rental housing.

Surplus Property Program

History: Public Act 88-290 – The Public Act gives the Department of Economic and Community Development the right of first refusal when a state agency determines that property is surplus to its needs. The Public Act further authorized the transfer-out of the properties subject to the approval of the municipality, Department of Public Works, Office of Policy and Management and the State Property Review Board.

Purpose: The Surplus Property Program examines excess state land holdings, or interests therein, for use as transitional facilities for the homeless, or for the construction or rehabilitation of housing for families with low and moderate incomes.

Tax Abatement Program

History: The 1967 Public Act 522 created the Tax Abatement Program.

Purpose: The Tax Abatement Program is designed to assist in the financial feasibility of privately owned nonprofit and limited dividend low and moderate-income housing projects by providing reimbursement for taxes abated up to \$450 per unit per year for up to 40 years. The abatement of taxes enables the owners to maintain the rents at an affordable level for the tenants by assisting them to pay for their property taxes on the associated rental property.

APPENDIX 12

RTM PZ&H COMMITTEE COMMENTS

Draft Affordable Housing Plan (dated 1/29/09) PZ&H Commentary on Strategies ⁷

Strategies:

#1: Adopt Affordable Housing Plan.

May 12 version

Agree.

Recommend the following amendment:

- add to Entities Needed to Implement
Planning & Zoning Commission
Board of Finance
Legal
RTM
- should entail a multi-disciplined “Task Force” effort, not unilateral
- participation by a diverse range of government agencies gains consensus

#2: Implement Inclusionary Zoning Regulations

Do not agree.

- evidence appears this concept may not be working
- displaces moderate priced housing resulting in a decline in starter homes and housing for families of modest income
- in Darien, where land costs are unusually high, payment " in lieu of" to a housing trust fund would take a substantial amount of time to build to a level to fund affordable housing initiatives
- what guarantees are there for timely construction of alternate affordable housing/units
- active support of this concept could lead to an excessive amount of multi-family dwellings in Town

some would include affordable housing units others may not

#3. Provide “workforce” housing through HOMEConnecticut Affordable Housing Incentive Overlay Zone.

Agree with following amendment:

- add to strategy:
Zones would be limited to specific areas identified as “Potential Development Areas” in the draft Plan (pg. 28).
- areas have been identified by P&Z as appropriate for higher density housing

⁷ The initial draft of this Plan included 20 strategies. Modifications and revisions have changed that total to thirteen. Numbers 1, 2, 8, 13, 14, 16 and 20 were removed.

- #4. Proceed with development of the Allen-O'Neill site.
 Agree.
 -add to Entities Needed to Implement:
 the RTM
 - proposal to turn over Town owned road to developer requires approval of RTM to convey asset
- #5. Implement Zoning Regulation changes as outlined in the Planning & Zoning Subcommittee report.
 Agree.
 Committee suggests upon completion of regulation changes a map be prepared for developers, P&Z Department, and other interested parties.
- #6. Amend the Town Plan of Conservation & Development to include a master Plan for Noroton Heights which would allow a mix of affordable and market-rate units on the upper floors
 Agree.
 Recommend following amendment:
 -maximize ratio of affordable housing units to market-rate housing on the upper floors
- Suggested revision:
 Amend the Town Plan of Conservation & Development to include a master plan for Noroton Heights allowing for a mix of affordable housing and market-rate housing on the upper floors, and that maximizes the affordable housing units.
- #7. Consider allowing accessory apartments and require these units to be affordable, deed restricted units.
 Agree, for existing accessory apartments
 - believe this will add significantly to the affordable housing base
 - existing (grandfathered) housing could possibly be reclassified at the sale of the principal residence, if not appropriate sooner
- #8. Allow third floor development in areas along the Downtown, other appropriate commercial areas, and in close proximity to major transportation routes
 Agree.
 Amend to specify units are to be for affordable housing or mix of affordable and market rate
 i.e. Allow third floor development for affordable housing in areas along ---
- #9. Establish benchmark criteria that best harmonizes any affordable housing development with the existing zoning.
 Agree.
- #10. Establish and fund the Housing Trust Fund.
 Agree.

Amend to include the Fund would be administered by an independent Agency/Authority

i.e. Establish and fund a Housing Trust Fund to be ministered by an independent agency/authority

- it is important that management and distribution of funds be separate from assignment of contracts, etc.

Who will be responsible for? Clarify who owns? Who manages?

#11. Consider a condominium purchase program whereby the Town could subsidize the purchase or “buy down” of units that become available and deed restrict them as affordable in perpetuity.

Do not agree.

- reported experiences where owners of affordable housing units are not accepting their fair share of repair and service expenses
- as proportion of affordable units increases and market-rate units decrease the market rate units will assume a greater proportion of repair and service expenses
- value of market-rate units will decline as a reputation as a facility for affordable housing evolves
- value of overall building will decrease and tax revenues will be adversely affected

#12. Maximize the Potential of Existing Properties

a.) Encourage conversion of existing stock for tax reduction

- is this for rentals?
- can temporary deed restriction be done?
- probably will have very little appeal

b.) Zoning change to allow deed-restricted accessory apartments

- doesn't this duplicate Strategy #7

c.) Allow addition of new dwellings such as cottages, caretaker quarters

Disagree

- increases density
- inconsistent with Town's single family residency profile
- potential to adversely affect neighboring property values

#13. Create housing within new commercial development.

Agree.

- recommend changing “...with a certain percentage of that new housing being affordable” to “...with a certain percentage of that new housing designed to maximize affordable housing rather than require would tax incentives be offered?”

#14. Ongoing education campaign.

Agree.

15. Create an information clearinghouse through DAHAC and the Planning and Zoning Department.

Agree.

- include recommended Affordable Housing Agency/Authority
- consider deleting Planning and Zoning Department as this responsibility could over burden Department

#16. Encourage and continue training for Boards and Commission members and staff.

Agree

Need to Implement: DAHAC, Planning Staff

#17. Pursue available grants for the construction and maintenance of affordable housing.

Agree

- does the statement "...minimizing taxes to Darien residents" imply Darien will fund some expenses?

#18. Use the legal authorities available to the municipality creatively and prudently in order to further affordable housing development.

Agree in principle

- strongly recommend to replace *further* with *implement*
- comment on 3) "Allow regional consideration" ---may involve tradeoffs with partners as Darien's low affordable housing development offers

#19. Work with key non-profit developers such as parishes, Housing Development Fund.

Agree with following amendment to objective

add "...and to encourage development of affordable housing on their properties".

#20. Monitor other actions in neighboring towns/cities to address affordable housing.

Agree with following amendment

Add "as well as other towns and states" to be monitored.

Comments on sections preceding Strategies

Include/add schools' capacity to burden on infrastructure (pg. 2)

Should it be "prevent risk of losing control" or "maintain control" rather than "bring back control"? (pg. 3)

Spell out HMFA ----i.e. HUD Metro FMR Area (pg 6)

Move Status of 8-30g and Court Cases section to Appendix (pgs.9-11)

Identify some are private land, some are town owned

Prepare map showing areas identified for affordable housing

Can plan state *keep* quality employees in these positions in Town? Alt. Offer opportunity for employees to live in Town. (pg.31)

SCHOOLS section (pg.36) doesn't discuss population projections as affordable housing reaches higher levels. E.g. 4% of HH's, 6% of HH's, etc.

Pg. 18- Senior Center site as potential location for affordable housing.

What happens to Sr. Center?

Has replacement site/facility been identified? Who pays?

Pg. 25- a)1) "support and advocate transit-oriented and affordable workforce housing"

Should be changed to, "support and advocate affordable workforce housing near mass transportation" so as not to confuse with Transit Oriented Development (TOD) housing.

PLANNING, ZONING & HOUSING COMMITTEE

**SPECIAL MEETING
WEDNESDAY, MARCH 11, 2009**

PRESENTATION to BOARD of SELECTMEN

**INITIAL COMMENTS to
DRAFT AFFORDABLE HOUSING PLAN**

(draft Plan dated January 29,2009 with February 23 Revision)

Execution of Draft Plan

Contents of draft Plan suggests Final Plan will provide comprehensive source for subject of affordable housing in Darien.

Includes

Plan for Affordable Housing in Darien

Appendix includes –

Inclusionary zoning regulations

Housing Terminology

Moratorium Q&A related to Darien

“Everything together”, Encyclopedic

Suggest regular updates

Overview

Support Mission Statement

- 1) to encourage the creation of affordable housing
and
- 2) provide planning control over the placement of multi-unit developments in Darien

These accomplished – through a course of action that calls for a logical, methodical strategy
namely a Plan

recognize there is insufficient affordable housing in Darien

important to control placement of affordable housing

- compatible with zoning regulations
- near public/mass transit facilities
Trains
Bus routes
- near town services
- maintain small town charm and character of Darien

Moratorium

Support need for moratorium

provides opportunity to plan

and

introduce initiatives

Highlight Differences in Darien

Include discussion of differences in Darien

- high level of development will require purchase of open land or developed land at premium prices
- vibrancy of Town excludes possibility of devalued land or structures due to neglect
- under utilization of office buildings could present conversion possibilities

Build Out Analysis

Analysis to provide perspective on undeveloped land and potential number of units that could be accommodated.

- facilitate advance planning
- help identify suitable locations for envisioned facilities
- use in combination with zoning overlay
- update on regular basis

Map Identified Areas

To better define areas suitable for affordable housing, include overlay map of identified areas.

- clearly identify areas
- need to provide more definition

Draft cites potential areas but is non-specific

Old Kings Highway North

Hoyt Street

Tokeneke Road

Boston Post Road

- update on regular basis

Governance

Include a section on how affordable housing will be managed to assure compliance with 8-30g parameters, and other requirements

- what oversight to govern, manage and monitor is planned
- need to assure objectivity and fairness
- who will be responsible party
 - o Darien Housing Authority
 - o Planning Zoning Department
 - o Establish new authority/agency
- some responsibilities
 - o screening and qualifying applicants
 - o maintain list of approved applicants
 - o notify applicants of opportunities as they arise
 - o coordination with property managers to assure compliance with regulations
 - o monitor compliance of occupants, property managers, owners

Budgeting and Financing

What Town expenses are anticipated for

- administration of the plan
- annual or periodic updates
- feasibility studies to confirm practicality of proposals

Prioritize Strategies

Provide discussion on which strategies are more important

- which should receive greater emphasis.

- which are more important towards reaching goals

Some Suggestions

Not attempting to re-write, however comments on flow

- suggest section explaining Moratoria calculation (pg. 11) follow Equivalency Point discussion and Chart on page 7.
- suggest discussion of affordability housing in Darien and DAHAC identification of those in need (pgs. 7&8) be included with “Why is Affordable Housing an Issue for Darien” (pg. 4)
- Some terms used without immediate explanation
- Draft felt to be repetitive
- Move status of 8-30g and court cases to Appendix

APPENDIX 13

**NEW HOUSING PERMITS
2000 – 2010**

A. New Apartment units constructed:

AvalonBay Communities, Hollow Tree Ridge Road	189
Grove Street Plaza	6
1014 Boston Post Rd (3 rd fl)	6
30A Edgerton Street (The Cottage)	5
<hr/>	
A. TOTAL NET NEW APARTMENTS:	206

B. New Single-Family Houses Constructed as part of Subdivisions:

<i>Subdiv.</i>		
<i>Applic. #</i>	<i>Name/Address</i>	<i>Number of NET new units</i>
239-B	Christie Hill Rd/26 Bittersweet	1
481-B	Miceli, 3, 5 Wakeman Road	2
544-A	Hart, 19 Morley Lane	1
560-B	Lunn, 8 Contentment Island Road	1
562-A	Cole, Hollow Tree Ridge Road	1
581-A	Keewaydin, 215, 225, 235 Brookside Road	3
582-B	Westmere Group (Walker)/ 34, 44 Andrews Drive/8 Delafield Isl Rd.	3
585-A	Hobby, Circle Road	2
591-A	33, 35, 37, 39 Raymond Street	4
595	156 Hecker Avenue	1
596	Bothwell, 147, 151 Woodway Road/368-370 Hoyt Street	4
598	228/230 Brookside Road	2
599	4, 5, 6, 7 Bishops Gate/2239 Post Rd. (6 new-2 existing)	4
600	252 West Avenue	1
601	Rehlaender, 142 Goodwives River Road	1
602	Lowman, 360-364 Brookside Rd	3
603	Harris, 1741-1749 Boston Post Road	1
604	Arnold, 49-51 Phillips Lane	3
605	Six Gees Development, 151-157 West Avenue	4
606	94-102 Pear Tree Point Road	1
611	Goulard, 18 Overbrook	1
<hr/>		
B. TOTAL NET NEW CREATED WITHIN SUBDIVISIONS:	44	

**C. Houses Constructed On Vacant Lots & not part of subdivisions
(listed on attached page)**

TOTAL NET NEW HOUSES ON VACANT LOTS: 48

D. Apartments And Houses Now Under Construction

171 Boston Post Road (former IHOP)	1
St. Luke's Clergy Housing (between July 2009 and July 2011)	3
<hr/>	

D. TOTAL NET NEW COMING ON-LINE BETWEEN 6/2009 AND 4/2010: 4

E. RAZED/DEMOLISHED AND NOT REBUILT

6 Edgehill Drive: 1	27 Mansfield Ave: 6	21 Searles: 1	
77 Nearwater Ln: 1	327, 329, 333 West Ave: 3		(12)
<hr/>			

E. RAZED/DEMOLISHED AND NOT REBUILT: (12)

TOTALS:

A.	TOTAL NET NEW APARTMENTS:	206
B.	TOTAL NET NEW HOUSES CREATED AS A RESULT OF SUBDIVISIONS:...	44
C.	TOTAL NET NEW HOUSES ON VACANT LOTS:	48
D.	TOTAL NET NEW COMING ON-LINE BETWEEN 6/2009 AND 4/2010:	4
E.	RAZED/DEMOLISHED AND NOT REBUILT	(12)
SUBTOTAL		290

CURRENT # OF POINTS TOWARD MORATORIUM = 112

2000 Census: 6,792 units x .02 = 136

2010 Census Estimate: 7,068 x .02 = 141.36 – 112 points = 29.36 more points needed

F. Approved by the Planning & Zoning Commission and Pending Construction

Subdiv

<i>Applic. #</i>	<i>Name/Address</i>	<i>Number of NET new units</i>
609	Hoyt Street Partners	62
164-B	Subdivision at 40 Noroton Ave/Eddy Ln	2
333 West Avenue	(likely to be approved by P&Z on 9/1/2009)	8

F. TOTAL APPROVED, NOT YET CONSTRUCTED: 72

TOTALS:

A.	TOTAL NET NEW APARTMENTS:	206
B.	TOTAL NET NEW HOUSES CREATED AS A RESULT OF SUBDIVISIONS:...	44
C.	TOTAL NET NEW HOUSES ON VACANT LOTS:	48
D.	TOTAL NET NEW COMING ON-LINE BETWEEN 6/2009 AND 4/2010: ...	4
E.	RAZED/DEMOLISHED AND NOT REBUILT	-12
F.	APPROVED PENDING CONSTRUCTION	72
GROSS TOTAL:		362

CURRENT # OF POINTS TOWARD MORATORIUM = 112

2000 Census: 6,792 units x .02 = 136 required or 23.84 more points needed

2010 Census Estimate: 7,154 x .02 = 143.08 required – 112 points = 31.08 more points needed

APPENDIX 14

GLOSSARY OF HOUSING TERMS

ACCESSORY APARTMENTS: a form of housing that is integrated into single family neighborhoods, and is accepted in a growing number of communities. Examples include freestanding cottages, small apartments attached to a main residence, or apartments over free standing garages. These may or may not be restricted as affordable units.

ADJUSTED GROSS INCOME: Income after standard deductions set by federal guidelines.

AREA MEDIAN INCOME (AMI): the amount which divides the income distribution of area families into two equal groups: half of the families having incomes above the median and half of the families having incomes below the median.

CONNECTICUT HOUSING FINANCE AUTHORITY (CHFA) was created by the State legislature to help alleviate the shortage of affordable housing for low and moderate income individuals and families in CT. CHFA administers State and Federal housing tax credit programs, and provides financing for the development of multifamily housing, and provides mortgage financing for first time homebuyers.

COVENANT OR RESTRICTION: an enforceable requirement, in the form of a covenant, restriction or similar mechanism, contained in a deed that is recorded on the land records of the municipality in which the subject dwelling unit or set aside development is located.

DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT (DECD). Connecticut State Department that regulates/controls 8-30g moratorium requests, compliance to 8-30g, and 10% affordable targets.

DENSITY BONUS: permits the developers to increase setbacks, footprints, parking regulations, and/or height requirements if they include affordable units in their development.

FAIR HOUSING: Federal law that makes discrimination based on race, color, national origin, religion, sex, family status, or disability illegal when trying to rent or buy a home.

FAIR MARKET RENT (FMR): Rent guidelines for various sized units (studio, 1BR, 2BR, etc) set by HUD for their affordable housing programs based on market rents for the area (Sec. 8). FMR's are published annually by HUD.

HOUSING AFFORDABILITY: Housing that can be afforded by households that earn the Area Median Income (AMI).

U.S. Department of Housing and Urban Development (HUD); A cabinet agency of the federal government established for the purposes of providing affordable housing and overseeing housing, economic and community development.

INCLUSIONARY ZONING (IZ): Inclusionary zoning requires developers to make a percentage of housing units in new residential developments available to low and moderate.

LOW INCOME HOUSING: Housing targeted for households whose income level is below 80 percent of the area median income (AMI).

MARKET RATE: A rent level that is set without any subsidy or assistance from a public program. Market rate rents are generally comparable to nonsubsidized area rents.

MORATORIUM: a four year period during which certain applications for affordable housing development, as provided in Section 8-30g of the Connecticut General Statutes are not subject to the procedure for appeals to the Superior Court. The First Selectman may request a moratorium from the Connecticut Department of Economic and Community Development (DECD) when the housing equivalency points equal 2%. The units must have been built after 1990, and must not be included in a previous or existing moratorium.

OVERLAY ZONE: a regulatory tool that creates a special zoning district, placed over an existing base zone(s), which identifies special provisions in addition to those in the underlying base zone.

STATE MEDIAN INCOME (SMI): Using HUD guidelines, income at which half the families in the state have higher and half lower. HUD estimates for a family of four.

SUBSIDIZED UNIT: Any unit that receives financial assistance to offer reduced housing costs to low income tenants.

SOUTHWESTERN REGIONAL PLANNING AGENCY (SWRPA): A government agency that sets policy and planning agenda for the area concerning development patterns, transportation, economy and environmental quality. Eight municipalities comprise the area: Darien, Greenwich, New Canaan, Norwalk, Stamford, Weston, Westport and Wilton.

WORKFORCE HOUSEHOLD: A household with an annual income which does not exceed eighty percent (80%) or, where required, sixty percent (60%) or one hundred percent (100%), of the State of Connecticut Median income, as adjusted for family size, as published by the United States Census Bureau and periodically updated by the U. S. Department of Housing and Urban Development (HUD). Household eligibility determinations shall be made in accordance with the income criteria in Section 8-30g-8 of the regulations of Connecticut State Agencies.