TOWN OF DARIEN
PLANNING AND ZONING COMMISSION
APPLICATION FORM

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

- ☐ Section 810 Coastal Site Plan Review
- ☐ Section 820 Flood Damage Prevention
- ☐ Section 850 Land Filling, Excavation and Earth Removal
- ☐ Section 1000 Special Permit Requirements
- ☐ Section 1020 Site Plan Requirements
- ☐ Section 1051 Protected Town Landmarks
- ☐ Subdivision Application
- ☑ Section 1110 Change of Zoning Regulations and/or Zoning Map
- ☐ Other (specify)_____

Property Location:

Street Address: Various - See Narrative

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

Subject property is situated on the _____ side of_____(street)

approximately _____ feet _____ from the corner formed by the intersection of

_____and _____ (streets).

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

The subject property ☑ is ☐ is not ☐ as a result of this project will become tied into the Town sanitary sewer system.

The subject property ☑ is ☐ is not ☐ as a result of this project will become tied into the public water system (Aquarion Water Co.).

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

Applicant:

Name: Baywater Housing Partners, LLC

Address: 1019 Boston Post Road
Darien, CT 06820

Phone #: _____

E-mail address: _____

Signature: Authorization Letter

Property Owner:

Name: See Narrative

Address: _____

Phone #: _____

E-mail address: _____

Signature: _____

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

Name: Robert F. Maslan, Jr., Esq.

Company/Firm: Maslan Associates PC Phone #: 203-656-3800

Address: 30 Old Kings Highway South
Darien, CT 06820

Email address: RMaslan@maslanlaw.com

Signature: R. F. Maslan

Summary of proposed activity and development:

The Applicant proposes to amend the Darien Zoning Regulations by creating a new Special Needs/ Senior Housing Overlay Zone. The proposed regulations and relevant excerpts of the Darien Town Plan of Conservation and Development are set forth in the accompanying Narrative.

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

Application Fee of $560.00

See Appendix B - Schedule of Fees of Darien Zoning Regulations.
Make checks payable to the "Town of Darien". Cash is not accepted.

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

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

For Business Site Plan applications under Section 1020:
See Section 1020 of the Darien Zoning Regulations

For Subdivision Applications see the Darien Subdivision Regulations

The following information is required:

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

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

PETITION OF

BAYWATER HOUSING PARTNERS, LLC

TO AMEND DARIEN ZONING REGULATIONS

MAY 23, 2018

APPLICATION INDEX

Narrative and Proposed Regulations	A-1 to A-9
Excerpt of Darien Town Plan of Conservation and Development	A-10 to A-14
Letter to Town Clerk	A-15
Applicant's Authorization Letter	A-16

PETITION OF

BAYWATER HOUSING PARTNERS, LLC

TO AMEND DARIEN ZONING REGULATIONS AND ZONING MAP

MAY 23, 2018

NARRATIVE

The Applicant, Baywater Housing Partners, LLC, is an affiliate of Baywater Properties, LLC, the Darien developer that has developed several properties in Darien through various related entities. Baywater's developments have included 1014-1020 Boston Post Road, 745 Boston Post Road (Mead House), 17 Old Kings Highway South, and 1340 Boston Post Road (Shake Shack), and others. Baywater's application for a special permit and business site plan review for the redevelopment of the Corbin Subarea of the Central Business District is in process.

Baywater proposes to amend the Zoning Regulations to create a new overlay zone to allow the creation of affordable housing for persons with special needs and/or senior citizens. The proposed regulations would apply in residential zones on lots that are at least 150 percent of the minimum lot area but not less than three-quarter acre (32,670 square feet). Maximum density would be twelve dwelling units located within two or more buildings, with not more than six units per building. In addition, all units must be fully handicap accessible.

The proposed overlay zone is consistent with the Darien Town Plan of Conservation and Development. Chapter 10 of the Plan contains several recommendations to consider amending regulations to allow more diverse housing opportunities, specifically housing for intellectually disabled persons and housing for income limited elderly persons. An excerpt of Chapter 10 of the Plan, with relevant portions highlighted, appears at the end of this Narrative at pages A-10 to A-12.

I. Proposed Regulations with Commentary

The following is the proposed regulation with explanatory comments:

Section ____. Special Needs/Senior Housing Overlay Zone

1. Background and Purposes.

   Housing for persons with special needs and housing for senior citizens are important elements of residential development within the Town. Such

housing enables persons with special needs to live in Darien and contribute to the community through employment and other opportunities, and enables senior citizens to remain in Darien in their later years. The Special Needs/Senior Housing Overlay Zone allows the development of such homes, by allowing increased density on parcels in residential zones that are a minimum of 150 percent of the minimum lot area in the underlying zone, but not less than 0.75 acre. Such development shall be designed to be consistent with the residential character of the surrounding area. All residential units in this overlay shall be restricted to special needs residents or senior citizens whose income qualifies them for affordable housing.

Comment: This section states the intent and purpose of the proposed regulation, and will assist in the application of the following sections.

2. This Section_shall be permitted by special permit only in the R-1/5, R-1/3, R-1/2, R-1 and R-2 Zones.

Comment: The special permit requirement will enable the Planning and Zoning Commission to consider the impacts of a proposed development on neighboring properties, including intensity of use, traffic, noise, adequacy of available utilities, etc.

3. Special Needs and Affordable Restriction.

All dwellings allowed under this Section ____ shall be occupied by persons who meet all of the following qualifications:

a. Income eligible persons as described in Section 583 of the Zoning Regulations, where the maximum sales price or rent shall be restricted for forty years or the life of the unit, whichever is longer, using the methodology for maximum housing payment calculations outlined in Section 8-30g-8 of the Regulations of Connecticut State Agencies; and either

i. Persons who need regular or full-time support from special needs service providers, and who qualify for affordable housing. Prior to the issuance of a final certificate of zoning compliance; or

ii. Elderly persons as defined in Section 210.

b. A restrictive covenant or declaration identifying the current owner(s) of each dwelling unit and describing the restrictions must be recorded on the Darien Land Records. The deed restriction or declaration must be approved by the Planning and Zoning staff and Town Counsel prior to being recorded on the Darien Land Records.

Comment: The affordable and special needs/senior restrictions are based on sections 583 and 584 of the Zoning Regulations, which define "Affordable Requirements" and "Below Market Rate Dwelling Unit."

4. <u>Area and Bulk Requirements</u>

The requirements listed for this Section_shall be deemed to be the minimum or maximum requirement in every instance of their application. Dimensions are in feet unless otherwise indicated.

1.	Minimum Lot Area	150% of the minimum lot area in the underlying zone, but not less than 32,670 sq. ft.
2.	Minimum Lot Width	100 ft.
3.	Minimum Street Frontage	50 ft.
4.	Minimum Lot Depth	100 ft.
5.	Minimum Front Yard	Note a
6.	Minimum Side Yard – one side	Note a
7.	Minimum Side Yard – total of two sides	Note a
8.	Minimum Rear Yard	Note a
9.	Accessory Structures:	
	9A. Minimum Distance from Front Lot Line	Note a
	9B. Minimum Distance from Side Lot Line	Note a
	9C. Minimum Distance from Rear Lot Line	Note a
10.	Maximum Height in Stories above grade	2-1/2 stories
11.	Maximum Height in Feet	30 ft.
12.	Maximum Building Coverage	20%
13.	Minimum Distance Between Residential Buildings	30 ft.
14.	Maximum Floor Area of Each Dwelling Unit	1,000 s.f.
15.	Maximum Number of Dwelling Units (with or without separate kitchens)	6 units per building

16.	Maximum Number of Primary Residential Buildings	2 per lot

Note a. Minimum yards are as required in the underlying zone.

Comment: The minimum lot area of 150% of the minimum lot area in the underlying zone, but not less than 32,670 square feet (0.75 acre), is intended to limit the application of the overlay zone to oversize lots.

The maximum height of 2-1/2 stories and 30 feet is based on the existing maximum height in all residence zones.

The maximum 20% building coverage is based on the existing building coverage in all residence zones.

The minimum distance between structures is intended to ensure sufficient access for emergency equipment and personnel in the event of a fire or medical emergency where direct access to the location emergency is between two buildings.

The additional density provision will allow multiple dwellings.

5. One off-street parking space per bedroom shall be required. Handicap parking spaces shall count toward the minimum parking requirement.

Comment: An off-street parking requirement of one space per bedroom accounts for the fact that not all residents will have their own vehicles. Handicap parking spaces shall be counted toward the minimum requirement.

6. Special Controls.

a. One driveway shall serve all dwelling units and structures on the site, provided that the Commission may require an additional means of access for emergencies only.

Comment: The single-driveway provision will reduce the number of curb cuts, reduce the amount of existing screening that is removed for multiple curb cuts, and maximize the perimeter areas that are available for dense landscaping and natural screening. The additional, emergency driveway will provide a secondary means of ingress and egress if the primary driveway is blocked. On corner lots, this provision would enable the primary and emergency driveways to be located on different streets, so that there can be access if the primary street access is blocked.

b. No structures, terraces, swimming pools, or sports courts shall be located within the minimum yard areas.

Comment: This provision is intended to preserve the minimum yard areas for screening from abutting properties, and to focus the developed site area toward the center of the site. This is similar in concept to conservation developments, which concentrate development in order to designate conservation areas to protect environmental features. The current regulations allow terraces to extend to 8 feet from property boundaries.

c. All required yards shall consist of natural or landscaped screening from abutting properties and streets.

Comment: The required yards are intended to be used for screening, and not as patios, terraces or other non-screening features that are otherwise allowed in the residential zones.

d. A maximum of two, six-unit buildings shall be permitted.

Comment: Limiting the number of units per building and the number of buildings is intended to avoid large buildings that look like apartment houses. This is intended to encourage development of houses that are generally consistent with single-family development in the residential Zones.

In addition, Conn. Gen. Stat. § 8-3e requires that community residences that houses six or fewer persons with intellectual disability and necessary staff persons or other conditions be treated as single-family residences for zoning purposes. Allowing two six-unit buildings, treated as two single family buildings, on lots that are significantly larger than required in the underlying zone affords an opportunity to create opportunities for special needs individuals without causing a significant increase in neighborhood density.

e. The inclusionary zoning incentives set forth in Subsections (a) through (f) of Section 585 shall not apply to developments under this Section ____.

Comment: This overlay zone already provides for increased density. The exception for subsections (a) through (f) of section 585 is necessary to prevent the reduction of minimum open space and yards, and increases in maximum building coverage and building height.

7. Public Water Supply and Sanitary Sewer.

Developments permitted by this Section_shall be served by public water and public sanitary sewer.

Comment: The requirement for public water and sewer is consistent with the long-standing planning policy of zoning as R-1 or R-2 (one family per minimum one- or two-acre parcel) areas that are not served by pubic sewer, thus requiring a minimum of one acre for each single-family development. Multifamily, multi-building developments, at two buildings per acre would not be consistent with this policy.

8. To the extent not modified by this Section_____, all other zoning regulations governing development within the underlying zone shall apply to developments under this Section___.

Comment: This provision specifies that the underlying zoning regulations that are not modified by the overlay zone shall apply to developments under the overlay zone regulations.

9. Special needs and senior housing units created pursuant to this Section

____ shall be counted toward any affordable housing requirements set forth in any other section of the Zoning Regulations.

II. Conclusion

Baywater's vision for a special needs/senior housing regulation will enable the Town of Darien, through private development, to address the current demand for housing for persons with special needs and senior citizens. The proposed regulation addresses the demand for housing for persons with special needs, and housing for senior citizens who meet the affordable housing income qualifications. At the same time, the proposed regulation is intended to preserve the residential character of residence zones in which they are located.

III. Proposed Regulations without Commentary

The following is the proposed regulation:

Section ____. Special Needs/Senior Housing Overlay Zone

1. Background and Purposes.

   Housing for persons with special needs and housing for senior citizens are important elements of residential development within the Town. Such housing enables persons with special needs to live in Darien and contribute to the community through employment and other opportunities, and enables senior citizens to remain in Darien in their later years. The Special Needs/Senior Housing Overlay Zone allows the development of such homes, by allowing increased density on parcels in residential zones that are a minimum of 150 percent of the minimum lot area in the underlying zone, but not less than 0.75 acre. Such development shall be designed to be consistent with the residential character of the surrounding area. All residential units in this overlay shall be restricted to special needs residents or senior citizens whose income qualifies them for affordable housing.

2. This Section_shall be permitted by special permit only in the R-1/5, R-1/3, R-1/2, R-1 and R-2 Zones.

3. Special Needs and Affordable Restriction.

   All dwellings allowed under this Section ____ shall be occupied by persons who meet all of the following qualifications:

   a. Income eligible persons as described in Section 583 of the Zoning Regulations, where the maximum sales price or rent shall be restricted for forty years or the life of the unit, whichever is longer, using the methodology for maximum housing payment calculations outlined in Section 8-30g-8 of the Regulations of Connecticut State Agencies; and either

      i. Persons who need regular or full-time support from special needs service providers, and who qualify for affordable housing. Prior to the issuance of a final certificate of zoning compliance; or

      ii. Elderly persons as defined in Section 210.

   b. A restrictive covenant or declaration identifying the current owner(s) of each dwelling unit and describing the restrictions must be recorded on the Darien Land Records. The deed restriction or declaration must be approved by the Planning and Zoning staff and Town Counsel prior to being recorded on the Darien Land Records.

4. Area and Bulk Requirements

   The requirements listed for this Section shall be deemed to be the minimum or maximum requirement in every instance of their application. Dimensions are in feet unless otherwise indicated.

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9.	Accessory Structures:	
	9A. Minimum Distance from Front Lot Line	Note a
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10.	Maximum Height in Stories above grade	2-1/2 stories
11.	Maximum Height in Feet	30 ft.
12.	Maximum Building Coverage	20%
13.	Minimum Distance Between Residential Buildings	30 ft.
14.	Maximum Floor Area of Each Dwelling Unit	1,000 s.f.
15.	Maximum Number of Dwelling Units (with or without separate kitchens)	6 units per building
16.	Maximum Number of Primary Residential Buildings	2 per lot

Note a. Minimum yards are as required in the underlying zone.

5. One off-street parking space per bedroom shall be required. Handicap parking spaces shall count toward the minimum parking requirement.

6. Special Controls.

   a. One driveway shall serve all dwelling units and structures on the site, provided that the Commission may require an additional means of access for emergencies only.

   b. No structures, terraces, swimming pools, or sports courts shall be located within the minimum yard areas.

   c. All required yards shall consist of natural or landscaped screening from abutting properties and streets.

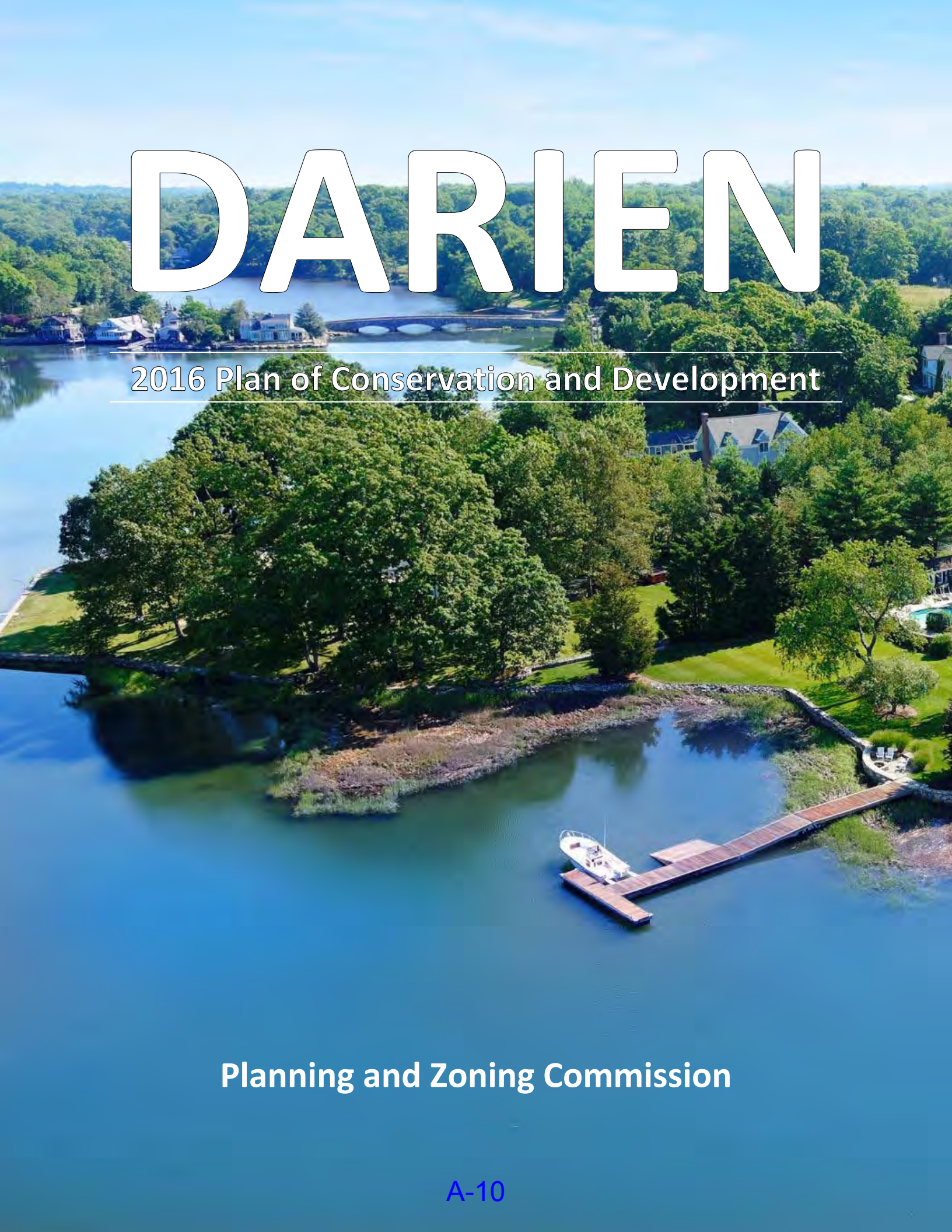
   d. A maximum of two, six-unit buildings shall be permitted.

   e. The inclusionary zoning incentives set forth in Subsections (a) through (f) of Section 585 shall not apply to developments under this Section ____.

7. Public Water Supply and Sanitary Sewer.

   Developments permitted by this Section_shall be served by public water and public sanitary sewer.

8. To the extent not modified by this Section_____, all other zoning regulations governing development within the underlying zone shall apply to developments under this Section____.



DARIEN

2016 Plan of Conservation and Development

Planning and Zoning Commission

Continue To Diversify Darien's Housing Portfolio

It is anticipated that Darien will always be a community where owner-occupied, single-family detached houses predominate. For example, according to the Census:

- About 85 percent of all dwelling units in Darien in 2010 were owner-occupied.
- About 91 percent of all dwelling units in 2010 were single-family detached units.

While the 2020 Census will likely reflect a decrease in the percentage of owner-occupied units and a decrease in the percentage of single-family detached units (due to the redevelopment of Allen O'Neill into The Heights at Darien, and the construction of Kensett), Darien remains a predominantly single-family and owner occupied community.

However, Darien's population and housing needs have changed over the years and it is anticipated that these preferences will continue to change in the future. People have always sought housing that met their life-stage and lifestyle needs (location, cost, size, amenities, etc.) and Darien residents are no different. As the information on age composition and age-related migration in the "Conditions and Trends" section of the POCD indicates:

- Darien may not be "gaining" young people (ages 20 to 35) because they cannot find housing that is affordable and meets their needs.
- Darien may be "losing" older residents (ages 55 and over) because they also cannot find housing that meets their needs (fewer maintenance responsibilities and more amenities within walking distance).

The Planning and Zoning Commission generally views a variety of housing options as an enhancement to Darien. Darien should continue to encourage a broad range of housing in appropriate locations. In recent years, the Commission has taken steps to promote more housing diversity, including:

- "Knobel Hill" (larger age-restricted condominiums with two off-site affordable units required),
- "Kensett" (larger age-targeted condominiums with three off-site affordable units required),
- "The Heights at Darien" (106 affordable apartment units replacing 53 single-family affordable units),
- "Garden Homes" (a mixed-income housing development), and
- "The Cottage" (housing for developmentally disabled young adults).

Darien will always have a strong presence of single-family detached houses and will always strive to retain its single-family residential character. However, Darien can, at the same time, gradually diversify its housing portfolio to meet a broader range of housing needs of present and future residents.

Making Progress

Old Town Hall Homes is an excellent example of ways to help meet the housing needs of the community.

Originally developed in 1988 with 30 units, experience over time found that the outside access to units and the lack of elevators was not meeting community needs.

After redevelopment, there will be more units (55 units are being planned) with internal corridors and elevators to help meet the housing needs of older residents.

Housing Needs Of An Aging Population

Population projections indicate that Darien, like many other communities, will experience a marked rise in the number of older residents in the future. Since housing needs can change as people get older for health, economic, or lifestyle reasons, having a range of housing option can help ensure that residents will always be able to live in Darien if they so choose.

To accommodate future housing needs, Darien may consider allowing:

- modifications to existing homes to accommodate an aging population (handicapped ramps, caregiver services, first floor additions for one-floor living, energy efficiency, etc.),
- accessory housing units within or attached to homes,
- additional multi-family units in appropriate places and configurations to address potential future needs,
- more income-limited elderly housing units to meet present and future community needs, and/or
- congregate / independent living / assisted living / nursing / convalescent home in other zones as well.

Advocacy and Support

Housing That Is More Affordable

While about 3.4 percent of Darien's housing stock meets the State definition of affordable housing, Darien has made significant progress over the last decade or so in adding such housing. The units added were created by the Town (via the Housing Authority and by private developers. In fact, data reported by the Department of Housing indicates that Darien has at least 152 more affordable housing units than it did in 2002. Some of these units were created by the Town via the Housing Authority, and some were created by private developers.

As a result, Darien accumulated enough "housing unit equivalent points" to obtain a four-year moratorium from the Affordable Housing Appeals Procedure starting in October 2010. With the creation of additional affordable housing units since then, the Town will be in a position to apply for additional moratoria in the future.

Darien will seek to encourage both affordable rental units and affordable ownership units in appropriate locations at appropriate densities.

Other Housing Needs

Darien has participated in efforts via a public-private partnership to create supportive housing for developmentally disabled people in the past and will engage in such efforts in the future.

Affordable Housing
(The Heights At Darien)

Mixed Income Housing
(Garden Homes - 397 Post Road)

Affordable Housing Appeals

In 1989, Connecticut adopted the "Affordable Housing Appeals Procedure" (codified as Section 8-30g of the Connecticut General Statutes) which affects any municipality where less than ten percent of the housing stock is considered affordable (as defined in the statute).

As of 2014, about 3.4 percent of the housing stock in Darien (239 out of 7,074 units) met the State criteria and so Darien is subject to the statute.

Affordable Housing Stock

According to the State's Affordable Housing Appeals program, about 239 Darien housing units are considered "affordable":

Governmentally Assisted Units	136
Tenant Rental Assistance	7
CHFA/USDA Mortgages	1
Deed Restricted Units	95
Total Assisted Units	**239**

CT-Department of Housing (2014)

Continue To Diversify Darien's Housing Portfolio		
Policies	**Leader**	**Partners**
1. Continue efforts to diversify Darien's housing portfolio.	Town	PZC HA
2. Continue to consider ways to address the housing needs of an aging population.	Town	PZC HA AHID
3. Continue to consider ways to provide for housing that is more affordable.	Town	PZC HA
4. Seek to locate higher density housing near the train stations (Darien, Noroton Heights) or on or near a bus transit line.	PZC	Town HA
5. Work with the Darien Housing Authority to help meet local housing needs.	Town	PZC
6. Continue to participate in efforts to create supportive housing for developmentally disabled people.	Town	PZC
Action Steps		
7. Review zoning provisions and locations for multi-family housing to ensure they are appropriate for the future.	PZC	
8. Evaluate and consider eliminating size restrictions for multi-family units and rely instead on building size and bulk standards.	PZC	
9. When and where appropriate, seek to place deed restrictions on housing units that are accessory to Special Permit uses in order to count such units as "affordable housing" for as long as they exist.	Town	PZC

MASLAN ASSOCIATES P.C.

Attorneys at Law

Robert F. Maslan, Jr.*
*Also Admitted In New York

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TELEPHONE (203) 656-3800
FACSIMILE (203) 656-1624

Legal Assistant
Suzann C. Maslan

Writer's e-mail:
RMaslan@maslanlaw.com

May 23, 2018

Donna Rajczewski, Town Clerk
Town of Darien
2 Renshaw Road
Darien, CT 06820

Re: Petition to Amend Zoning Map and Zoning Regulations

Dear Madam Clerk:

We represent Baywater Housing Partners, LLC. Please accept for recording the enclosed proposed amendments to the Darien Zoning Regulations.

As you know, proposed zoning regulation amendments must be filed with the Town Clerk.

Please stamp the additional two copies, one for the Planning and Zoning Department, and one for our file.

Please feel free to call us if any additional information is required.

Thank you.

Very truly yours,

R. F. Maslan Jr.

Robert F. Maslan, Jr.

Enclosures

cc: Baywater Housing Partners, LLC
Jeremy B. Ginsberg, Town Planner

BAYWATER HOUSING PARTNERS, LLC
1019 BOSTON POST ROAD
DARIEN, CT 06820

May 22, 2018

Town of Darien
Planning and Zoning Commission
2 Renshaw Road
Darien, CT 06820

RE: Petition to Amend Darien Zoning Regulations
Proposed Adoption of New Special Needs/Elderly
Housing Overlay Zone

Dear Ladies and Gentlemen:

As the applicant in the above-referenced Petition, we hereby authorize the law firm of Maslan Associates P.C. and its attorneys to file any and all applications related to the property.

Thank you.

Very truly yours,

BAYWATER HOUSING PARTNERS, LLC

By: _____
Duly Authorized