

Planning Commission Meeting Minutes

Tuesday February 2nd, 2016

Present: Brian Schuch, Chairman
Joan Bengtson
Peter Lynch
Rita Palazzo
Kirk Scott, Alternate *(Sat as Regular Member)
Michael Hess, Alternate*(Sat as Regular Member)

Also Present: Gary Goeschel, Planning Director
Anthony Arias, Alternate
Holly Cheeseman, Ex-Officio
Ed O'Connell, Town Attorney
Bill Dwyer, Zoning Commission Member

Absent: Brenda Henderson
Ernie Covino

FILED IN EAST LYME
CONNECTICUT
Feb 8, 2016 AT 11:35 AM/PM
Kathleen Palmer
EAST LYME TOWN CLERK

Mr. Schuch called this Public Hearing of the Planning Commission to order at 7:09 p.m. and sat Mr. Scott and Mr. Hess as Regular Members.

I. Pledge of Allegiance

The Pledge was observed.

- ****Motion (1)**

Ms. Palazzo moved to shuffle the Agenda and move item A. under both New and Old Business to accommodate Attorney O'Connell's schedule.

Ms. Bengtson seconded the motion.

Vote: 6-0-0. Motion passed.

II. Public Delegations

Public Delegations is the time when members of the public are invited to speak to the Commission about certain matters. Issues or concerns related to approved subdivisions under construction (Item VI) and in-house proposals or general topics of discussion (Item VII) are open to comment. Items, referrals, or applications subject to a decision by the Commission, a public hearing, or in litigation may not be discussed. The members of the Commission will not directly answer questions or make comment during delegations.

There were none.

VII. Old Business

A. East Lyme Subdivision Regulation Proposed Changes- Section 9- Assurances for Completion and Maintenance of Improvements.

Attorney O'Connell explained how legislative changes led to the formation of a Sub-Committee and with his assistance the Sub-Committee has made revisions to Section 9. One of the changes include the Town's regulations regarding the acceptance of surety bonds, letters of credit, or passbook or statement savings accounts as well as cash for public improvements (Section 9-1-1.) C

Changes were also made for the Maintenance Bonds such that the Town may retain a percentage of the funds for one year to be utilized for any unexpected maintenance issues that occur after the date that the public improvements are determined to be complete by the Commission or the Town. The funds are currently held up to two years from the date of acceptance of the improvements by the Town (Section 9-8-1.) Attorney O'Connell again provided the Commission with his Certification of Connecticut General Statute 8-25 (Attached.)

VIII. New Business

A. Town Attorney- Procedural Review

Mr. O'Connell did a short presentation reviewing the duties of the Planning Commission Members. The Commission has four basic powers/functions:

1. POCD- prepare and amend
2. Administer Subdivisions and Resubdivisions; a resubdivision is the division of an already subdivided lot which results in an additional lot.
3. Advice regarding proposed Municipal Improvements; this is an advisory process, the Commission comments on the proposed zone changes and forwards those comments to the Zoning Commission.
4. Adopt and revise Subdivision Regulations. Unlike Zoning, Planning can only exercise and adopt powers specific to them.

Mr. O'Connell explained how Planning is involved with the division of land while Zoning is concerned with the use of land.

Mr. O'Connell addressed and reviewed open space, public hearings, public improvements, bonds as a type of enforcement, voting criteria and time frames of applications and procedures. He reminded the Commission that Resubdivisions require public hearings and detailed how Special Act Beach Communities are governed differently.

Mr. O'Connell reviewed Freedom of Information Act requirements and stressed the importance of meetings being open to the public and seen by the public; the one exception being Executive Session which is utilized for pending litigation, attorney/client privilege, personnel and engineering estimates.

Mr. Goeschel explained that emails and texts between members can be construed to be a meeting and that discussion of a public hearing should not occur outside of that hearing. Cell phones and computers can be subpoenaed so it is helpful for all Commission related documents to be kept in one folder. Mr. Goeschel and Mr. O'Connell said that Town Staff would be having a refresher course on FOI Regulations and Commission Members will be invited to participate.

Mr. O'Connell said that the revisions that the Sub-Committee made to Section 9 of the POCD call for a public hearing because all amendments to our regulations require us to do so.

- ****Motion (2)**

Mr. Lynch moved to schedule a public hearing in March to discuss the revisions that are being proposed for Section 9 of the POCD.

Ms. Palazzo seconded the motion.

Vote: 6-0-0. Motion passed.

Mr. O'Connell left the meeting and the Commission hopped back to the regular agenda.

III. Approval of Minutes

A. January 12th , 2016 Meeting Minutes

- ****Motion (3)**

Mr. Lynch moved to approve the Meeting Minutes of January 12th , 2016.

Mr. Scott seconded the motion.

Vote: 5-0-1. Motion passed.

Ms. Palazzo abstained from the Vote due to her absence from the meeting.

IV. Subdivisions and Resubdivisions

A. Subdivisions Overview/Dashboard

Mr. Goeschel introduced Land Use Intern Joel from Eastern Connecticut University. Mr. Goeschel and Joel have been developing maps by decade to give a visual overview of the history of subdivisions in Town, and help in determining the direction we are headed in. Joel showed the Commission the map which reflects when subdivision regulations were enacted in 1952.

The Commission thanked Joel and Mr. Goeschel for the work. Mr. Schuch said it would be of interest to tie in stormwater regulations on the map. He said he would like the next map to tie in with the grand list and tax revenue in Town. Mr. Goeschel said they're working on doing just that.

V. Zoning Referrals (CGS 8-3a)

Proposed changes in zoning regulations or boundaries shall be referred to the Planning Commission for a report that shall contain the findings of the planning commission on consistency of a proposed regulation or boundary changes with the Plan of Development and any other recommendations the Planning Commission deems relevant. Failure of the Planning Commission to report prior to or at the hearing shall

be taken as approval of such proposals. The report of the Planning Commission regarding such proposal shall include the reasons for the commission's vote and shall be incorporated into the records of any public hearing held thereon by the Zoning Commission. A proposal disapproved by the Planning Commission may be adopted by the Zoning Commission by a vote of not less than two-thirds of all the members of Zoning Commission.

- A. Application of Edward M. Cassella, Esq., for White Gate Farm, for an amendment to the East Lyme Zoning Regulations, Section 1, Section 5.2.9 and Section 25 for Farm Events.**
- B. Application of Edward M. Cassella, Esq., for White Gate Farm, for an amendment to the East Lyme Zoning Regulations, Section 1 and Section 25 for Bed and Breakfasts.**

The Commission discussed the definition of a Farm (attached) and noted this is a similar application to the one White Gate Farm submitted last year and subsequently withdrew. Mr. Goeschel provided the Commission with his Memorandum for last year's application dated January 30th 2015 (attached), and his Memorandum dated February 2nd, 2016 (attached.)

Mr. Schuch thought it would be prudent that the Commission have time to digest these two memorandums. Mr. Goeschel said the Zoning Commission is having their Public Hearing on this matter on February 18th, 2016. He provided the Commission with two maps; map 1 shows RU-40 and RU-80 zoned parcels greater than 25 acres in Town (attached), while map 2 shows RU-40 and RU-80 zoned parcels greater than 50 acres in Town (attached.)

Mr. Schuch said the Commission looked at this issue last year and the new application affects less land because this application is for 50 acres as opposed to the 25 acres that was part of the application last year.

The Commission discussed Mr. Goeschel's Memorandum dated February 2nd, 2016.

Ms. Bengtson asked if there was going to be new construction to accommodate twelve bedrooms. She asked if they were currently a bed and breakfast since the word is interchanged with farm in their application.

Mr. Lynch said he heard they wanted to be an inn rather than a bed and breakfast and asked the difference. Mr. Goeschel said an inn has twelve or fewer units and a hotel has thirteen or more rooms and other incidental services.

Mr. Schuch asked if the special permit would be issued one time or annually. Mr. Goeschel said there would be one special permit followed by separate permits for each event held.

Ms. Bengtson said she has many questions and they need time to review.

Mr. Schuch said the traffic impact during the summer should be considered.

Mr. Hess pointed out that the presence of twelve rooms removed the distinction between bed and breakfast and inn.

Ms. Bengtson asked who would be responsible for monitoring the events. She said the lack of a traffic light will make that road more dangerous with the traffic increase. Ms. Bengtson said we should see how RU-40 areas handle this kind of operation before approving it for RU-80.

The Commission decided to schedule a Special Meeting for February 16th, 2016 with this item on the Agenda, which will allow them to file their comments with the Zoning Commission prior to the February 18th, 2016 Public Hearing.

VI. 8-24 Referrals

There were none.

VII. Old Business

B. Plan of Conservation and Development (POCD)

Mr. Goeschel said there is nothing new to report.

IX. Reports

A. Chairman

Mr. Schuch said he attended a Regional Planning Meeting in Norwich at CCOG. He will bring in those minutes at one of the future Planning Meetings.

B. Ex-Officio- Holly Cheeseman

Ms. Cheeseman detailed the last Board of Selectmen Meeting. She said the life saving awards were issued to Officer Cutillo and Officer Priest. Mr. Bruce Brailey stepped down as Town Treasurer- he will act as Deputy and Scott Fraser is taking over as Treasurer.

C. Zoning Representative

Nothing to report. Ms. Bengtson said the meeting was cancelled.

D. Staff/Communications

Mr. Goeschel said that Joel (our intern) has mapped all the sidewalks in Town and they're working with Engineering to plan future sidewalks.

ADJOURNMENT

- ****Motion (4)**

Ms. Palazzo moved to adjourn the Planning Commission Meeting at 9:18 p.m.

Ms. Bengtson seconded the motion.

Vote: 6-0-0. Motion passed.

Respectfully Submitted,

**Brooke D. Stevens,
Recording Secretary**

Town of East Lyme

APPENDIX ___
LETTER OF CREDIT, SAMPLE FORM
Town of East Lyme
Attn: Planning Commission

Gentlemen:

On the instructions and for account of _____ of _____ Connecticut, we hereby establish our Irrevocable Letter of Credit No. _____ in your favor, available by your draft drawn on us at sight, for any sum not exceeding the total amount of _____ (\$).

Drafts drawn under this credit must be accompanied by this Letter of Credit, and:

1. A statement purportedly signed by the beneficiary stating that "The amount of this drawing represents funds due and owing to the Town of East Lyme as a result of the nonperformance or unsatisfactory performance of improvements authorized by the Town of East Lyme under Planning Commission, approval dated _____ for _____ SUBDIVISION. Application # _____.

Partial drawings are permitted.

All drafts drawn under this Letter of Credit must bear on their face the clause "Drawn under _____ Bank F.S.B. Credit No. _____, dated _____, 20____.

We engage with you that draft(s) drawn under and in compliance with the terms and conditions of this credit will be duly honored upon presentation and delivery of documents, as specified, to the above address, Attn: Loan Department, on or before _____, 20____.

Except so far as otherwise expressly stated, this documentary credit is subject to the "Uniform Customs and Practice for Documentary Credits, ICC Publication No. 500."

Bank Signature Block

Town of East Lyme

APPENDIX ____
PERFORMANCE AGREEMENT - SAMPLE FORM

Between _____ (hereinafter, "Developers") and THE PLANNING
COMMISSION OF THE TOWN OF EAST LYME (hereinafter, "Commission").

Developers are delivering herewith a Cashier's Check in the amount of \$ _____.

This is being delivered as surety for the performance bond and is hereby accepted by the
Commission.

The parties agree that said funds shall remain in the name of the Town of East Lyme in escrow
as surety for public improvement work that must be completed on the Subdivision. Said public
improvement work shall be conveyed to the Town of East Lyme after it has been accepted by
the Town. The bond will also cover erosion-related problems.

The Performance Bond covers _____ Subdivision, Planning Commission
App. _____. It shall be in force until released by the East Lyme Planning Commission. The
applicant may petition the town for a reduction in the bond amount based on performance of the
covered improvements submitted by _____, Consulting Engineers,
pursuant to the Town of East Lyme Subdivision Regulations.

If, at any time, any of the items covered by this bond fail or suffer damage or loss, the Town
shall withdraw funds from the escrow account sufficient to cover the failure, damage or loss.
However, if there are no problems, then all the funds deposited in said escrow account, together
with any interest earned thereon, shall be delivered forthwith to the developers.

DATED AT EAST LYME, this _____ day of _____, 20____.

SIGNATURE BLOCKS - PLANNING COMMISSION, DEVELOPER(S)

year after the date of acceptance of the improvements by the town:

The Town shall not require the establishment of a homeowners association or the placement of a deed restriction, easement or similar burden on property for the maintenance of approved public improvements, except that this prohibition shall not apply to the placement of a deed restriction, easement or similar burden necessary to grant the Town access to such approved site improvements.

* Such financial guarantee for maintenance bond shall be in an amount equal to two percent (2%) of the cost of improvements and shall be of such form as described in these Regulations. Pursuant to Section 9-3 of these Regulations, no maintenance financial guaranty bond shall be required for private improvements.

If the person posting a financial guarantee under this section requests a release of all or a portion of such financial guarantee, the Commission shall, not later than sixty-five (65) days after receiving such request, (A) release or authorize the release of any such financial guarantee or portion thereof, provided the Commission is reasonably satisfied that the improvements for which such financial guarantee or portion thereof was posted have been completed, or (B) provide the person posting such financial guarantee with a written explanation as to the additional improvements that must be completed before such financial guarantee or portion thereof may be released.

9-8-2 Snow Plowing and Other Maintenance - In the case of conditional or final approval a financial guarantee, as described in Section 9-1, cash bond in the amount of \$10,000 or five percent of the cost of improvements excluding utilities not intended to be conveyed to the town, whichever is the greater amount, shall be posted with the Town of East Lyme. Such bond shall be accompanied by an agreement under which the Director of Public Works may draw on such funds, after adequate notice, to effect snow plowing or other maintenance necessary for the public health, safety and convenience. Such monies may also be used to pay any electrical charges necessary for street lighting. The extent of such payments to the Town shall be specified in the agreement with the Town of East Lyme.

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9-6 PARTIAL RELEASE – When the Town Engineer determines, based on site inspection and certification by the applicant's engineer that a substantial portion of the public improvements called for in the final plan approved by the Commission have been completed, a recommendation may be made for one or more partial releases of a portion of the financial guaranteesurety, the balance to be sufficient to guarantee completion of the public improvements. Such partial release shall be authorized by the Planning Commission upon recommendation of the Town Engineer. Releases shall be granted in amounts of no less than \$1,000. In no event shall a financial guaranteebond be released below two percent (2%) of the actual cost of improvements or no less than \$3,000, whichever is greater.

9-6-1 – Financial Guarantee Reduction Schedule for Private Roads – delete entire section

9-7 FINAL RELEASE – Financial guaranteeBonds will not be released until the following conditions have been met:

- (A) The Town Engineer has submitted a certificate stating that all required improvements have been satisfactorily completed;
- (B) The applicant's engineer or surveyor has certified to the Town Engineer, through submission of detailed as-built plans that the layout of the line and grade of all public improvements is in accordance with the Construction Plan for the subdivision. As-built plans shall include, a Grading Plan and a Construction Plan as described in Section 5 of these Regulations. Such plans shall show any modification or changes made during construction.
- (C) All public improvements called for in the final plan have been accepted by the town. A maintenance financial guaranteebond, as described in Section 9-8-1 shall be filed with the town.
- (D) All conditions and requirements of the Commission's approval of the subdivision application have been satisfied.
- (E) The deed to all roads has been accepted by the town.

9-8 MAINTENANCE OF IMPROVEMENTS – The applicant shall be required to maintain all improvements and provide for snow removal on streets until acceptance of said improvements by the town.

(move 9-8-1 to 9-3 and renumber?)

9-8-1 Financial Guarantees for Maintenance of Public ImprovementsBond –

As a condition of the Town's acceptance of the public improvements, the subdivision owner shall provide to the town a financial guarantee for the maintenance of public improvements to ensure that funds are available to the Town to maintain or repair the public improvements. The Commission may accept surety bonds and shall accept cash bonds, passbook or statement savings accounts and other financial guarantees other than surety bonds including, but not limited to, letters of credit, provided such financial guarantee is in a form acceptable to the Commission and the financial institution or other entity issuing any letter of credit.

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The financial guarantee for the maintenance of public improvements shall be in full force and effect for a period of one year after the date that the public improvements are determined to be complete by the Commission, or on the effective date of the acceptance of improvements by the Town, whichever is later. The applicant shall be required to file a maintenance bond with the Town prior to the acceptance of the improvements, in order to assure the satisfactory condition of the required improvements, for a period of one (1)

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improvements and utilities within one (1) year from the day of approval of the subdivision Plan. The Commission may extend the completion date for public improvements for additional periods. As a condition for such extension, the Commission may require the increase in the amount of the bond.

9-2 EROSION AND SEDIMENTATION CONTROL AND SITE RESTORATION FINANCIAL GUARANTEE BOND

~~To secure erosion and sedimentation and site restoration as described in Sections 4-4-6, 5-3-1(C), 5-7, and 8-3-6.~~

The Commission may accept surety bonds and shall accept cash bonds, passbook or statement savings accounts and other financial guarantees other than surety bonds, including, but not limited to, letters of credit, as set forth in Section 9-1, a bond in an amount and with such other security and conditions as are satisfactory to the Commission for such purposes. Notwithstanding Section 9-1, the Commission may require a financial guarantee for erosion and sediment control and site restoration prior to the commencement of any improvements, it to secure erosion and sedimentation and site restoration as described in Sections 4-4-6, 5-3-1(C), 5-7, and 8-3-6.

9-3 APPLICABILITY - These financial guarantee bond requirements shall apply to improvements shown on the approved plans whether the streets are to be public or private, except that no maintenance financial guarantee bond shall be required for private improvements.

9-4 FINANCIAL GUARANTEE BOND FORM - Financial guarantees Bonds shall be duly executed on forms provided by the town and available from the Planning Department, with proper reference to all maps and plans showing the streets, drainage, and other improvements covered by the financial guarantee bond. To ensure the completion of all required improvements, including storm drainage system, erosion and sedimentation control measures, roads and pavements, sidewalks and curbs, trees, grading, setting of monuments, and any other requirements made as a condition for subdivision approval or depicted on the endorsed Record Subdivision Plan, Plan and Profile Plan, Grading Plan, Erosion and Sedimentation Control Plan, the Commission shall require, prior to the release of the signed Approved Maps (mylar copy) any one of the following:

9-4-1 The submission to the Town of a financial guaranty, as described in Section 9-1, A deposit of cash with the Town, of an amount satisfactory to the Town Engineer and approved by the Commission which, will cover the cost of the improvements.

9-4-2 A security agreement, in a form acceptable by the Commission, which provides that no lots may be sold, or building permits issued until such time that all required improvements are complete, or financial guarantee delivered cash deposited, as outlined in Section 9-4-1 for the remaining improvements.

9-5 FAILURE TO COMPLETE IMPROVEMENTS - Where a financial guarantee bond has been posted and required improvements have not been installed within the terms of such financial guarantee bond, the town may thereupon declare the financial guarantee bond to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the financial guarantee bond is declared to be in default.

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SECTION 9 - ASSURANCES FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS

9-1-1 FINANCIAL GUARANTEES FOR COMPLETION OF PUBLIC

IMPROVEMENTSBONDS – In lieu of requiring the completion of all improvements for the final approval of a subdivision plan, the Commission may accept surety bonds and shall accept cash bonds, passbook or statement savings accounts and other financial guarantees other than surety bonds, including, but not limited to, letters of credit, provided such financial guarantee is in a form acceptable to the Commission and the financial institution or other entity issuing any letter of credit.

The financial guarantee provided to the town shall be in the amount equal to the actual construction cost of the improvements as determined by the Commission upon the recommendation of the Town Engineer plus a 20% contingency amount. In estimating the amount of the financial guarantee, the subdivision owner's engineer shall include the costs of the following items:

a) The construction and installation of all required public improvements including storm drainage systems, roads and pavements, sidewalks, curbs, utility lines, trees, grading, surface restoration, setting of monuments, as-built drawings,

b) The inspection and testing of construction activities and materials by a qualified independent third party. The cost estimate shall describe the quantity and cost of each inspection and testing item.

At the discretion of the person posting such financial guarantee, such financial guarantee may be posted at any time before all approved improvements and utilities are completed, except that the Commission may require a financial guarantee for erosion and sediment control measures prior to the commencement of any improvements set forth in Section 9-2. No lot shall be transferred to a buyer before any required financial guarantee is posted or before the approved improvements and utilities are completed to the reasonable satisfaction of the commission or its agent. For any subdivision that is approved for development in phases, the financial guarantee provisions of this section shall apply as if each phase was approved as a separate subdivision.

9-1-2 If the person posting a financial guarantee under this section requests a release of all or a portion of such financial guarantee, the Commission shall, not later than sixty-five (65) days after receiving such request, (A) release or authorize the release of any such financial guarantee or portion thereof, provided the Commission is reasonably satisfied that the improvements for which such financial guarantee or portion thereof was posted have been completed, or (B) provide the person posting such financial guarantee with a written explanation as to the additional improvements that must be completed before such financial guarantee or portion thereof may be released.

~~a bond in an amount and with surety or other security and conditions satisfactory to it. The bond shall secure to the town the actual construction and installation of such~~

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I hereby certify that the above statutory reference is in full force and effect as of the date of this certification.

As enacted, §8-25(d)(1) provides that there are several forms of financial guarantee that municipal planning commissions must accept to satisfy the financial guarantee requirements of §8-25, irrespective of municipality subdivision regulations. These include but are not limited to letters of credit, provided such letter of credit is in a form acceptable to the commission and the financial institution issuing the letter of credit is acceptable to the commission.

Waller, Smith & Palmer, PC

By: Edward B. O'Connell

On letterhead

July 28, 2015

Certification Regarding Connecticut General Statutes §8-25(d)(1)

Subsection (d)(1) of Connecticut General Statutes §8-25, entitled Subdivision of Land, most recently amended with an effective date of June 15, 2012, states as follows:

“(d) (1) To satisfy any financial guarantee requirement in this section, the commission may accept surety bonds and shall accept cash bonds, passbook or statement savings accounts and other financial guarantees other than surety bonds including, but not limited to, letters of credit, provided such financial guarantee is in a form acceptable to the commission and the financial institution or other entity issuing any letter of credit is acceptable to the commission. Such financial guarantee may, at the discretion of the person posting such financial guarantee, be posted at any time before all approved public improvements and utilities are completed, except that the commission may require a financial guarantee for erosion and sediment controls prior to the commencement of any improvements. No lot shall be transferred to a buyer before any required financial guarantee is posted or before the approved public improvements and utilities are completed to the reasonable satisfaction of the commission or its agent. For any subdivision that is approved for development in phases, the financial guarantee provisions of this section shall apply as if each phase was approved as a separate subdivision. Notwithstanding the provisions of any special act, municipal charter or ordinance, no commission shall (A) require a financial guarantee or payment to finance the maintenance of roads, streets, retention or detention basins or other improvements approved with such subdivision for more than one year after the date on which such improvements have been completed to the reasonable satisfaction of the commission or its agent or accepted by the municipality, or (B) require the establishment of a homeowners association or the placement of a deed restriction, easement or similar burden on property for the maintenance of approved public site improvements to be owned, operated or maintained by the municipality, except that the prohibition of this subparagraph shall not apply to the placement of a deed restriction, easement or similar burden necessary to grant a municipality access to such approved site improvements.

(2) If the person posting a financial guarantee under this section requests a release of all or a portion of such financial guarantee, the commission or its agent shall, not later than sixty-five days after receiving such request, (A) release or authorize the release of any such financial guarantee or portion thereof, provided the commission or its agent is reasonably satisfied that the improvements for which such financial guarantee or portion thereof was posted have been completed, or (B) provide the person posting such financial guarantee with a written explanation as to the additional improvements that must be completed before such financial guarantee or portion thereof may be released.”

AGENDA ITEM V A & B

ZONING REFERRAL

- A.** Application of Edward M. Cassella, Esq. for White Gate Farm, for an amendment to the East Lyme Zoning Regulations Section 1, Section 5.2.9 and Section 25 for Farm Events.
- B.** Application of Edward M. Cassella, Esq., for White Gate Farm, for an amendment to the East Lyme Zoning Regulations, Section 1 and Section 25 for Bed and Breakfast.

Meeting of February 2, 2016
At the East Lyme Town Hall
108 Pennsylvania Avenue
Niantic CT 06357
(860) 691-4114

PROPOSED AMENDMENT TO THE EAST LYME ZONING REGULATIONS
TO ALLOW FARM EVENTS ACCESSORY TO AN AGRICULTURAL USE IN THE RU-40
DISTRICT AND FOR REVISION TO BED AND BREAKFAST REGULATIONS

JANUARY 15, 2016

1. Amendments to allow for Farm Event as accessory to Agriculture or Farm Use

Amend Section 1 – Definitions

(New)

FARM EVENT– An accessory use on a parcel of land with an Agriculture or Farm principal use, which Farm Events may include the provision of meals and recreation for guests during the event duration. Such Farm Events may include but not be limited to: Dinners at the Farm, weddings, farm education and health and wellness related events and other similar activities subject to the provisions set forth in Section 25.5.

Amend Section 5.2.9 – RU-40 Rural Districts – Special Permit Uses

(New)

5.2.9 Farm Event accessory to an existing Agriculture or Farm use.

Amend Section 25.5 – Table of Minimum Controls for Specific Special Permit

(New)

<u>USE</u>	<u>DISTRICT</u>	<u>CONTROLS</u>
Farm Events accessory to Agricultural or Farm Use	RU-40	<ol style="list-style-type: none">1. A Farm owner or operators of a Farm having more than fifty (50) acres of land may obtain a Special Permit to conduct the allowable Farm Events set forth below.<ol style="list-style-type: none">2. Permitted Farm Events:<ol style="list-style-type: none">a. <u>Dinners At The Farm</u>: A Farm dinner event with a maximum of 200 persons that occurs one (1) time per calendar year for five (5) consecutive nights subject to the requirements set forth below.b. <u>Weddings</u>: Wedding events with a maximum of 100 persons, including ceremony and/or reception, occurring a maximum of eight (8) times per calendar year subject to the requirements set forth below.

- c. Farm Education Events: Small events, classes and dinners with a maximum of twenty-five (25) persons that occur a maximum of twenty (20) times per calendar year subject to the requirements set forth below.

3. General Provisions Applicable to Farm Events.

- a. Events shall be limited to the areas as shown on an approved Special Permit, including outdoor and indoor areas of the Farm property.
- b. In no case shall the activities be conducted closer than 500' to a residential property line.
- c. All outdoor activities shall cease no later than 10:00 p.m.
- d. Outdoor lighting shall not shed light beyond the boundaries of the subject property.
- e. For each Farm Event, the owner of the property shall obtain a zoning permit from the Zoning Official and shall provide to the Zoning Official the location of the event on the property, the hours of the event and the number persons attending the event.
- f. No two Farm Events will take place simultaneously with each other.
- g. The Farm Events must cease operation and the Special Permit shall terminate should the Agriculture and Farm use cease on the property.

4. Dinners at the Farm.

- a. Following issuance of a Special Permit, a Farm owner or operator may host a Dinner at the Farm event which may be held for a maximum of five (5) consecutive nights, Wednesday thru Sunday, one (1) time per calendar year.
- b. The maximum number of guests at a Dinner at the Farm event shall not exceed two-hundred (200) persons.
- c. A designated off-street Parking Area, which may be temporary in nature, of sufficient size and suitability to accommodate the maximum number of persons attending the Dinner at the Farm event shall be provided and shall be shown on the Special Permit. Such Parking

Areas may be sited on an adjacent property with written consent of the property owner.

- d. Tents and portable restrooms may be utilized on the grounds.
- e. Outdoor amplification of music shall be prohibited.
- f. Non-musical outdoor amplification shall cease by 10:00 pm and shall be subject to the provisions of the Town of East Lyme Noise Control Ordinance, as may be amended from time to time.

5. Weddings.

- a. A Farm owner or operator may obtain a special permit to host Wedding events at the Farm a maximum of eight (8) times per year.
- b. Weddings shall be held on either Saturday or Sundays before a legal holiday (e.g. the Sunday Memorial Day or Labor Day).
- c. The maximum number of guests at an event shall not exceed one-hundred (100) persons.
- d. A designated off-street Parking Area, which may be temporary in nature, of sufficient size and suitability to accommodate the maximum number of persons attending the Wedding event shall be provided and shall be shown on the Special Permit. Such Parking Areas may be sited on an adjacent property with written consent of the property owner.
- e. Tents and portable restrooms may be utilized on the grounds.
- f. Outdoor amplification must cease by 10:00 pm and shall be subject to the provisions of the Town of East Lyme Noise Control Ordinance, as may be amended from time to time.

6. Farm Education Events.

- a. A Farm owner or operator may obtain a Special Permit to host Farm Education and Health and Wellness Events, such as cooking classes, seminars, programs, Farm to Table dinners, movies, etc. at the Farm up to a total maximum of twenty (20) Farm Education Events per year.

- b. The maximum number of guests at an event shall not exceed twenty-five (25) persons.
- c. A designated on-site, Off-Street Parking Area shall be shown on the approved Special Permit.

2. Proposed Amendment to Bed and Breakfast Regulations

Amend Section 1 – Definitions

(Revised)

1.7 **BED AND BREAKFAST.** A private house in which a portion of the building or buildings are maintained and held out to the public as transient overnight accommodations containing no more than ~~five (5) units the number of units allowed under section 25.5, with a maximum of twelve (12) units,~~ which provide overnight accommodations to guests and which provides meals only for registered overnight paying guests.

Amend Section 25.5 – Table of Minimum Controls for Specific Special Permit

(Revised)

Bed & Breakfast	<u> </u> R-12, R-10	1. The lot must be a minimum of 10000 square feet. There will be not less than 5000 square feet of lot area for each bedroom in the facility including those of the resident or the designated manager.
	RU-40, RU-80	2. The lot must be a minimum of 40,000 square feet for RU 40 and a minimum of 80,000 square feet for RU 80. There will be not less than 5,000 square feet of lot area for each bedroom in the facility including those of the resident or the designated manager.
	<u> </u>	3. In all districts, No retail facilities are permitted.
	CA, CB, CM	4. In the CA, CB and CM district, The Owner of the facility must reside on the premises. In all other districts, the Owner of the facility or a

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designated manager must reside on the premises. In the event a manager is designated, the Owner must provide an affidavit to the Zoning Enforcement Officers/Official which includes the name and contact information for the designated manager.

All districts

5. Rooms must have bath facilities separate from those of residents.
6. Parking Area must be screened from adjoining properties with appropriate fencing or landscaping. A landscaped buffer of not less than ten feet must be provided. In lieu of a fence, plantings within the buffer must provide for six-foot vertical growth with sufficient density to protect adjoining properties.
7. There will be a maximum stay of seven nights for guests of the facility.

CA, CB, CM
All districts

- ~~8.~~ 1 Parking Space per bedroom is required.
9. Units may be located on adjacent properties provided that the ownership of the two adjacent properties is in the same name.

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Town of



East Lyme

108 Pennsylvania Ave
Niantic, Connecticut 06357

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P.O. Drawer 519

Department of Planning &
Inland Wetlands

Gary A. Goeschel II, Director of Planning /
Inland Wetlands Agent

MEMORANDUM

To: East Lyme Planning Commission

From: Gary A. Goeschel II, Director of Planning

Date: January 30, 2015

Re: 8-23 Zoning Referral for a Proposed Regulation Change to Section 1, 4 and 25.5 to allow a retreat/event center, ancillary to an agricultural use, in the RU-40 Zone District.

Upon review of the above referenced Zoning Referral I offer the following:

The proposed regulation proposes to allow a Retreat/Event Center as an ancillary use to an agricultural or farm use on properties 25-acres or more that are primarily used for agricultural purposes. The proposed regulation defines a Retreat/Event Center as "A facility located on a farm property, used for meetings, conferences, seminars, or special events and which may provide meals, housing, and recreation for guests during the period of the retreat program or special event. Such facility may be rented by individuals or groups to accommodate private functions including, but not limited to: Dinners at the Farm, weddings, family reunions and other similar celebrations."

Map 1 (attached) depicts the parcels of 25-acres or more where the proposed use could occur. There are approximately 51 properties within the RU-40 Zone that meet this criterion.

As an **ancillary** use to an agricultural operation the proposed regulation would, in my opinion, be consistent to the following sections of the POCD:

OBJECTIVE 2.3: To promote agricultural industries.

POLICY: Support agriculture as an important economic activity as a means to help assure a more sustainable food and resource supply and as a critical component of the traditional landscape.

**POCD
Compatibility**

The proposed regulation would clearly support and promote an agricultural industry.

Chapter 3, Section 3.5 Agriculture

3.5.2 Recommendations 1 and 5

1. East Lyme should seek out all reasonable opportunities to help commercial farms remain profitable and in business. Much more can be done to support these businesses, and therefore the town at the same time.
5. Occasional Farm Festivals should be encouraged by the town as an opportunity for farmers to display animals, crops, sell products, and offer educational demonstrations, and offer locally produced foods. There is a growing awareness of the many benefits of "eating local" –for reasons of flavor, nutrition and environmental sustainability.....

**POCD
Compatibility**

The proposed regulation would clearly provide an opportunity to help commercial farms remain profitable and in business. It would further encourage events that could offer locally produced foods.

However, although the proposed regulation would permit a Retreat/Event Center as a Special Permit Use ancillary to an agricultural or farm use, the proposed regulation does not provide adequate controls to ensure events such as meetings, conferences, seminars as well dinners, weddings, and family reunions, would not be held continuously on a daily or weekly basis. As such, the proposed use would not necessarily be considered ancillary. Instead, it could be viewed as a primary use in conjunction with a farming operation. Therefore, it doesn't appear as though the proposed use is any more different than a hotel.

A facility operating in the same fashion as a hotel within the RU-40 Zone District would, in my opinion, be inconsistent with the following section of the POCD:

Chapter 3, Section 3.1 Residential

3.1.1 Single-Family Housing, pg 48

"A final recommended change in the Zoning Regulations controlling single-family residential zones concerns the potential for inappropriate commercial uses within residential areas. The Zoning Regulations for rural residential zones (RU-40 and RU-80) contain some commercial uses that are permitted either outright or by special permit. Most of these permitted uses are appropriate for rural and semi-rural areas (e.g., veterinarian's offices, green houses, agriculture, and nurseries). While the Zoning Commission has eliminated the permitting of hotels and motels, it is critical to delete and discourage other incompatible land uses in these zones.

**POCD
Compatibility**

The proposed use would clearly be in opposition to actions taken by the Zoning Commission. In addition, the proposed regulation would potentially permit an inappropriate commercial uses within the RU-40 Rural Residential Zoning District.

As it appears the intent of the proposed regulation is to legitimize an activity that has been occurring on a regular basis at White Gate Farm, the Commission must consider how the proposed

regulation would impact the entire RU-40 Zoning District. It is my opinion that the spirit of the proposed regulation is consistent with the POCD. However, as a proposed Special Permit Use ancillary to an agricultural or farm use, it is my opinion additional controls would be needed to ensure the use would remain ancillary or customarily incidental to the agricultural use.

In an effort to support agriculture as an important economic activity as a means to help assure a more sustainable food and resource supply and as a critical component of the traditional landscape as well as promote agricultural industries (Objective 2.3 of the POCD), I would recommend the Zoning Commission consider a Special Event Permit versus a Retreat/Event Center.

In my opinion, controls on a Special Event Permit could be applied such that the use would be less of a continuously occurring commercial use and more of an ancillary use as events would be less frequent and more sporadic and permitted on an individual case by case basis. In addition, I would think a Special Event Permit for the activities defined in the proposed regulation could be extended to include farms and agricultural uses in the RU 80 Zoning District (see Map 2 attached).

If events are held more or less annually, monthly or bi-monthly, I would think a less commercially intense regulation where Agricultural uses (Farms) could seek a Special Event permit for each special event or possibly a series of events to be held throughout the year would be sufficient. Limiting the number of events/permits that could be issued in a given year so as not to create a hotel like environment within a rural residential zone could allow farms to host various events while ensuring the use does not adversely impact the zone by becoming a continuous commercial operation. Other controls could include a Traffic report based on the number of trips generated (with 200 guests as proposed, if you assume each one is driving that's 200 parking spaces needed. When a commercial development along a state highway proposes 200 parking spaces, they are required to submit plans to State Traffic Commission for permitting). The volume of traffic associated with 200 vehicles or a hotel type of use would be significant for any of East Lyme's rural roads especially if it was to be experienced on a weekly or daily basis.

Although it may not be the applicant's intent to hold weekly or daily events, the proposed regulation as written would permit it. If the proposed use is to be permitted within the RU 40 residential zone, it is important the language be crafted such that it will support not only agricultural uses but, will maintain community character and not adversely impact rural residential uses.

Therefore, I offer the following resolution:

BE IT RESOLVED:

Pursuant to Section 8-3A of the Connecticut General Statutes, the Planning Commission of the Town of East Lyme, exercising its authority and having reviewed the proposal for a Text Amendment, referenced above, **FINDS** the aforesaid proposal **CONSISTENT/INCONSISTENT** with the 2009 Plan of Conservation and Development as amended, based on the following findings and (with the following comments and or recommendations):

- 1.
- 2.
3. Etc.....

Town of

P.O. Drawer 519

**Department of Planning &
Inland Wetlands**

*Gary A. Goeschel II, Director of Planning /
Inland Wetlands Agent*



East Lyme

108 Pennsylvania Ave
Niantic, Connecticut 06357

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MEMORANDUM

To: East Lyme Planning Commission
From: Gary A. Goeschel II, Director of Planning
Date: February 2, 2016
Re: 8-23 Zoning Referral for a Proposed Regulation Change to Section 1 - Definitions, Section 5.2.9 – RU-40 Rural Residential Districts, and Section 25.5 – Table of Minimum Controls for Specific Special Permits to allow farm events as an accessory use on a parcel of land with an Agricultural or Farm principal use, in the RU-40 Zone District.

Upon review of the above referenced Zoning Referral I offer the following:

The East Lyme Zoning Regulations define a farm as follows:

“A tract of land used for the necessary farm buildings in connection with the raising and/or caring for agricultural, livestock, poultry, or dairy products, but excluding the raising of fur bearing animals and the maintaining of dog kennels.”

The proposed regulation proposes to allow by Special Permit a “farm event” as an accessory use on a parcel of land with an agricultural or farm use as a principle use provided the farm is 50-acres or more. The proposal defines a “farm event” as follows:

“An accessory use on a parcel of land with an Agriculture or Farm principal use, which Farm Events may include the provision of meals and recreation for guests during the event duration. Such Farm Events may include but not be limited to: Dinners at the Farm, weddings, farm education and health and wellness related events and other similar activities subject to the provisions set forth in Section 25.5.”

According to the proposed Controls which a Farm owner or operator of a farm having more than 50-acres of land may apply for a Special Permit to conduct allowable farm events which include Dinners At The Farm, Weddings, and Farm Education Events. I would note, the proposed definition does not limit “farm events” to just these types of events rather the proposed Controls do.

Map 1 (attached) depicts the parcels of 50-acres or more where the proposed use could occur within the RU-40 and RU-80. There are approximately 6 properties within the RU-40 Zone that meet this criterion and 20 in the RU-80.

As an ancillary use to an agricultural operation the proposed regulation would, in my opinion, be consistent to the following sections of the POCD:

OBJECTIVE 2.3: To promote agricultural industries.

POLICY: Support agriculture as an important economic activity as a means to help assure a more sustainable food and resource supply and as a critical component of the traditional landscape.

**POCD
Compatibility**

The proposed regulation clearly supports and promotes an agricultural industry.

Chapter 3, Section 3.5 Agriculture

3.5.2 Recommendations 1 and 5

1. East Lyme should seek out all reasonable opportunities to help commercial farms remain profitable and in business. Much more can be done to support these businesses, and therefore the town at the same time.
5. Occasional Farm Festivals should be encouraged by the town as an opportunity for farmers to display animals, crops, sell products, and offer educational demonstrations, and offer locally produced foods. There is a growing awareness of the many benefits of "eating local" –for reasons of flavor, nutrition and environmental sustainability.....

**POCD
Compatibility**

The proposed regulation would clearly provide an opportunity to help commercial farms remain profitable and in business. It would further encourage events that could offer locally produced foods.

As the proposed regulation would permit a Farm Events as accessory uses to an Agricultural or Farming operation upon obtaining a Special Permit and a Zoning Permits from the Zoning Official for each event, the proposed regulation provides a significant amount of control over where the three types of farm events may be conducted but also the frequency to ensure events such as meetings, classes/conferences, seminars as well dinners, weddings, and family reunions, would not be held continuously on a daily or weekly basis. As such, the proposed use could be viewed in conjunction with a farming operation as an accessory use.

Chapter 3, Section 3.1 Residential

3.1.1 Single-Family Housing, pg 48

"A final recommended change in the Zoning Regulations controlling single-family residential zones concerns the potential for inappropriate commercial uses within residential areas. The Zoning Regulations for rural residential zones (RU-40 and RU-80) contain some commercial

uses that are permitted either outright or by special permit. Most of these permitted uses are appropriate for rural and semi-rural areas (e.g., veterinarian's offices, green houses, agriculture, and nurseries). While the Zoning Commission has eliminated the permitting of hotels and motels, it is critical to delete and discourage other incompatible land uses in these zones.

**POCD
Compatibility**

The proposed use would be in opposition to actions taken by the Zoning Commission. In addition, the proposed regulation would potentially permit an inappropriate commercial uses within the RU-40 Rural Residential Zoning District.

As it appears the intent of the proposed regulation is to legitimize an activity that has been occurring on a regular basis at White Gate Farm, the Commission must consider how the proposed regulation would impact the entire RU-40 Zoning District. It is my opinion that the spirit of the proposed regulation is consistent with the POCD. However, as a proposed Special Permit Use ancillary to an agricultural or farm use, it is my opinion the proposed controls would better ensure the use would remain ancillary or customarily incidental to the agricultural or farm use.

In a previous memo dated January 30, 2015, I had suggested the Zoning Commission, in an effort to support agriculture as an important economic activity as a means to help assure a more sustainable food and resource supply and as a critical component of the traditional landscape as well as promote agricultural industries (Objective 2.3 of the POCD), consider a Special Event Permit versus a Retreat/Event Center.

In my opinion, the proposed controls on the Special Event Permit are being applied such that the accessory uses would be less of a continuously occurring commercial use and more of an ancillary use as events, which would be less frequent and more sporadic as well as permitted on an individual case by case basis. In addition, I would think a Special Event Permit for the activities defined in the proposed regulation could be extended to include farms and agricultural uses in the RU 80 Zoning District (see Map 2 attached).

It's also worth noting, other controls could include a Traffic report based on the number of trips generated (with 200 guests as proposed, if you assume each one is driving that's 200 parking spaces needed. When a commercial development along a state highway proposes 200 parking spaces, they are required to submit plans to State Traffic Commission for permitting). The volume of traffic associated with 200 vehicles or a hotel type of use would be significant for any of East Lyme's rural roads especially if it was to be experienced on a weekly or daily basis.

Therefore, I offer the following resolution:


BE IT RESOLVED:

Pursuant to Section 8-3A of the Connecticut General Statutes, the Planning Commission of the Town of East Lyme, exercising its authority and having reviewed the proposal for a Text Amendment, referenced above, **FINDS** the aforesaid proposal (choose) **CONSISTENT/INCONSISTENT** with the 2009 Plan of Conservation and Development as amended, based on the following findings and (with the following comments and or recommendations):

- 1.
- 2.
3. Etc.....

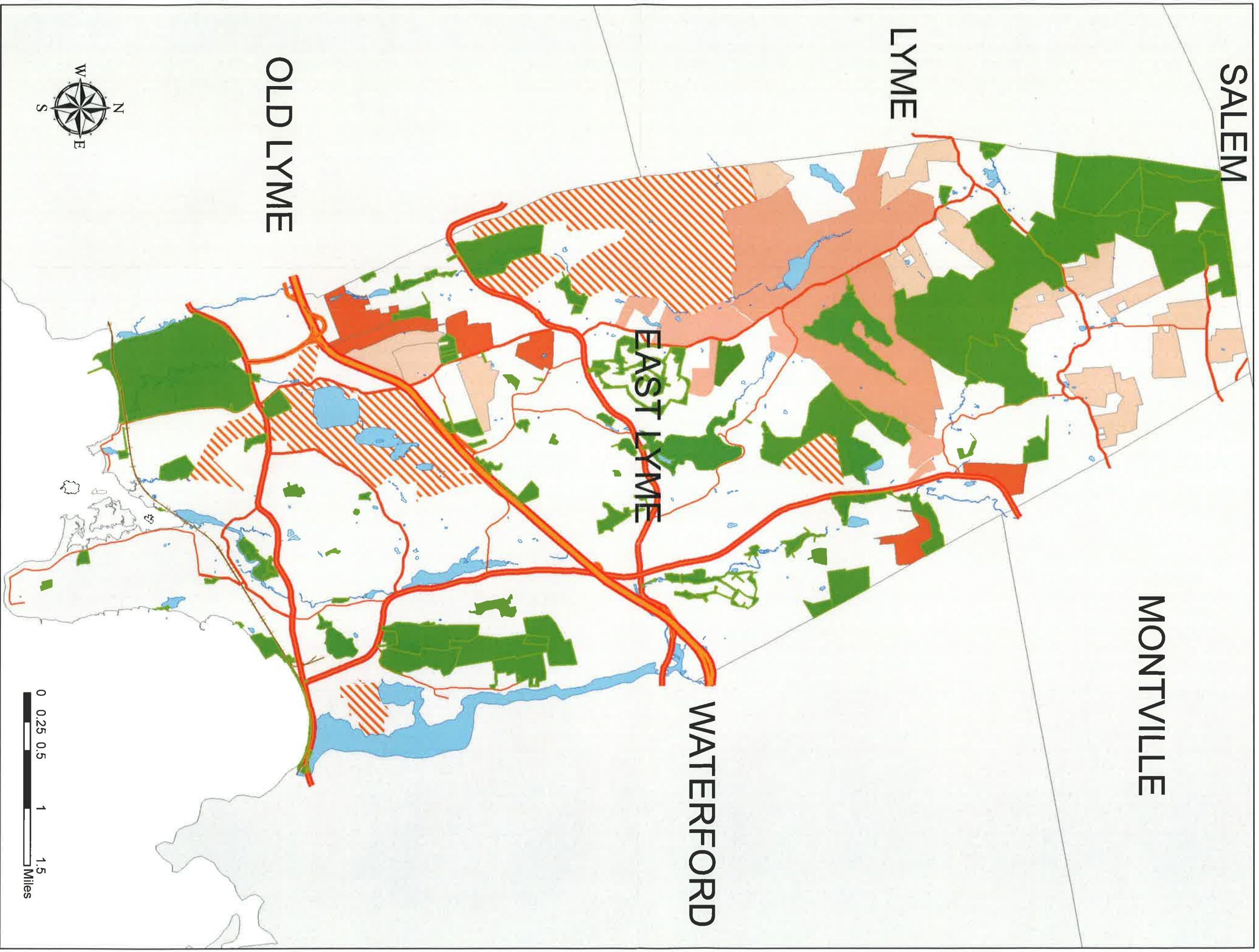


MAP 1
RU-40 and RU-80
Zoned Parcels
Greater Than 25
Acres

 **Town of East Lyme**
 Department of Planning
 February 2016

Disclaimer:

Although every effort has been made to ensure that the spatial data on any map that is produced is of the highest accuracy and quality, it is nevertheless only appropriate for planning purposes. The information, as presented, is not intended for the legal interpretation of boundary or property lines, either municipal or private.



MAP 2
RU-40 and RU-80
Zoned Parcels
Greater Than 50
Acres

Town of East Lyme
 Department of Planning
 February 2016

Disclaimer:

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