

Town of

P.O. Drawer 519
Zoning Department



East Lyme

108 Pennsylvania Ave
Niantic, Connecticut 06357

(860) 691-4114

Fax (860) 691-0351

August 17, 2020

Kirk Scott, Chairman
East Lyme Planning Commission
Town of East Lyme
PO Box 519
Niantic, CT 06357

RE: Referral/Text Amendment Proposal

Dear Mr. Scott,

I am writing to refer the following application for your review and comment in accordance with Section 8-3 a (a), (b) of chapter 124 of the Connecticut General Statutes.

Application of Landmark Development Group, LLC and Jarvis of Cheshire, LLC c/o Timothy Hollister, Shipman & Goodwin, LLP for a text amendment revision of Section 32 to replace Preliminary Site Plan/Final Site Plan with "Master Plan" procedure as used in Gateway Development.

The Zoning Commission has scheduled a public hearing for **October 1, 2020**. Please forward any comments for inclusion into the public hearing record. If you have any questions please do not hesitate to contact the Zoning Commission staff person, Mr. Mulholland.

Sincerely,



Terence Donovan
Secretary, East Lyme Zoning Commission

TD/jld

Town of East Lyme

PO Box 519
Niantic, CT 06357
(860) 691-4114
Fax: (860) 691-0351

Zone TA Permit # _____

Date Entered into ZTA Log _____

APPLICATION FOR ZONING REGULATION TEXT AMENDMENT

Date of Application: June 26, 2020

Applicant's Name: Landmark Development Group, LLC and Jarvis of Cheshire, LLC

c/o Timothy S. Hollister, Shipman & Goodwin LLP

Applicant's Address: One Constitution Plaza, Hartford, CT 06103 Telephone: (860) 251-5601

Text Amendment of Section #: 32

DESCRIPTION OF TEXT AMENDMENT OF ZONING REGULATIONS REQUESTED {must comply all other applicable Zoning Regulations of the Town of East Lyme}:

Revision of Section 32 to replace Preliminary Site Plan/Final Site Plan with

"Master Plan" procedure, as used in Gateway development.

Signature of Applicant: Timothy S. Hollister, Attorney-in-fact for applicant.

Below this line for Office Use Only:

Attach a copy of what is being changed, omitted or added to the Zoning Regulations.

AMENDMENT PROPOSAL ATTACHED YES NO

PERMIT FEE: TEXT AMENDMENT \$300.00

STATE FEE: \$60.00

CHECK #: _____

TOTAL DUE: \$ _____

At its meeting on the _____ day of _____, _____, the East Lyme Zoning Commission voted and accepted the above referenced Text Amendment to the Town of East Lyme Zoning Regulations.

Dated: _____

Matthew Walker, Chairman
East Lyme Zoning Commission

**APPLICATION OF LANDMARK DEVELOPMENT
GROUP LLC AND JARVIS OF CHESHIRE LLC
FOR AMENDMENT TO EAST LYME
ZONING REGULATIONS § 32,
AFFORDABLE HOUSING DISTRICT**

June 23, 2020

Guy Hesketh
ghesketh@fahesketh.com
Scott Hesketh
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F. A. Hesketh & Associates, Inc.
6 Creamery Brook
East Granby, CT 06026
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Timothy S. Hollister
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One Constitution Plaza
Hartford, CT 06103-1919
(860) 251-5000

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June 19, 2020

1. Transmittal and overview letter from Shipman & Goodwin LLP
2. Existing § 32, Affordable Housing District, 2013
3. Proposed Revised Affordable Housing District Regulation, June 2020

SUBMITTED SEPARATELY

Application Fee $\$300 + \$60 = \$360$

TAB 1



Timothy S. Hollister
Phone: (860) 251-5601
Fax: (860) 251-5318
thollister@goodwin.com

June 23, 2020

HAND DELIVERY

Mr. Matthew Walker, Chair,
and Commission Members
Zoning Commission
Town of East Lyme
108 Pennsylvania Avenue
P. O. Box 519
Niantic, CT 06357

Re: Application of Landmark Development Group LLC and Jarvis of Cheshire LLC for Amendment to East Lyme Zoning Regulations § 32, Affordable Housing District

Dear Chair Walker and Commission Members:

On behalf of our clients Landmark Development Group LLC and Jarvis of Cheshire LLC (collectively, "Landmark"), we are submitting this application to amend § 32 of the East Lyme Zoning Regulations, in connection with a proposed multi-family residential development, with an affordable housing component, on Calkins Road in East Lyme.

The purpose of this regulation amendment is to revise the affordable housing development process that is permitted by § 32 to use the Master Development Plan sequence and criteria that were used for the "Gateway" development on the north side of I-95, instead of the Preliminary / Final Site Plan process in the current regulations, which this Commission declined to follow when Landmark applied for a zone change and Preliminary Site Plan approval in 2015.

Background

Landmark and its affiliate Jarvis, located in Middletown, Connecticut, purchased the 236 acres of land adjacent to Calkins Road in 1998 in large part because it is mostly within the town's sewer district; was zoned for residential development; abuts to the west a large, state-sponsored, sewer, affordable housing development known as "Deerfield"; has been turned down several times by the Town and the State for open space acquisition; and is surrounded by a combination of residential development (the "Golden Spur" to the northeast and several neighborhoods to the south), and by open space, making it ideal for residential use. Calkins Road, River Road, and Hill Road are public streets providing access from Route 1. Landmark's parcel has frontage on a section of Route 1 through which East Lyme's Water and Sewer Commission had previously approved construction of a sewer extension.

In 2005, Landmark filed an application for residential development under General Statutes § 8-30g, the affordable housing statute. This Commission denied that application in 2007, and Landmark appealed. In October 2011, a Superior Court judge rejected most of this Commission's reasons for denying Landmark's application, and remanded with direction to the Commission to adopt the regulations proposed by Landmark, with certain revisions, and with direction to Landmark to facilitate further review by laying out the parameters and infrastructure of its proposed site plan, and demonstrating that the preliminary layout will not have adverse environmental impacts. As to the zone change, the Court held that the Commission could not limit the proposed rezoning to the sewer district.

Regarding Landmark's preliminary site plan, based in large part on the Commission's previous processing and conditional approval of a 600-unit development called Darrow Pond (ultimately, not constructed), Judge Frazzini directed that the availability of sewer, water, and traffic access could be addressed by condition of approval. To guide the Commission's ongoing § 8-30g application and review process, the Court upheld the basic elements of the preliminary site plan, encouraged open space preservation.

Judge Frazzini also specifically addressed the driveway from the residential units to the property's entrance onto River Road and Calkins Road; the driveway is the only part of the development plan that crosses within the coastal management area. The Court observed (at 93-94) that both the Coastal Management Act and East Lyme's coastal regulations exempt driveways from coastal impact review, and that even DEEP, which had submitted a letter about potential coastal impacts, had not mentioned the driveway. Thus, the Court overruled the Commission on coastal resource impacts from the driveway, while noting that a final engineering of the driveway would be part of a detailed site plan.

In June 2012, Landmark took two steps in response to the Court's remand: proposing a final AHD regulation, and applying to the Water and Sewer Commission for confirmation of public sewer system capacity to serve a multi-family development. In December 2012, this Commission adopted a revised AHD regulation, with one provision to which Landmark objected.

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The parties thereafter worked out a settlement, and the Superior Court approved settlement of the final AHD regulation in April 2013. That regulation is attached at Tab 2. Landmark also applied for sewer capacity.

In March 2015, Landmark applied to this Commission to rezone 123 acres of its 236 acre parcel from RU-120, a zone that allows as-of-right single-family homes on lots of three acres or more (which could yield up to 60 luxury homes), to Affordable Housing Development under § 32. The rezoning proposal was accompanied by a "Preliminary Site Plan" that:

- complied with Judge Frazzini's 2011 decision and remand orders;
- showed the proposed residential buildings clustered within a 36± acre area located at the western / uphill side of the property, in an area where sewer service is allowed by regulation, outside the coastal boundary, adjacent to Deerfield, and 650 to 900 feet from the Niantic River;
- showed a maximum residential unit density and layout that complied with the dimensional requirements of the AHD regulation;
- provided all of the information listed in § 32.9 of the AHD regulation for rezoning and a Preliminary Site Plan, including the physical feasibility of the proposed rezoning, density, and layout, by confirming the location / routes of public water and sewer lines and stormwater management components; and updating traffic and emergency vehicle access to show that there has been no change to these plan aspects since the court decision in 2011; and
- committed the balance of the rezoning acreage, 87 acres – 70 percent of the rezone and 36 percent of the total site – to open space.

As Landmark explained to the Zoning Commission during hearings in 2015, however, its application, while detailed as to parameters, boundaries, locations, and routes as required by § 32's provisions for *Preliminary* Site Plans, was not required to be accompanied by a fully engineered set of plans.

Nonetheless, at that point, the Commission and its staff began to dispute both what a Preliminary Site Plan is under § 32, and what the § 32 process requires. The Commission claimed that Landmark had not submitted the information listed in § 32.9.1 for Preliminary Site Plans:

- C. "location of wetlands, watercourses, and slopes in excess of twenty-five percent;"
- F. sewage disposal and water supply locations and systems, ownership, operation, and maintenance;
- G. preliminary stormwater management plan;
- H. coastal zone resources information;
- I. traffic impact statement or report; and
- O. statement describing any impact on public health and safety, including emergency services.

But Landmark submitted all of this information. The location of wetlands and steep slopes was shown. The location of sewer and water lines was shown. The preliminary stormwater management plan was provided. Coastal resources information was not required because none of the 36 acre residential development area was within the coastal zone, and the driveway was already designated as exempt. The updated traffic study was submitted, and a statement about safety impacts. A compliance chart documenting all of this was provided.

The Commission's claims of missing information stemmed from its refusal to recognize the difference stated in § 32 between a Preliminary Site Plan and a Final Site Plan. For example, the Commission received a map showing the location of wetlands, but then disputed the wetlands line identification in one small corner of the PSP, even though the Zoning Commission has no authority and no need at the PSP stage to resolve a minor discrepancy about a wetlands boundary delineation. The Commission refused to recognize that the application before it was not and should not be required to provide engineering details.

Notwithstanding its claims that Landmark had not submitted required information, the Commission did not declare the application incomplete; to the contrary, it acted on the application, reducing the proposed rezoning acreage from 123 to 36 acres, a transparent effort to reduce the maximum potential density from 840 units to approximately 360 units. In doing so, the Commission distorted the requirements and purpose of the Preliminary Site Plan rules by subjecting the Preliminary Plan to Final Site Plan standards, by imposing a variety of premature, *ad hoc* and *ultra vires requirements*, and speculative approval conditions.

The Commission's 2015 action also was not based on accurate description of Landmark's property. For example, Landmark's 236 acres is not "a steep, rocky, largely undeveloped expanse" on a "rugged hilly wilderness," or a parcel that the Town of East Lyme has "worked to preserve" as open space. In fact, the western portion of the 236 acres is relatively flat, outside

the coastal zone, with minimal wetlands; as to the remaining property, the vast majority is gently sloping and more than capable of support the type of development and density proposed. In addition to being within the sewer district, zoned for single-family homes on three-acre minimum lots, and abutting a large multi-family, state-sponsored affordable housing development, this 236-acre parcel was rejected several times in the 1990's by the State Department of Environmental Protection for open space acquisition because of "the intensive development in the surrounding area" and a lack of public access to the site.

Overall, the Commission in 2015 misstated the AHD regulation. The Commission essentially asserted that an application for a Preliminary or Final Site Plan is completely discretionary. In addition, the Commission asked why Landmark applied to rezone 123 acres while proposing to limit residential buildings to less than 36 acres, apparently overlooking the obvious answer, which was clustering units so as to create substantial open space.

The Commission also in 2015 acted contrary to the AHD regulation by demanding that Landmark file a fully-engineered site plan, with a high-intensity wetlands soil survey and other detailed "environmental" data, as a condition of proceeding with rezoning and the Preliminary Site Plan.

Proposed Text Amendment to § 32

Development of a multi-family housing with an affordable component requires, among other things, clear procedural rules that do not allow for deviation. To address and avoid in the future the distortions that occurred in the 2015 process, Landmark now proposes an amendment to § 32, see Tab 3, attached. This text amendment is based on and builds upon the parameters approved in the 2011 court decision and the sewer capacity obtained from the Water and Sewer Authority in 2018. The amendment contains minor revisions and improvement to provisions regarding building height, setbacks and buffers. More importantly, this amendment, in § 32.9, proposes a Master Plan process just like the one used successfully and seamlessly by this Commission for the Gateway development from 2008 to 2015, instead of the PSP / FSP process in the current regulation. **The intent of the Master Plan process as used with Gateway is to make it clear that the first step is for the applicant to layout and the Commission to review for impact the macro elements of the development – building layout, building height, availability of infrastructure, and feasibility of emergency vehicle access.** After approval of a Master Plan, a site plan application follows. Under the Master Plan process, if the site plan substantially conforms to the previously approved Master Plan macro elements, then site plan approval should be non-discretionary. In other words, the intent of this proposed amendment is to prohibit and avoid the demands for unnecessary and costly engineering at the first stage, as the Commission did in 2015 in its denial. The engineering details that flesh out the Master Plan elements are clearly deferred to the later site plan stage; the first stage will be review and approval of the Master Plan elements only, to determine whether

June 19, 2020

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they meet what is in the Master Plan regulation and § 8-30g standards. When the East Lyme Zoning Commission approved the Gateway apartment development it demonstrated a familiarity and understanding of how the Master plan concept works and should be administered, and therefore has a clear basis and reason to utilize that process for Landmark's development.

We request that this application be scheduled for public hearing. Thank you.

Very truly yours,



Timothy S. Hollister

TSH:ekf
Attachments

c: Landmark Development Group LLC (w/ att.)
F. A. Hesketh & Associates, Inc. (w/ att.)

TAB 2

SCHEDULE A

PROPOSED AMENDMENTS TO EAST LYME ZONING REGULATIONS

Section 32 of the Zoning Regulations of the Town of East Lyme shall be amended to read as follows:

SECTION 32: - AFFORDABLE HOUSING DISTRICT

- 32.1 GENERAL DESCRIPTION AND PURPOSE: A district designed to provide for, encourage and accommodate affordable housing, as defined by the Connecticut General Statutes Section 8-39a and Section 8-30g, *et seq.*
- 32.2 DESIGNATION OF AFFORDABLE HOUSING DISTRICT: An Affordable Housing District (AHO) may be proposed for and located on parcels of land, or combinations of adjacent parcels of land, containing at least ten (10) acres.
- 32.3 PERMITTED USES: The following uses of buildings and/or land and no others shall be permitted subject to site plan approval in accordance with Section 24:
- 32.3.1 An affordable housing development, as defined in Connecticut General Statutes Section 8-30g. The development may consist of single-family or multi-family dwellings arranged on single or multiple lots within the District.
- 32.3.2 Accessory uses customarily incidental to the above permitted uses.
- 32.4 DIMENSIONAL AND BULK REGULATIONS
- 32.4.1 LOT SIZE: Lots for single-family dwellings shall contain no less than ten thousand (10,000 square feet). Lots for multi-family dwellings shall contain no less than ten (10) acres.
- 32.4.2 HEIGHT: The maximum height of single-family detached dwellings shall be thirty (30) feet.
- 32.4.3 MULTI-FAMILY UNIT DENSITY: The maximum number of multi-family dwelling units permitted on any lot shall be as follows:
- | | |
|---------------------|---|
| 1 bedroom: | 5,445 square feet / unit (8 units / acre) |
| 2 bedroom: | 7,260 square feet / unit (6 units / acre) |
| 3 or more bedrooms: | 8,712 square feet / unit (5 units / acre) |

On lots to which public sewer and water facilities are not available, the maximum density of multi-family dwelling units shall be one unit per ten thousand (10,000) square feet of land.

- 32.4.4 FRONTAGE: Each lot and/or land area shall have not less than fifty (50) feet frontage.
- 32.4.5 SETBACKS: No new building or structure shall be placed less than one hundred fifty (150) feet from the street line or less than one hundred (100) feet from the boundary of any other lot or parcel outside of the AHO, unless such lot or parcel is already zoned for multi-family residential uses.
- 32.4.6 BUFFERS: A suitable landscaped buffer strip not less than one hundred (100) feet wide shall be provided along the boundary of any other lot or parcel outside of the AHO, unless such lot or parcel is already zoned for multi-family residential uses, in which case the Commission may provide for a buffer strip of not less than twenty-five (25) feet from the adjacent boundary line.
- 32.4.7 BUFFER AREA: There shall be provided a landscaped side or rear yard buffer area of at least one hundred (100) feet in width adjacent to the boundary of any other lot or parcel outside of the AHO, unless such lot or parcel is already zoned for multi-family residential uses, in which case the Commission may provide for a buffer strip of not less than twenty-five (25) feet from the adjacent boundary line. All buffer areas shall be planted or preserved in a natural state in a mixture of evergreen and deciduous trees and shrubs and shall be maintained in proper order so as to protect adjacent properties and present a reasonably opaque, natural barrier to a height of ten (10) feet.
- 32.4.8 GROUPING: The minimum distance between any two (2) structures shall be twenty-four (24) feet, unless the Commission finds that the design of the proposed development would be benefited by closer spacing.
- 32.4.9 YARDS
 - Front Yard: 25 feet
 - Side Yard: 25 feet
 - Rear Yard: 50 feet
- 32.4.10 LOT COVERAGE: The total lot coverage of all buildings and structures on any lot shall not be greater than thirty (30) percent of the lot area.

32.5 OFF-STREET PARKING: Off-street parking and loading spaces shall be provided in accordance with the provisions of Section 22 of these regulations. Spaces within garages shall count towards the required minimum number of spaces.

32.6 OPEN SPACE: For any affordable housing development, an area equal to ten (10) percent of the total lot area shall be set aside as open space. Buffer strips required pursuant to Section 32.4.6 shall be included in the computation of open space.

32.7 AFFORDABLE HOUSING RESTRICTIONS

Prior to the issuance of any building permit for a development approved pursuant to this Article, there shall be recorded in the East Lyme land records a document entitled "Affordable Housing Development Restrictions," executed by the owner of the AHO; dated, witnessed, and acknowledged in the manner required for deeds; containing a real estate description of the AHO and containing substantially the following language in accordance with General Statutes Section 8-30g *et seq.*:

Not less than thirty (30) percent of the dwelling units of a development in the AHO will be conveyed by deeds containing covenants or restrictions ("deed restrictions") which shall require that such dwelling units shall be sold or rented at or below prices which will preserve the units as housing for which persons pay thirty (30) percent or less of their annual income, where such income is less than or equal to eighty (80) percent of the median income. Such restrictions shall remain in force for at least forty (40) years after the initial occupation of the proposed development.

Within the AHO herein described, not less than fifteen (15) percent 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 (60) percent of the median income. The remainder of the dwelling units conveyed subject to the deed restrictions shall be sold or rented to persons and families whose income is less than or equal to eighty (80) percent of the median income.

"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 East Lyme is located, as determined by the United States Department of Housing and Urban Development.

TAB 3

SECTION 32

Proposed Amendment, April 2020

AFFORDABLE HOUSING DISTRICT

32.1 GENERAL DESCRIPTION AND PURPOSE: A district designed to provide for, encourage and accommodate market rate and affordable housing as a "set-aside development," as defined by Connecticut General Statutes Section 8-30g.

32.2 DESIGNATION OF AFFORDABLE HOUSING DISTRICT: An Affordable Housing District (AHD) may be proposed for and located on parcels of land, or combinations of adjacent parcels of land, containing at least ten (10) acres.

32.3 PERMITTED USES: The following uses of buildings and/or land and no others shall be permitted subject to site plan approval in accordance with Section 24:

32.3.1 An affordable housing development, as defined in Connecticut General Statutes Section 8-30g. The development may consist of single-family or multi-family dwellings arranged on single or multiple lots within the District.

32.3.2 Accessory uses customarily incidental to the above permitted uses.

32.4 DIMENSIONAL AND BULK REGULATIONS

32.4.1 **LOT SIZE:** Lots for single-family dwellings shall contain no less than ten thousand (10,000) square feet. Lots for multi-family dwellings shall contain no less than ten (10) acres.

32.4.2 **HEIGHT: The maximum height from first floor finish elevation to the roof soffit shall be:**

A. Single Family Detached Dwellings: thirty-five (35) feet;

B. Townhouse or Garden Style Dwellings: forty (40) feet; and

C. Multi-family Dwellings serviced by an Elevator: fifty (50) feet.

32.4.3 **MULTI-FAMILY UNIT DENSITY:** The maximum number of multi-family dwelling units permitted on any lot shall be as follows:

1 bedroom: 5,445 square feet / unit (8 units / acre);

2 bedrooms: 7,260 square feet / unit (6 units / acre); and

3 or more bedrooms: 8,712 square feet / unit (5 units / acre).

- 32.4.4 **FRONTAGE:** Each lot and/or land area shall have not less than fifty (50) feet frontage.
- 32.4.5 **SETBACKS:** No new building or structure shall be placed less than one hundred fifty (150) feet from the street line or less than one hundred (100) feet from the boundary of any other lot or parcel outside of the AHD, unless such lot or parcel is (1) already zoned for multi-family residential uses; or (2) is designated as open space, in which case the Commission may require setbacks of not less than twenty-five (25) feet from the adjacent boundary line.
- 32.4.6 **BUFFERS:** A suitable landscaped buffer strip not less than one hundred (100) feet wide shall be provided along the boundary of any other lot or parcel outside of the AHD, unless such lot or parcel is (1) already zoned for multi-family residential uses, or (2) is designated as open space, in which case the Commission may provide for a buffer strip of not less than twenty-five (25) feet from the adjacent boundary line.
- 32.4.7 **BUFFER AREA:** There shall be provided a landscaped side or rear yard buffer area of at least one hundred (100) feet in width adjacent to the boundary of any other lot or parcel outside of the AHD, unless such lot or parcel (1) is already zoned for multi-family residential uses, or (2) is designated as open space, in which case the Commission may provide for a buffer strip of not less than twenty-five (25) feet from the adjacent boundary line. All buffer areas shall be planted or preserved in a natural state in a mixture of evergreen and deciduous trees and shrubs and shall be maintained in proper order so as to protect adjacent properties and present a reasonably opaque, natural barrier to a height of ten (10) feet.
- 32.4.8 **GROUPING:** The minimum distance between any two (2) structures shall be twenty-four (24) feet, unless the Commission finds that the design of the proposed development would be benefited by closer spacing.
- 32.4.9 **YARDS**
- Front Yard: 25 feet;
- Side Yard: 25 feet; and
- Rear Yard: 50 feet.
- 32.4.10 **LOT COVERAGE:** The total lot coverage of all buildings and structures on any lot shall not be greater than thirty (30) percent of the lot area.

32.4.11 **TIDAL WETLANDS:** A one hundred fifty (150) feet non-disturbed buffer shall be required from tidal wetlands and watercourses.

32.5 **OFF-STREET PARKING:** Off-street parking and loading spaces shall be provided in accordance with the provisions of Section 22 of these regulations. Spaces within garages shall count towards the required minimum number of spaces.

32.6 **OPEN SPACE:** For any affordable housing development, an area equal to ten (10) percent of the total lot area shall be set aside as open space. Buffer strips required pursuant to Section 32.4.6 shall be included in the computation of open space.

32.7 **AFFORDABLE HOUSING RESTRICTIONS**

Prior to the issuance of any building permit for a development approved pursuant to this Section, there shall be recorded in the East Lyme land records a document entitled "Affordable Housing Development Restrictions," executed by the owner of the development; dated, witnessed, and acknowledged in the manner required for deeds; containing a real estate description of the development and containing substantially the following language in accordance with General Statutes Section 8-30g *et seq.*:

Not less than thirty (30) percent of the dwelling units of a development in the AHD will be conveyed by deeds containing covenants or restrictions ("deed restrictions") which shall require that such dwelling units shall be sold or rented at or below prices which will preserve the units as housing for which persons pay thirty (30) percent or less of their annual income, where such income is less than or equal to eighty (80) percent of the median income. Such restrictions shall remain in force for at least forty (40) years after the initial occupation of the proposed development.

Within the AHD herein described, not less than fifteen (15) percent 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 (60) percent of the median income. The remainder of the dwelling units conveyed subject to the deed restrictions shall be sold or rented to persons and families whose income is less than or equal to eighty (80) percent of the median income.

"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 East Lyme is located, as determined by the United States Department of Housing and Urban Development.

32.7.1 The owner of the land and buildings within the AHD may, during such forty (40) year period, change the designation of which units within the AHD shall be maintained as affordable, provided that the minimum thirty (30) percent set aside shall be maintained, and the AHD as a whole shall continue to comply with the provisions of these restrictions.

32.7.2 These restrictions may be enforced by the applicant or by the East Lyme Zoning Official or the East Lyme Housing Authority, or any other suitable town agency selected by its Board of Selectmen.

32.8 **PHASED APPROVAL**: The applicant may request an approval of the development plan to be completed in stages. The minimum amount of land to be included within any single stage of development shall be five (5) acres. Each stage shall be capable of independent existence without the completion of succeeding stages. Buffer requirements shall not apply to the common line between stages of development. Each phase must contain the required percentage of affordable units.

32.9 **GENERAL PROVISIONS**: An application for designation as an AHD may be initiated in three ways: (i) a conceptual site plan in accordance with General Statutes Section 8-30g; or (ii) an application for approval of an **AFFORDABLE HOUSING MASTER DEVELOPMENT PLAN** ("AHMDP"); or (iii) an application for approval of a Site Plan ("SP"). The Commission shall have the discretion to hold a public hearing on an application for approval of an AHMDP and/or on an application for approval of a SP.

32.9.1 **AFFORDABLE HOUSING MASTER DEVELOPMENT PLAN**: The purpose of a AHMDP is to require the submission to the Zoning Commission of information sufficient to allow it to evaluate a development plan under the standard of §8-30g, and to allow an applicant to defer, until approval is granted, completion of details and specifications required under Section 24 of these Regulations. Therefore, an AHMDP submitted with an application to rezone an eligible parcel or parcels of land as an AHD shall contain the following:

32.9.2 **MASTER PLAN ELEMENTS**

- A. An A-2 property line survey.
- B. Topographical contours at ten (10) foot intervals.
- C. Location of wetlands, watercourses, and slopes in excess of twenty-five (25) percent.
- D. General layout of all proposed buildings and structures.
- E. Areas proposed for open space and/or recreational purposes.
- F. Sewage disposal and water supply locations and system, ownership, operation, and maintenance.
- G. Preliminary storm water management plan containing only structural best management practices (roof leader discharges;

runoff from driveways, parking and sidewalks; catch basin design; bioretention basins and vegetated level spreaders); pollution prevention best management practices (roof runoff management; litter and pet waste control; driveway, parking lot and sidewalk sweeping and vacuuming; impervious / porous pavement; catch basin cleaning; bioretention basins and vegetated level spreaders; mowing; annual soil testing and conditioning; litter, debris, sediment, and plant biomass removal); and cultural practices for landscaped areas (fertilizer management, pesticide management, winter sanding operations, and emergency spill containment).

- H. Coastal zone resources information, limited to a description of coastal resources currently existing within the coastal management zone on the portion of the subject property where residential development is proposed, as depicted on the Department of Energy and Environmental Protections' Coastal Resources Map dated 1979 as revised, and excluding areas designated as proposed open space, and excluding driveways, which are exempt uses within coastal zones.
- I. Traffic impact statement or report.
- J. Preliminary design plans for all proposed buildings and structures.
- K. A table showing the number of units and number of bedrooms for each unit.
- L. An Affordability Plan containing all of the documents and information required by General Statutes Section 8-30g.
- M. A list of all coordinate permits and approvals needed by the applicant before beginning construction
- N. Soil types from the New London County Soil Survey.

32.9.3 SITE PLAN: An application for SP approval shall contain all of the information required for a AHMDP, as well as any additional information that may be required for site plan applications under Section 24 of these Regulations.

32.9.4 DECISIONS ON SITE PLAN APPLICATIONS: If the applicant submits an application for approval of an AHMDP in connection with an application for designation of an AHD, the Commission shall either approve, approve with modifications, or deny said AHMDP at the time it acts on the proposed AHD designation. If the AHMDP is approved, or approved with modifications, the applicant shall file an application for

approval of an SP, which application shall include all information required under Section 24 of these Regulations for a site plan application. If the SP substantially conforms to the AHMDP as approved, and includes all information required by Section 24 of these Regulations, the Commission shall approve the SP. If the applicant submits an application for approval of an SP in connection with an application for designation of an AHD without having first obtained AHMDP approval, the Commission shall either approve, approve with modifications, or deny said SP at the time it acts on the proposed AHD designation.

