

**EAST LYME ZONING COMMISSION  
PUBLIC HEARING I  
Thursday, SEPTEMBER 2nd, 2004  
MINUTES**

*L. Blaylock*  
EAST LYME TOWN CLERK

The East Lyme Zoning Commission held the Application of Landmark Development Group, LLC and Jarvis of Cheshire, LLC Public Hearing on September 2, 2004 at Town Hall, 108 Pennsylvania Avenue, Niantic, CT. Chairman Nickerson opened the continued Public Hearing and called it to order at 7:45 PM.

**PRESENT:** Mark Nickerson, Chairman, Ed Gada, Secretary, Norm Peck,  
Shawn McLaughlin, Pamela Byrnes, Rosanna Carabelas,

**ALSO PRESENT:** Attorney Michael Zizka, Representing the Applicant  
Glenn Russo, Applicant & Principal Landmark Development  
Attorney Edward O'Connell, Town Counsel  
Attorney Paul Geraghty, representing the Intervenors  
Court Stenographer, retained by the EL Zoning Commission  
Sharat Kalluri, PE Wilbur Smith Associates  
Meg Parulis, Planning Director  
William Mulholland, Zoning Official  
Rose Ann Hardy, Ex-Officio, Board of Selectmen  
Marc Salerno, Alternate  
William Dwyer, Alternate  
William Henderson, Alternate

**ABSENT:** No One

**PANEL:** Mark Nickerson, Chairman, Ed Gada, Secretary,  
Norm Peck, Shawn McLaughlin, Pamela Byrnes,  
Rosanna Carabelas

**Pledge of Allegiance**

The Pledge was observed.

**Public Hearing I**

1. **Application for approval of the proposed development of the residential community as shown in plans entitled "River View Heights, (a residential community)" as an affordable housing development as defined in Connecticut General Statutes 8-30g(a)(1).**

Mr. Nickerson explained that this Public Hearing had been continued and that they were calling it back to order. He also explained the speaking procedure to the audience.

Mr. Peck noted for the record that he was not at the last Public Hearing however, he has thoroughly familiarized himself with the testimony and the record and is up to date.

Mr. Nickerson thanked him for informing them of that information.

Mr. Nickerson said that he understood that there were some staff comments that still had to be made and asked Ms. Parulis if she was prepared to speak.

Ms. Parulis, Planning Director said that she would prefer that Wilbur Smith present the Traffic Study peer review first.

Sharat Kalluri, PE, Senior Transportation Engineer with Wilbur Smith Associates presented copies of his traffic report to Mr. Nickerson. This was entered into the record as **Exhibit 28 – Traffic Report from Wilbur Smith Associates**. Mr. Kalluri first noted that in their opinion, reports and analyses were undertaken in accord with accepted traffic engineering procedures and methodologies. He referred the Commission to page 6 of the

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The meeting was held at the East Lyme Town Hall, 100 Main Street, East Lyme, Connecticut, on Thursday, September 2, 2004, at 7:00 PM. The meeting was held in accordance with the provisions of the Freedom of Information Act, Chapter 54-242, and the provisions of the Connecticut Freedom of Information Act, Chapter 54-242g.

- 1. Presentation by [Name] regarding [Topic].
- 2. Presentation by [Name] regarding [Topic].
- 3. Presentation by [Name] regarding [Topic].
- 4. Presentation by [Name] regarding [Topic].
- 5. Presentation by [Name] regarding [Topic].
- 6. Presentation by [Name] regarding [Topic].
- 7. Presentation by [Name] regarding [Topic].
- 8. Presentation by [Name] regarding [Topic].
- 9. Presentation by [Name] regarding [Topic].
- 10. Presentation by [Name] regarding [Topic].

The meeting was held in accordance with the provisions of the Freedom of Information Act, Chapter 54-242, and the provisions of the Connecticut Freedom of Information Act, Chapter 54-242g. The meeting was held at the East Lyme Town Hall, 100 Main Street, East Lyme, Connecticut, on Thursday, September 2, 2004, at 7:00 PM. The meeting was held in accordance with the provisions of the Freedom of Information Act, Chapter 54-242, and the provisions of the Connecticut Freedom of Information Act, Chapter 54-242g.

report where a summary appeared citing issues that they felt need to be addressed relative to the project. These included the following suggestions:

- ◆ a Deerfield Village intersection should have been added to the study area
- ◆ the number of parking spaces for the project seemed low
- ◆ there was an imbalance on peak hour traffic volumes along different locations on Route 161 and the flow in and out of the ramps should be balanced
- ◆ the access off Calkins Drive as an emergency access should have an adequate turning radius
- ◆ trip generation volume justification
- ◆ any planned roadway improvements by the DOT should be noted
- ◆ capacity analysis on the King Arthur Drive right turn to Rte. 161
- ◆ queuing analysis on Rte. 161 between I-95 North off-ramp and King Arthur Drive and I-95 south ramp intersection – he was not sure if the signal was recommended by the applicant
- ◆ overall operation of the interchange system
- ◆ accident analysis study of the area

Mr. Kalluri said that he would be happy to answer any questions.

Ms. Carabelas said that in the applicants' report that they had stated that there would not be an increase in accidents with the increase of traffic on Rte. 161 and she seemed to think that it would be obvious that the accidents would increase.

Mr. Kalluri said that if the volume added is not significant that there might not be an effect on the accident rate.

Ms. Carabelas asked if that is the job of their firm or for the applicant to gather.

Mr. Kalluri said that it is not part of the peer review process to gather the information but to comment on what was presented.

Mr. Nickerson asked about the number of parking spaces being proposed and if it was their opinion that there were not enough.

Mr. Kalluri said that they were not too sure on this regarding what was specified if it was per apartment or how it was determined.

Mr. McLaughlin asked if the parking spaces were based on bedrooms.

Mr. Kalluri said that typically it is based on units.

Mr. Mulholland said that it could be by bedrooms or units and that it varies per Town. As this is an Affordable Housing application, they do not have that criteria and he suggested that they ask the applicant.

Mr. Gada asked if it could be said that these 10 or 11 points are clarification points and that there is not enough information.

Mr. Kalluri said that #10 was not addressed and that #11 needs more clarification.

Ms. Carabelas said that they used year 2000 traffic counts and asked if these are the most recent.

Mr. Kalluri said that the traffic counts that they used are the most recent available and that the counts that they used are actually much higher, which is good.

Ms. Parulis, Planning Director said that she wanted to clarify some statements and issues that were raised by the applicant with regard to the Plan of Development (POD) and Open Space maps within the Plan. She said that Figure 11.2 does not stand alone as the Towns' Open Space Plan. The proposed open space area should be considered as a whole. The area depicted in Figure 11.2 is generally considered a way to connect greenways and shows a partial greenway along the riverfront and not the entire property. The intent of the Town has always been to acquire more open space. The Niantic River Gateway used the Greenway standards as its' base. **Exhibit 29 – POD Figure 2-1 Future Land Use Plan from the East Lyme POD** was entered.

Ms. Parulis noted that this shows the entire Oswegatchie Hills area as proposed open space. She explained that the relevant language that appears in the POD comes from Goal #3. She said she feels that it is clear that the intent was that East Lyme should manage its' natural resources wisely and in order to do this should continue to consider purchase of Open Space such as Oswegatchie Hills.

Mr. Gada asked the date of the POD.

Ms. Parulis replied 1999.

Ms. Parulis then presented **Exhibit 30 – Excerpts from the State POD Policies Plan for CT 1998-2003**. She noted that it was suggested here that the land in question might not be suitable even for the 120 units of affordable housing if there could be found other areas within the Town. The area here was cited as 'rural land'. She submitted **Exhibit 31 – Recommended POD Plan for CT for 2004-2009** wherein she noted that the area

1. The first step in the process of identifying a problem is to define the problem clearly.

- 2. The second step is to gather information about the problem.
- 3. The third step is to analyze the information and identify the causes of the problem.
- 4. The fourth step is to develop a plan of action to address the problem.
- 5. The fifth step is to implement the plan and monitor progress.
- 6. The sixth step is to evaluate the results and make adjustments as needed.
- 7. The seventh step is to document the process and share the results with others.
- 8. The eighth step is to reflect on the experience and learn from it.
- 9. The ninth step is to communicate the findings and recommendations.
- 10. The tenth step is to take action on the recommendations.

11. The final step is to ensure that the problem is resolved and that the organization is better equipped to handle similar problems in the future.

12. The process of identifying a problem is a continuous one, and it is important to stay alert for new problems that may arise.

13. The process of identifying a problem is a complex one, and it requires a systematic approach.

14. The process of identifying a problem is a collaborative one, and it requires the input of all stakeholders.

15. The process of identifying a problem is a dynamic one, and it requires ongoing communication and collaboration.

has been upgraded to a 'conservation area' so that it is consistent with the previous recommendations. She did caution however, that these are only recommended changes although it was anticipated that the State would adopt them to clear up the inconsistency. She then submitted **Exhibit 32 – Soils Suitability Analysis Map** and noted that she was addressing the applicants' criticism on their use of the New London Soils Map. She said that while she agrees that it is not adequate for design purposes, it appears to provide an accurate assessment of overall development of the site based upon the information provided by the applicant. She explained that the soil testing is depicted in yellow and red and that the wetland soils are in the center. The depiction of the wetlands differs in that the applicant shows more.

Mr. Mulholland asked that the highlighted map also be entered as an exhibit.

Ms. Parulis submitted **Exhibit 33 – Highlighted Drawing I-1 (showing areas of soil testing in the wetlands)**.

Mr. Nickerson asked who determines what a wetland is or isn't.

Ms. Parulis replied that a soils map normally determines this although it has long been recognized that a soil scientist could come out and make a more accurate determination. She added that the applicant has done this and that this determination would supercede the soils map. She also added as a point of clarification that the DEP has jurisdiction over the Niantic River area as it is considered a coastal resource.

Mr. Mulholland said that there were some items faxed to his office at 4 PM today for Mr. Gada from Marcy Balint, Sr. Coastal Planner. This consists of four letters and attachments. He suggested that they read the letters into the record and note that there are attachments that go with them, as there are 26 total pages.

Mr. Nickerson read the following correspondence into the record:

- ◆ Letter dated (and faxed) 9/2/04 to Mr. Gada of the East Lyme Zoning Commission from Marcy Balint, Sr. Coastal Planner CT DEP – Office of Long Island Sound Programs (OSLIP) – Re: Possible Zone Change Application and Amendment Proposal for an Affordable Housing Conservation District Regulation (AHCD) by Landmark Development Group LLC - noting the finding of 'Inconsistent with Comments' and recommending that the coastal site plan be denied without prejudice and a pre-application meeting on the community septic be set up with Joe Wetteman of the DEP. (Coastal site plan and public access fact sheets attached).

Mr. Gada read the following correspondence into the record:

- ◆ Letter dated (and faxed) 8/30/04 to Mr. Glen Russo, Landmark Development Group from Marcy Balint, Sr. Coastal Planner OSLIP – Re: Request for a meeting on Riverview Heights, East Lyme – noting she had received voice mail messages requesting an immediate meeting on the pending application before the EL Zoning Commission and noting the timeline and her schedule and suggesting that they respond in writing to OSLIP concerns in letters dated 4/24/02, 9/18/02 and 8/4/04.
- ◆ Memo dated 8/30/04 to Marcy Balint, OSLIP from Joseph Wettemann of Permitting and Enforcement Division – Re: Oswegatchie Hill, East Lyme - noting that from a preliminary evaluation of test pits that a community system will require a lateral sand filter and that no conceptual design or application has been received as of this date.

Ms. Carabelas read the following correspondence into the record:

- ◆ Memo dated 8/31/04 to Marcy Balint, OSLIP from Dennis J. Greci, Supervising Sanitary Engineer – Re: Oswegatchie Hills, East Lyme - noting that a large part of the area in question is outside of the sewer service area and that this area was proposed to feed into the Waterford system via the sewers in Rte. 1 however it is questioned if the sewage system in Waterford can handle this additional capacity.

Mr. Gada read the following correspondence into the record:

- ◆ Letter dated 9/1/04 to Mark Nickerson, Chairman, Zoning Commission from Clinton Brown, PE, Principal DiCesare-Bentley Engineers, Inc. – Re: Riverview Heights – noting that they had been asked by Friends of Oswegatchie Hills Nature Preserve Inc. to review and comment on plans for the project. They noted that they have not visited the project site or reviewed any other documents – they addressed issues of access, earthwork/erosion control, stormwater management, wetlands, water supply and sewage disposal.

(Note: a short break was taken here)

Mr. Nickerson explained how the rest of the hearing would be conducted. He noted that he had heard that the intervenors wished to speak, then they would hear from members of the public and lastly, the applicant.

the fact that it is a... (text is mirrored and difficult to read)

Mr. [Name] asked that the highlighted... (text is mirrored)

Mr. [Name] asked what a... (text is mirrored)

Mr. [Name] asked that there was some... (text is mirrored)

Mr. [Name] read the following... (text is mirrored)

Mr. [Name] read the following... (text is mirrored)

Mr. [Name] read the following... (text is mirrored)

Mr. [Name] read the following... (text is mirrored)

Mr. [Name] explained how the... (text is mirrored)

Attorney Paul Geraghty, representing Save the River, Save the Hills and Friends of Oswegatchie said that he feels that significant deficiencies have been addressed in the letter from DiCesare Bentley and that the land has long been designated for Open Space acquisition. He noted that 60% of the wetlands are near a very steep slope. 15%-45% is slopes and they all go down to the river. A tremendous amount of blasting would be necessary and there would be rapid run-off. The applicant has also proposed the Affordable Housing units at the top of the hill on one of the highest points. Also, it will have to be on-site septic and it is proposed for that area. He said that he has noticed the difficulty of this site by the applicant choosing to pump the effluent up the hill however, it will flow back down. The applicant hasn't made a wetland application because he is saying that there will be no activity in the wetland. He doesn't believe that the heavy equipment could function without going into the wetlands. He also noted that there is no CAM report and that they need a CAM review, otherwise they cannot judge the effects on the area. He also noted the housing types and how they have to be of similar type as the affordable homes. He does not see this at present as the affordable homes would be on a slab and the other foundations will be stepped up the hill and that is not similar. He also noted the water flow and volume that would be required and that the wells would be downgrade. For these reasons he feels that the Commission should deny this application.

Ms. Byrnes asked about the reference to affordable housing and how the properties have to be similar. Attorney Geraghty said that he could not speak for the applicant on this because the applicant may have a different opinion. There is a reference that the type of housing has to be similar and these may be two different types of housing.

Ms. Byrnes asked if he had a citation or something on this. Attorney Geraghty said no, he did not.

Michael Dunn, 7 Plant Drive, Waterford, CT (VP, Friends of Oswegatchie Hills Nature Preserve) said that he would like to clarify something that was read from the DiCesare Bentley review. It was read that '25-30 root cuts' are required based on grading plans and it should have been read that '25-30 foot cuts' are required. He said that he did not want anyone to think that they were talking about tree roots when they were talking about considerable trenching. He then read a letter he had written to Mark Nickerson, Chairman noting that there are public health and safety concerns. He cited one access road, wells close to the Niantic River, massive clear cutting, a generally steep site with shallow bedrock and stormwater run-off. He noted that if denied that this would likely be appealed and decided by a judge. The court has historically sided with a developer four out of five times regarding affordable housing. He considers the site one in a million. He submitted his letter with an aerial photograph of the area, which was entered into the record as **Exhibit 34**.

Carl Stamm, 5 Saunders Drive, Niantic said that he spoke on 8/19/04 about his varied 50 plus years of training and experience in many varied environmental fields including numbers and species of Flora and Fauna present in the Oswegatchie Hills area. Tonight he would discuss vernal pools and their relation to the environment. He noted that they provide an environment for numerous rare plants and animals enabling them to survive and thrive in their harsh and temporary conditions. He said that to appreciate the importance of vernal pools that they would have to visit them during the midnight hours of a warm, rainy and misty night. The pools would be alive with hundreds of amphibians of many species going through their breeding cycle. During the daytime, the water in the pools contains the colored eggs of the various species of frogs and salamanders, tadpoles and larva of many species. Disruption can result in drastic reduction and for this reason, many States and Towns mandate a 600 to 750 foot buffer around these pools. The vernal pools are widely distributed throughout Oswegatchie Hills and a number of them are found in the area owned by Landmark. Development would turn this environment into a 'biological desert'. Also, local residents have testified about their low yield wells and this would impact these. He asked where they would get water for fire protection. Mr. Stamm submitted his letter for the record and this was entered as **Exhibit 35**.

Deborah Moshier-Dunn, 7 Plant Drive, Waterford, CT said that she grew up on the Hudson River so she knows what happens to a river from over development. She is here to speak for those who cannot speak for themselves – the fox, ospreys, and our children's right to clean air, land and water. She invited them to take a ride up the Niantic River and feel how special Oswegatchie Hills is. She said that she brought with her the signatures of 78 people who are petitioning the Town's elected officials to do all that they can to save the Oswegatchie Hills. Last weekend she was one of at least 125 kayakers on the Niantic River who gathered to rally in support of saving the Hills. She submitted her letter and the petition with 78 signatures for the record – this was entered as **Exhibit 36**.





Marvin Schutt, 29 Edgewood Road North, Niantic, said that he would get right to the important point. He is not speaking for the Oswegatchie Hills Nature Preserve, he is speaking for himself. First, he would like to say that the people who have been trying to have Oswegatchie Hills preserved have done everything that they have known to do to try to get it preserved. It has gone tit for tat for the past three years. So, the thought that he has tonight, recognizing that it may not be under their purview, but he wants it put on the record - is that they clear the air on this issue and have these good people sit down at the same table and talk about their points of view. Where - they discuss the importance of preserving the Hills and Niantic River with a moderator present, of neutral position, who is capable of controlling strong-willed people, who will orchestrate negotiation to be able to get Glenn Russo what he deserves in terms of money and have the Oswegatchie Hills preserved. To Glenn, he said that he is okay but he wants him to leave the Town. Two points that are important in this are: that the parties involved should be represented by their top people and that it will take money - and the Town, State and philanthropists should help out.

Patricia Frank Sher, 4 North Pine Street, Niantic said that she would like to thank the Zoning Commission in advance for its courage in making the correct decision in saving the environment. She said that she knows that they are under a lot of intimidation from the developer and she thanked them for making this decision.

Marvin Schutt, 29 Edgewood Road North, Niantic said that he should have made note that Glenn and Michael at the last meeting made a proposal and if they take this under consideration there is a crack in the door and maybe we should take advantage of it.

Rose Ann Hardy, Ex-Officio to Zoning and Deputy First Selectwoman said that she addresses them formally tonight on behalf of the entire Board of Selectmen. She said that she has not addressed them before on behalf of the entire Board of Selectmen so they can see how important this is to them. The following was passed by the Board of Selectmen at their meeting the previous evening by a vote of 6 - 0. "RESOLVED: The East Lyme Board of Selectmen desires to state as a matter of public record that it is worthwhile to remind the Zoning Commission that the Oswegatchie Hills is especially suitable for preservation as open space, and that the public interest is best served by insuring that this property remain in it's present undeveloped state for use by future generations of the public. The Board of Selectmen urges the Zoning Commission to take this into consideration as it makes its decision on Landmark Investment Groups' application." This was submitted for the record and entered as **Exhibit 37**.

Mr. Nickerson explained that he would now call for anyone from the public wishing to speak in favor of this application -

Hearing no one -

Mr. Nickerson called for anyone from the public who wished to speak against this application -

Karen Krohn, 65 Scotch Cap Road, Quaker Hill, said that she lives in the Quaker Hill area of Waterford and wished to comment on the proposed development of Oswegatchie Hills. She noted what the area was composed of and explained that the land is rocky outcroppings, loamy glacial till with underlying bedrock. She said that the area is similar to land along the Thames River north of where she lives. Recently construction began on a condominium project there. The important point is that the land consists of a layer of soil over bedrock. This whole area has been denuded and blasted. She said that she was submitting photos of the Thames River area with her letter so that they could see that nothing is left in its natural state. Her suggestion is that the owner gets in touch with a land trust to investigate options to the development and desecration of the property. She submitted her letter with the photos, which were entered as **Exhibit 38**.

Mr. Nickerson asked her how big the development was and how large the area in Quaker Hill is that was being developed.

Ms. Krohn said that it is 87 units and 17 acres total with 10 acres buildable.

Bob Gadbois, 358 Boston Post Road said that he would like to enter into the record the DEP effluent to be deposited on roadways from a storm event. The title of the article is Cars Wear Out Water Runs Down Hill by Robert S. De Santo, PhD. This was submitted and entered into the record as **Exhibit 39**.

Barbara Johnston, 35 Seacrest Avenue, Niantic read a letter that she wrote to the East Lyme Zoning Commission. She noted that land use decisions impact the public and that public hearings give us the right to also participate in the decision making. She said that she was quoting from Yokley, Zoning Law & Practice, 2<sup>nd</sup>



Edition. She said that the purpose of the site plan review procedure is to help communities determine whether a proposed project within the coastal boundary conforms to the intent and the requirements outlined in the CAM. She said that she does not recall that a coastal site plan was presented for this application. One must always be submitted to the Zoning Commission. She also noted that the units would not be affordable to senior citizens and she therefore again urged them to deny the application as presented. She submitted her letter for the record, which was entered as **Exhibit 40**.

Steve Larcent, 47 Oswegatchie Hill Road said that he has read the public record testimony and was struck by the consistency of the environmental impacts of this proposed application. It is pretty clear that the scope of this project would have substantial and irreparable impacts on the environment and should be denied by the Commission. However, he said that he would also implore the Commission to advance the cause of affordable housing, as it is an important one.

Glenn Russo, Principal, Landmark Development Group, LLC said that they were asked to voluntarily take their project off the development track by the First Selectman for a year when they first came to Town. They did so for twelve months so that they could potentially sell all of the property to the Town, State or Nature Conservancy or anyone who could round up the finances. However, the Town has never been able to come up with the funds. It has been 30 years and he does not think that they ever will. He said that he is committed to building affordable housing on this site and cannot abandon that objective that he has. What he has offered of late is to shift as many of the units as they can from the waterfront up the hill to make available for acquisition the area that has been designated for open space acquisition. He submitted the letter for the record.

Mr. Nickerson accepted the letter and entered it into the record as **Exhibit 41** and asked Ms. Carabelas to read it into the record.

Ms. Carabelas read **Exhibit 41** into the record:

- ◆ Letter dated 9/2/04 to the Board of Selectmen from Glenn Russo, Manager – Re: Application for Approval of Affordable Housing Plans – noting the commitment that was made at the 8/19/04 meeting and outlining the specifics.

Mr. Nickerson entered into the record, a letter sent to him from Mr. Russo with attachments as **Exhibit 42**.

Mr. Nickerson read **Exhibit 42** into the record:

- ◆ Letter dated 8/24/04 to Mark Nickerson, Chairman EL Zoning Commission from Glenn Russo, Landmark Development – Re: Proposed Development Oswegatchie Hills – citing the outline of key dates in the Town's history that show that the Town has not taken action to acquire this portion of the property over 30 years. Also noted is the fact that the offer that was presented to the Town on August 19, 2004 has not been followed up by the Town.

Mr. Nickerson said that this had made the papers and that the headline was about the land offering and that Zoning had no comment. He said for the record that the Zoning Commission does not have a budget and cannot make land deals. Now, properly they are sending the letter to the Board of Selectmen. He then asked if they want this application to continue through the normal procedures as it has been presented.

Mr. Mulholland said that he would suggest that they stick to this application before them.

Mr. Russo said that he concurs with Mr. Mulholland that the application goes forward as presented. If the Board of Selectmen wants to entertain discussion, that could run simultaneously. This application is not being pulled, it is before you and should go forward as it is.

Ms. Byrnes asked if they were changing the site plan and moving some units.

Mr. Russo said that the plan before them is not with the cooperation of the Town. He believes that they could present a better plan with the cooperation of the Town.

Ms. Byrnes asked if the present plan stands.

Mr. Russo said that the plans are before them and they can approve, deny or modify them.

Mr. Nickerson asked about the CAM report, as they were in agreement that it applies to this application.

Attorney Zizka, representing the applicant said that his understanding is that they do not actually have an application form here.

Mr. Mulholland said that he understands that the form was faxed to Mr. Russo last week and that the State has a form that they use for review.



Attorney Zizka said that is different. It is not necessarily a separate application but a separate set of standards that apply. The Statute says that the CAM review is done to meet coastal site plan criteria. They have a small section on coastal site plans in their regulations that does not say anything and does not require an application. So, in their presentation, they have indicated that they have stayed away from the River and away from specific areas that the DEP may have identified, none of which about this area. The point is that they presented information indicating that they are not impacting coastal resources, as there are none in that area. So, they have the ability to review the plan but their own regulations do not require submission of a separate application. They are not telling them what they have to supply. This is why they submitted their application back in May and had hoped that they would be told if more information was required.

Ms. Carabelas said that everything in his background would indicate to her that they would know that they would need to supply this information.

Attorney Zizka cited for example – what if they had a piece of land with no wetlands or watercourses on it – do they submit information that says that there are no wetlands that are going to be impacted? That is like Mr. Geraghty citing water cascading down the hill and other issues when he is not an engineer and does not know about water running down hill. He is a lawyer.

Mr. McLaughlin asked if they have a CAM report for them to review.

Attorney Zizka said that they have submitted information that they feel allows them to analyze that.

Mr. McLaughlin asked again if they have a CAM report.

Attorney Zizka said that he just answered that question.

Mr. Nickerson said that they heard some testimony on ledge and blasting and dramatic changes to the landscape and asked if that is in the report.

Attorney Zizka said that they have just received those comments and will have responses for the next time that they meet.

Mr. Mulholland asked if they were looking for an extension and if they would grant a 35-day extension.

Attorney Zizka said yes.

Mr. Mulholland said that he has spoken with the Town Attorney who feels that it is important that all of the testimony gets into the record as this has the potential to be litigated. He suggested that they continue this public hearing until Wednesday, September 29, 2004 at 6 PM. They would then have 65 days from the time that they close the hearing to make a decision.

Ms. Hardy asked if they would be continuing the Public Hearing in total or if it would only be for the applicant to introduce testimony.

Mr. Nickerson said that the public hearing would be continued and it would be open to all.

Mr. Mulholland noted that they only have a 35-day extension and that they would have to close the public hearing that evening so they should be prepared for a long evening.

Mr. Nickerson asked for a motion to adjourn and continue this public hearing.

**\*\*MOTION (1)**

**Ms. Byrnes moved that this Public Hearing be adjourned and continued to Wednesday, September 29, 2004 at 6:00 PM.**

**Ms. Carabelas seconded the motion.**

**Vote: 6 – 0 – 0. Motion passed.**

Mr. Nickerson adjourned this Public Hearing at 10:25 PM and continued it until Wednesday, September 29, 2004 at 6:00 PM.

Respectfully submitted,

Karen Zmitruk,

Recording Secretary

(Note: a short break was taken prior to the Regular Meeting

Mr. Dwyer left prior to the Regular Meeting)



Exhibit 28  
9/2/04  
Zoning



August 31, 2004

Ms. Meg Parulis  
Planning Director  
Town of East Lyme  
Niantic, Connecticut 06357

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**RE: Peer Review of Proposed Riverview Commons Development  
East Lyme, Connecticut**

Dear Ms. Parulis:

In accord with your request, we have undertaken a Peer Review of the proposed Riverview Commons Development in the Town of East Lyme. Specifically, we reviewed the traffic-related documents as follows:

- "Traffic Impact Study, Riverview Heights, East Lyme, Connecticut", dated August 2004, prepared by Fuss and O'Neill.

Our scope for this effort is to:

1. Review Traffic Impact Reports and the Site Plan, prepared for the proposed project as submitted to the Town of East Lyme;
2. Assess the proposed Site Plan and off-site roadway improvements, as suggested by the developer's traffic consultant to accommodate site-generated traffic volumes; and,
3. Provide the Town of East Lyme the professional and technical assistance to enable the Town to respond to the developer's application.

Our review of the materials and Site Plan included the following disciplines and Traffic Impact Report procedures/methodologies:

- Work prepared in accord with, and using procedures generally accepted by the traffic engineering profession;
- Traffic surveys, field reconnaissance, and study area designation;

Albany NY, Anaheim CA, Atlanta GA, Baltimore MD, Bangkok Thailand, Burlington VT, Charleston SC, Charleston WV, Chicago IL, Cincinnati OH, Cleveland OH, Columbia SC, Columbus OH, Dallas TX, Dubai UAE, Falls Church VA, Greenville SC, Hong Kong, Houston TX, Iselin NJ, Kansas City MO, Knoxville TN, Lansing MI, Lexington KY, London UK, Milwaukee WI, Mumbai India, Myrtle Beach SC, New Haven CT, Orlando FL, Philadelphia PA, Pittsburgh PA, Portland ME, Poughkeepsie NY, Raleigh NC, Richmond VA, Salt Lake City UT, San Francisco CA, Tallahassee FL, Tampa FL, Tempe AZ, Trenton NJ, Washington DC

**Employee-Owned Company**

- Determination of future growth trends in traffic;
- Assessment of the existing and planned highway system and land-use development in the area as it relates to traffic;
- Traffic generation characteristics of the proposed development;
- Directional distribution (approach and departure) of site-oriented traffic;
- Traffic impact/roadway adequacy analyses; and,
- Development of necessary site access and traffic/roadway improvements, as required.

A field reconnaissance of the area roadways was undertaken in a manner to adequately review the roadway and traffic conditions detailed in the traffic reports. In accord with Town directives, we did not conduct independent traffic counting programs, but utilized information supplied by the Town including data from the applicant for this peer review.

### **THE PROJECT**

As now planned, the project is a residential development comprised of 120 apartments and 232 condominium units with 253 parking spaces. Access to the proposed project is planned via Deerfield Village Drive to King Arthur Drive. King Arthur Drive intersects with Route 161 (Flanders Road) and the I-95 Northbound Off-Ramp to form a four way signalized intersection.

The Study Area, as defined in the Report consists of Route 161, I-95 Northbound and Southbound Ramps, U.S. Route 1, and King Arthur Drive. The following intersections are included in this study area:

- ◆ Route 161 and I-95 Northbound Off-Ramp/King Arthur Drive;
- ◆ Route 161 and I-95 Northbound On-Ramp;
- ◆ Route 161 and I-95 Southbound Ramps; and,
- ◆ Route 161 and U.S. Route 1.

### **TRAFFIC IMPACT STUDY METHODOLOGY**

In our opinion, reports and analyses were undertaken in accord with accepted traffic engineering procedures and methodologies.



**PEER REVIEW**

The applicant has proposed traffic control improvements at key intersections in the study area to address the traffic impact of the proposed project and improve the level of service/vehicle queuing at those locations in the study area.

Based on our review, however, we have the following comments:

1. **Reasonableness of the Study Area** – The study area as defined in the applicant’s traffic study is reasonable.

It is our opinion that the King Arthur Drive/Deerfield Village Drive/Woodland Village and Deerfield Drive/Site Driveway intersection should be included in the study area. The applicant should address this issue.

2. **Number of Parking Spaces** – For the proposed 352 residential units, a total of 253 parking spaces seems low. The applicant should demonstrate that this parking meets the parking requirements in the zoning regulations.
3. **King Arthur Drive**– The pavement condition on King Arthur Drive is in a fair to good condition.
4. **Existing Peak Hour Traffic Volumes** – Based on available CONNDOT traffic volume data in our files relative to this study area, the existing (2004) A.M. and P.M. peak hour traffic volumes are reasonable at the four study area intersections (further confirmed by CONNDOT in the STC Process).

During our review we noticed that the traffic volumes on Route 161 between the I-95 Northbound Off-Ramp and Northbound On-Ramp do not balance during the A.M. and P.M. peak hour periods.

Table 1  
**Existing (2004) Two-Way Peak Hour Traffic Volumes**

Location	Existing (2004) Two-Way Peak Hour Traffic Volumes	
	A.M. Peak (7:45-8:45)	P.M. Peak (4:30-5:30 )
<b><u>Route 161</u></b>		
South of I-95 Northbound Off-Ramp	1030	1448
North of I-95 Northbound On-Ramp	938	1353
<b>Difference</b>	92	95

Source: Based on A.M. and P.M. peak hour traffic volumes in the Traffic Study by Fuss and O’Neill.

The applicant's traffic engineer should respond to the imbalance in traffic volumes between the Northbound Off and On Ramps.

- 5/ **Background Traffic Volumes** - A traffic growth rate of 2 percent per year is reasonable for the study area (further confirmed by CONNDOT in the STC process).

The applicant indicates that no proposed land developments were identified by the STC and the Town of East Lyme and therefore, the traffic study indicates that there are no background developments included in the future (2007) traffic volumes.

6. **Primary Site Access** - The applicant indicates that a full access drive is provided via Deerfield Village Drive to King Arthur Drive.

7. **Secondary (Emergency) Site Access** - A secondary site access (emergency only) is provided via Calkins Road to U.S. Route 1. Based on our field reconnaissance, it is our opinion that the Calkins Drive approach on U.S. Route 1 does not meet sight distance requirements looking left and right from the intersection. The applicant's traffic engineer should address this issue.

Appropriate turning radii should be provided to allow emergency vehicles to access the secondary access drive on Calkins Road.

8. **Trip Generation Rates/Peak Hour Volumes** - The site-related trip rates/peak hour volumes appear reasonable, using the ITE Trip Generation Manual. We noted that there is a typo on Page 4 in the 4<sup>th</sup> paragraph "Trip generation for the condominiums....." The ITE Land Use Code for Residential Townhouse/Condominiums is 230 and not 252 as indicated in the Report.
9. **Trip Distribution** -Based on existing traffic patterns, it appears that more trips should be assigned to/from the I-95 Ramps. However, the traffic study shows only 21 percent of the traffic assigned to/from I-95. The applicant's traffic engineer should provide additional documentation to support the trip distribution.
10. **Roadway Improvements in the Route 161 Corridor** - The applicant does not indicate in the traffic study if any roadway improvements are being advance by CONNDOT in this study area (further confirmed by CONNDOT in the STC process).

11. **I-95 Northbound Off-Ramp/King Arthur Dr./Route 161 intersection** – This intersection is anticipated to operate at LOS B and LOS D during the A.M. and P.M. peak hour periods respectively under the future combined traffic condition with the proposed traffic control improvements. However, the following was noted from the analysis:
  - The King Arthur Drive approach right turn movement operates at LOS E during the A.M. peak hour period;
  - The southbound vehicle queue on Route 161 extends beyond the I-95 Northbound On-Ramp intersection and potentially to the I-95 Southbound Ramp intersection during the P.M. peak hour period. The future (2007) traffic condition with traffic will result in a vehicle queue length of 385 feet during the P.M. peak hour period. The available storage between the Northbound Off-Ramp and On-Ramp intersections is approximately 220 feet.
12. **I-95 Northbound On-Ramp/Route 161 intersection** – This intersection is anticipated to operate at acceptable levels of service under the future (2007) combined condition. It is important to note that the anticipated southbound vehicle queue at the Route 161/I-95 NB Off-Ramp/King Arthur Drive intersection will reach and extend beyond the I-95 Northbound On-Ramp/Route 161 intersection based on the vehicle queue calculations provided in the applicant's traffic study.
13. **I-95 Southbound Ramps/Route 161 intersection** – The I-95 Southbound Off-Ramp approach left turn movement is anticipated to operate at LOS C and LOS F during the A.M. and P.M. periods respectively under the future combined traffic conditions. The report does not recommend any improvements based on the site traffic not contributing to the LOS F condition. It is our opinion that acceptable levels of service should be provided whenever practical.

It is important to note that the applicant's traffic consultant included an analysis in the technical appendix that assumed a traffic signal at this location, but this traffic signal is not recommended in the applicant's Traffic Engineer's Traffic Report. As the value of this traffic signal has been demonstrated by this applicant, it should be consideration for implementation.

14. **Route 161 and the Interchange System** – Since the planned Riverview Commons Development impacts the I-95 Interchange, the applicant should address the operation of the interchange system as a whole. The left turn movements on Route 161 in both directions are critical in the overall operations of the study area intersections.

One suggested improvement to mitigate the above issue (No. 10, 11, and 12) is a Route 161 left turn lane between I-95 Southbound Ramps and the I-95 Northbound Off-Ramp/King Arthur Drive intersection. The applicant's traffic engineer should address this issue.

15. U.S. Route 1/Route 161 intersection – The applicant has suggested traffic control improvements at this intersection to improve the westbound left turn queue on U.S. Route 1. We concur with the applicant on this traffic signal timing improvement.
16. Review of Sight Distance and Turning Radii – Based on our field reconnaissance, the proposed site driveway on Deerfield Village Drive meets the sight distance requirements based on the criteria set by the Connecticut Department of Transportation.

We concur with the applicant that appropriate turning radii should be provided at the Deerfield Drive/Site Driveway intersection to accommodate all design vehicles including SU-30 and B-40.

17. Review of Accident Analysis – The applicant does not provide a summary of accident analysis to determine that there is no safety issues/concerns in this study area. In our opinion, the accident analysis should be provided.

### SUMMARY

In our opinion, reports and analyses were undertaken in accord with accepted traffic engineering procedures and methodologies. It is important to note that this peer review effort was undertaken for the planned 352 residential units in the Riverview Commons Development and did not evaluate the impact of any future expansion to this development. The following issues need to be addressed relative to this project:

1. ✓ Consider the King Arthur Drive/Deerfield Village Drive/Woodland Village Drive and Deerfield Village Drive/Site Driveway intersections in the study area;
2. The Applicant should demonstrate that the parking meets the parking requirements for the proposed 352 residential units in the zoning regulations;
3. ✓ The imbalance in existing A.M. and P.M. peak hour traffic volumes on Route 161 between the I-95 Northbound On-Ramp and Northbound Off-Ramp/King Arthur Drive intersections;
4. ✓ Secondary Access Drive on Calkins Drive for emergency vehicles;
5. ✓ Development of trip distribution patterns for the study area;
6. ✓ Any planned roadway improvements by CONNDOT within the study area;
7. ✓ The level of service E on the King Arthur Drive right turn movement during the A.M. peak hour period;

Ms. Meg Parulis  
August 31, 2004  
Page 7

8. ✓ Vehicle queuing along Route 161 between the I-95 Northbound Off-Ramp/King Arthur Drive and I-95 Southbound Ramps intersection;
9. ✓ Consider traffic operational improvements at the intersection of Route 161 and I-95 Southbound Ramps;
10. Overall operation of the interchange system and Route 161; and,
11. ✓ An accident analysis undertaken for this study.

The comments, as listed above should be addressed, in our opinion, so that a complete understanding of the traffic impacts of the project can be made.

Please do not hesitate to call if you have any questions relative to our review of the traffic-related issues associated with the proposed Riverview Commons Development project along Route 161 in East Lyme, Connecticut. We are prepared to meet with you to discuss our report and associated findings.

Respectfully submitted,

**WILBUR SMITH ASSOCIATES**



Robert P. Jurasin, P.E.  
Senior Vice President

Registered Professional Engineer  
Connecticut Number 09626



Sharat K. Kalluri, P.E.  
Senior Transportation Engineer

Registered Professional Engineer  
Connecticut Number 21415

*Zoning  
9/2/04*

**FAX**

**CT DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
79 Elm Street  
Hartford, CT 06106-5127  
424-3034 Fax: 424-4054

**received**  
9-2-04 (E) 4:00pm

To: Edward P. Gada, Chair, c/o William Mulholland, ZEO East Lyme  
From: Marcy L. Balint, Sr. Coastal Planner *Marcy Balint*  
CT DEP- Office of Long Island Sound Programs  
Date: September 1, 2004  
Total Pages: 26 with cover  
Fax number: 860-739-6930  
Subject: **Possible Zone Change Application and Amendment Proposal for an Affordable Housing Conservation District Regulation (AHCD) by Landmark Development Group LLC,**

Please note I have attached to these comments a August 30<sup>th</sup> letter to Glen Russo  
Feel free to call with any questions you or the Commission may have

Attachments:

*Read 182*



STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



September 2, 2004

Mr. Edward P. Gada, Chairman  
East Lyme Zoning Commission  
P.O. Drawer 519  
Niantic, Connecticut 06357

**Subject:** Possible Zone Change Application and Amendment Proposal for an Affordable Housing Conservation District Regulation (AHCD) by Landmark Development Group LLC,

**Finding:** Inconsistent, with comments

Dear Commissioners:

As the Commission is aware, OLISP submitted detailed comments on August 4, 2004 regarding the above. Since then, OLISP received a large set of site plans entitled "Riverview Heights" with a most recent revision date to July 1, 2004. OLISP received these plans on August 23, 2004 and offers the following additional comments. However, these additional comments do not alter our previous recommendations or comments except as specifically described below.

- 1) We understand a coastal site plan review application is being sought at this time based on the record proceedings. However, a complete coastal site plan application, (the requirements of which are detailed per C.G.S. Sec: 22a-105 to 22a-109) has not been included nor forwarded for our review as previously requested (See coastal site plan fact sheet attached). Since this application is not exempt from coastal site plan review (see CSPR exemption fact sheet attached), we again recommend the coastal site plan be denied without prejudice due to the omission of an actual CSPR application being submitted in accordance with the CGS Section 22a-105 through 109 of the Connecticut Coastal Management Act (CCMA).
- 2) In contravention of the requirements of Per C.G.S: 22a-105(c), all of the coastal resources on and adjacent to the site have not been identified on the site plans submitted nor addressed in a coastal site plan review application. While inland wetlands may be depicted on the plan, the site also contains tidal wetlands, vernal ponds identification, bluffs and escarpments, submerged aquatic vegetation, rocky shorefront and estuarine embayments. Anadromous and marine fish resources for Latimer Brook and the Niantic River are considered of premier statewide importance and have not been identified or addressed. Water quality issues discussed in our previous correspondence have not been addressed. The clearcutting, grading, and filling as depicted on the site plans is excessive for this area and will likely impact resources and water quality through sedimentation, erosion and nutrient input. Needed blasting has not been identified on the site plans. The significant area of undisturbed upland adjacent to on-site vernal pools has not been adequately protected as previously noted in our August 4, 2004 comments. The proposed filling and grading in proximity to on-site wetlands appears technically problematic and will likely lead to sedimentation and erosion impacts to nearby inland wetlands and coastal resources including water quality. The proposed stormwater system on the plans appears mostly conventional (piping stormwater to level spreaders) without reducing and treating stormwater closer to its source in order to minimize overall volumes and total suspended solids (see stormwater fact sheet attached). The site plans and overall level of density proposed in Phase I do not demonstrate any meaningful revision towards consistency with the CCMA, POD, MCP or Harbor Management Plan. No detail or designs have been provided on the site plans

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2 Pgs.

September 2, 2004

which address any of our previously detailed concerns on consistency with the CCMA water-dependent use criteria. No public trails or other public access amenities have been identified on the plans. We again recommend this application be denied without prejudice (See public access design fact sheet attached).

- 3) With the exception of some ledge areas in the southeast portion of the site (Area 7), none of the extensive ledge and outcropping we noted in our previous field visit on March 4, 2002 have been identified on the site plans. Many of these areas noted are in proximity, if not underneath, the proposed housing units.
- 4) A community septic system/well have been included in the site plans received as an alternative to a sewer/water line extension. Current plans include a community septic system layout within the proposed street system in areas 1, 2, and 4 and areas where test holes have been dug. However, based on a review by Joe Wetteman of DEP's Bureau of Water Management and his preliminary evaluations on site, he believes it is most likely that the proposed community system will require a lateral sand filter and a wastewater treatment plant to meet the Department's criteria for large scale on-site waste water systems (see attached memo). This type of system is not what the site plans depict which is a more conventional system. Therefore, the current community septic system design depicted would likely need to be significantly redesigned at considerable cost in order to receive DEP approval. We recommend the applicant set up a pre-application meeting to discuss this further with Joe Wetteman directly.
- 5) A sewer extension alternative has been submitted with the 7/1/04 site plans. Dennis Greci of DEP's Water Bureau has also reviewed the current plans for sewer and water capacity issues and reiterates that the large majority of the area is outside the sewer service area and the extension of sewers into this area would very likely be disapproved by DEP because it would conflict with the state's Plan of Conservation and Development. In addition, he raises new issues regarding sewer contractual capacity that have arisen in the last two years which make the provision for sewer service option even less likely (see Greci memo and East Lyme Waterford sewage flow charts attached).

As described in our previous comments, we again recommend this application be denied without prejudice due to the omission of any identification, assessment of the capacity of resources to accommodate the proposed use or means to minimize potential adverse impacts to such resources, due to the omission of plans to satisfy the water-dependent use policies and standards, and the issues noted above as required by CGS Sec. 22a-106 (See coastal site plan and public access fact sheets attached).

We thank the Commission for the opportunity to comment on this application. Should you have any questions regarding this letter or any other coastal management or Long Island Sound matter, please feel free to contact me at 860-424-3034.

Sincerely,



Marcy L. Balint, Sr. Coastal Planner  
Office of Long Island Sound Programs

attachments





STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

August 30<sup>th</sup>, 2004  
Faxed Aug 30<sup>th</sup>, 2004



Mr. Glen Russo  
Landmark Development Group  
460 Smith Street, Suite A  
Middletown, CT 06457

Subject: Request for a meeting on ~~Riverview Heights, East Lyme~~

Dear Mr. Russo,

This morning, I received two voice mail messages from you and one from Fuss and O'Neil requesting an immediate meeting for today or as soon as possible on the above pending application before East Lyme's Zoning Commission.

As you are aware, OLISP submitted detailed comments on this proposal, or the portions of the proposal we had been provided, on August 4, 2004. Since that time, the only new information that OLISP has received after requesting such information is the full set of site plans. These were received on August 23, 2004 many weeks after your submittal locally and after OLISP's request on August 4<sup>th</sup> to receive such plans. Given my part-time schedule and meeting schedule last week, I have not yet had time to review the site plans:

The August 23 forwarding of the site plans has left me inadequate time to review, coordinate internally within DEP units, and provide comments to the Commission for Thursday's final Zoning Commission hearing. Therefore, given my schedule, I do not believe it would be useful or appropriate to meet with you or Fuss and O'Neil at this time to discuss these recent plans. At first look at the index sheet of the site plans, it appears that many, if not most of our coastal management concerns as detailed in comment letters of 4/24/02, 9/18/02 and 8/4/04 remain applicable.

Accordingly, I would suggest that you and others on your team to read OLISP's comments and respond in writing to our detailed concerns.

I would also note that during the several years this proposal has been pending, Landmark has not requested any meetings with me or other OLISP staff prior to this recent request. Given sufficient advance notice, I would be happy to meet with you or other representatives once you have forwarded revisions that take some meaningful steps in addressing our concerns which have been explained in detail in the above-referenced correspondence.

Sincerely,

Marcy L. Balint, Sr. Coastal Planner  
Office of Long Island Sound Programs

Cc: Bill Mulholland, Z.E.O. for Edward Gada, Chair Zoning Commission  
Phil M., Fuss and O;Neil

Read 2/12/04

# Memo

**To:** Marcy Balint, Long Island Sound Programs  
79 Elm Street, Hartford, CT (860) 424-3034, Ext. 2777

**From:** Joseph Wettemann, Permitting and Enforcement Division  
79 Elm Street, Hartford, CT (860) 424-3803, Ext. 2230

**Date:** 8/30/2004

**Re:** Oswegatchie Hill, East Lyme

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On September 25, 2003 and October 9, 2003, I accompanied representatives of ASW Consulting Group during site investigations for the proposed Oswegatchie Hill affordable housing project. Test pits were excavated and logged in two areas where community septic systems were being proposed. From this preliminary evaluation it is most likely that the proposed community system will require a lateral sand filter (constructed fill for renovation of wastewaters) and a wastewater treatment plant to meet the Department's criteria for large scale on-site wastewater systems. As of this writing I have not received a conceptual design or application for the proposed community systems.

P:/working/jwettemann/memos04/Marcy balint083004

Read  
3rd

Dennis J. Greci, P.E.  
Supervising Sanitary Engineer  
Municipal Facilities Section  
DEP Water Management Bureau  
860-424-3751  
dennis.greci@po.state.ct.us

Connecticut  
Department of  
Environmental  
Protection

# Memo

**To:** Marcy Balint  
**From:** Dennis J. Greci, Supervising Sanitary Engineer  
**CC:**  
**Date:** August 31, 2004  
**Re:** Oswegatchie Hills, East Lyme

As we discussed yesterday, this memo will serve to follow-up a similar memo I wrote 2 years ago about proposed development in the Oswegatchie Hills area of East Lyme. As before, I would first point out that the area in question (or large majority) is outside the sewer service area, as defined in the facilities plan submitted by East Lyme and approved by DEP. The extension of sewers into this area to foster new development would very likely be disapproved by DEP, because such an extension would conflict with the state's Plan of Conservation and Development, as published by the CT Office of Policy and Management.

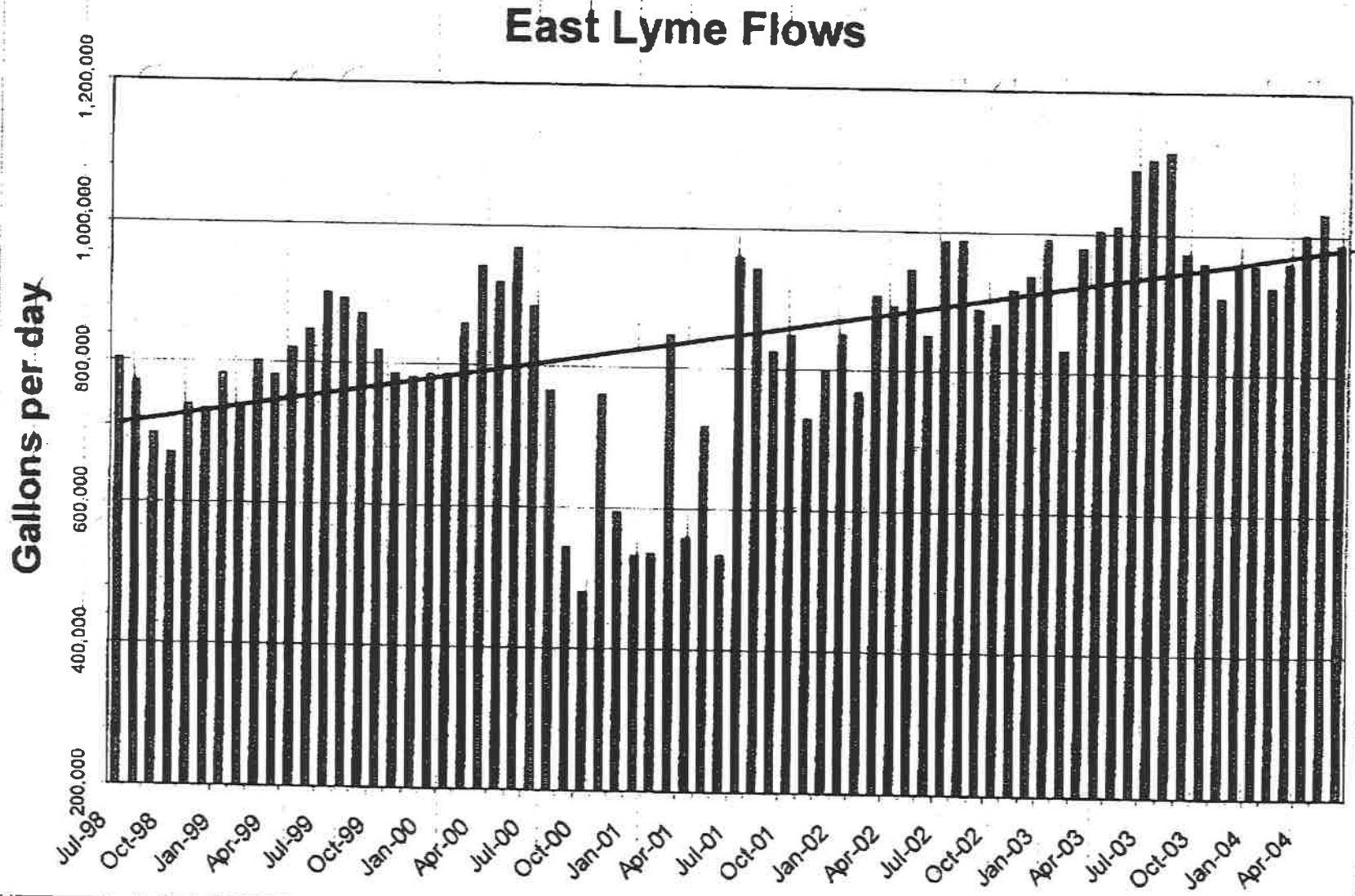
Additional issues have arisen in the last two years which make the provision of sewer service for this area even less likely. At the present time, East Lyme and Waterford discharge their wastewater to the New London WPCF for treatment and discharge to the Thames River. Each town has contractual rights to a limited volume of flow: East Lyme 1,500,000 gallons per day (gpd), Waterford 3,000,000 gpd, and New London 5,500,000 gpd. The WPCF is rated for 10,000,000 gpd.

New London was recently required to begin an engineering study because the flows at the WPCF were exceeding 90% of its design capacity for extended periods (over 6 months). Both East Lyme and Waterford are currently engaged in similar studies to determine whether their contractual capacity is sufficient to serve their needs for the next 20 years. As I shared with you yesterday, flow projections over the last 5 years show that, at the current rate of growth, East Lyme may reach their contractual limit within the next 10 years. Under the same criteria, Waterford may reach their contractual capacity in as little as 2 years.

Adding to the issue of contractual capacity is the issue of technical capacity. As proposed 2 years ago, the development in the Oswegatchie Hills area was proposed to feed into the Waterford system via the sewers in Route 1 (Boston Post Road). However, I question whether the sewerage system in Waterford is technically capable of handling an additional 300+ residential units, or roughly 60,000 gpd.

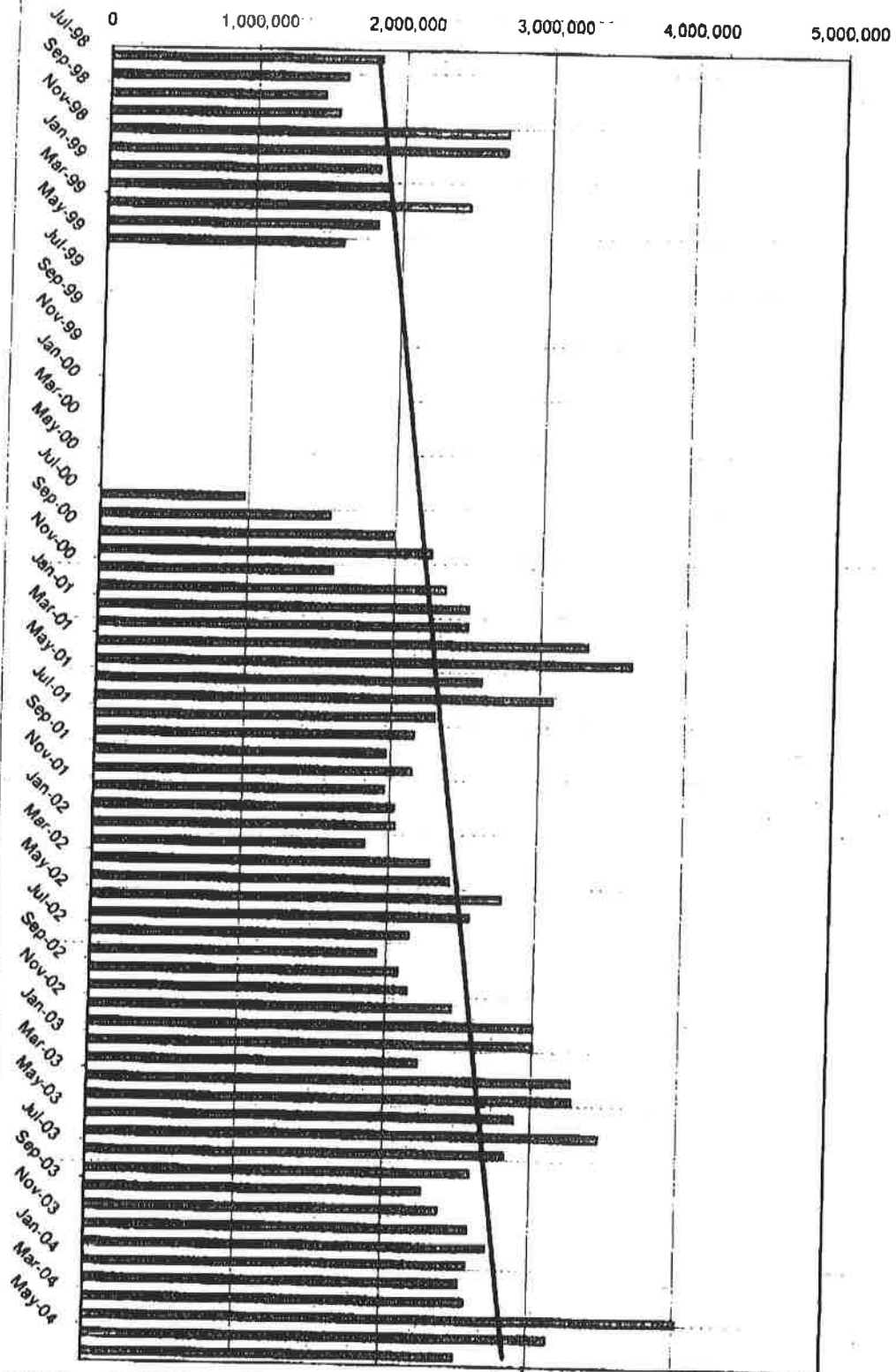
As a result of the issues outlined above, I would have serious doubts about the viability of providing sewer service to the Oswegatchie Hills area in the foreseeable future. At a minimum, the engineering studies underway in each of the towns should be completed prior to any consideration being given to extending or expanding the currently defined service areas.

Lead  
4/10





# Gallons per Day



Waterford Flows



## Office of Long Island Sound Programs Fact Sheet for **COASTAL SITE PLAN REVIEW**

### ***What are Coastal Site Plans?***

The Connecticut Coastal Management Act [CCMA, Connecticut General Statutes (CGS) sections 22a-90 through 22a-112, inclusive] requires "coastal site plan reviews" for certain site plans, plans and applications for activities or projects located fully or partially within the coastal boundary. Coastal site plan reviews must be conducted for the following applications if the proposed activity or use is located landward of the mean high water mark<sup>1</sup>:

- ☐ site plans submitted to a zoning commission in accordance with CGS section 22a-109;
- ☐ plans submitted to a planning commission for subdivision or resubdivision;
- ☐ applications for special exceptions or special permits submitted to a planning commission, zoning commission or zoning board of appeals;
- ☐ applications for variances submitted to a zoning board of appeals; and
- ☐ referrals of proposed municipal projects to a planning commission pursuant to CGS section 8-24 [CGS section 22a-105(b)].

In accordance with CGS section 22a-109(b), certain minor uses and activities may be exempted from coastal site plan review by municipal zoning regulations. Check your municipality's zoning regulations for exemptions.

### ***What must be included in a coastal site plan?***

The CCMA identifies the minimum level of information that must be included in a coastal site plan application. A complete application must contain the following:

- ✓ a plan showing the location and spatial relationship of coastal resources on and contiguous to the subject site;
- ✓ a description of the entire project with appropriate plans, indicating project location, design, timing, and methods of construction;
- ✓ an assessment of the capability of the resources to accommodate the proposed use;
- ✓ an assessment of the suitability of the project for the proposed location, especially if the project site is waterfront or abuts tidal wetlands;

- ✓ an evaluation of the potential beneficial and adverse impacts of the project on coastal resources and future water-dependent development activities;
- ✓ a description of proposed methods to mitigate (minimize, not compensate) adverse effects on coastal resources and future water-dependent development activities; and
- ✓ any other requirements specified by municipal regulation. [CGS section 22a-105(c)].

For more information regarding what constitutes a complete application, please see the *Coastal Site Plan Review Application Checklist*.

### ***What must the commission or board consider when acting upon a coastal site plan?***

The appropriate commission or board must determine: 1) whether or not the proposed activity is consistent with all applicable coastal policies and standards in the CCMA; and 2) whether or not the potential adverse impacts of the proposed activity on both coastal resources and future water-dependent development activities are acceptable. In making this determination the municipal authority must look at the following aspects of the proposal:

- ? consider the characteristics of the site including the location and condition of coastal resources on-site;
- ? consider the potential effects, both beneficial and adverse, of the proposed activity on coastal resources and future water-dependent development opportunities;
- ? follow all applicable goals and policies stated in CGS section 22a-92 and identify conflicts between the proposed activity and any goal or policy;
- ? determine whether any remaining adverse impacts have been adequately minimized (see the *Adverse Impacts* fact sheet for more information); and
- ? determine that the proposed activity satisfies other lawful criteria including, specifically, the municipal zoning or subdivision regulations or other applicable municipal regulations or ordinances [CGS sections 22a-106(a) and (b)].

### ***Must a coastal site plan application be referred to the DEP for review?***

Maybe. If a coastal site plan review application includes a shoreline flood and erosion control structure or includes a change in the zoning map or regulations, referral to OLISP is required by statute [Please see fact sheets on *Mandatory Municipal Referrals* and *Shoreline Flood and Erosion Control Structures*]. **However, even if the project does not require mandatory referral, we strongly recommend consultation with OLISP regarding coastal site plans for major development proposals, all waterfront proposals, and proposals where wetlands, beaches and dunes, coastal bluffs and escarpments, or coastal waters could be affected.** In these cases, referral to OLISP for technical review assistance may be appropriate.



***Are there additional statutory considerations when acting upon a coastal site plan application?***

Yes. These include:

**DECISION**

A municipal commission or board may approve, modify, condition, or deny a coastal site plan based upon the review criteria listed above. The commission or board must state in writing the findings and reasons for its action (i.e., the action to approve, modify, condition, or deny the coastal site plan review application) [CGS section 22a-106(d)].

**WRITTEN FINDINGS**

When a coastal site plan review decision is made, the commission or board must state in writing the findings and reasons for its actions. These are commonly termed "written findings" and should document and support the commission's decision. For example, when an application is approved, with or without conditions or modifications, the written findings should detail why the commission found that the project:

- ☛ is consistent with all applicable goals and conditions contained in CGS section 22a-92; and
- ☛ incorporates as conditions or modifications, if applicable, all reasonable measures to mitigate (or lessen) the adverse impacts of the proposed activity on both coastal resources and future water-dependent development activities [CGS section 22a-106(e)].

**AUTHORITY TO REQUIRE A FINANCIAL ASSURANCE**

The commission or board may also require a bond, escrow account, or other surety or financial security arrangement to secure compliance with any modifications, conditions and other terms stated in its approval of a coastal site plan [CGS section 22a-107].

**LACK OF TIMELY DECISION**

If the commission or board fails to render a decision within the time period provided for by the General Statutes (or by any special act for such decision), the coastal site plan is deemed rejected [CGS section 22a-105(f)].

**VIOLATIONS**

Any activity within the coastal boundary that is not exempt from coastal site plan review that occurs without receiving a lawful approval from a municipal board or commission or that violates the terms or conditions of such approval is a public nuisance [CGS section 22a-108].

Municipalities have the authority to exercise all enforcement remedies legally available to them for the abatement of such nuisances. The commissioner of environmental protection may also

order that such a public nuisance be halted, abated, removed, or modified and that the site of the violation be restored as nearly as reasonably possible to its condition prior to the violation [CGS section 22a-108].

Upon receipt of a petition signed by at least twenty-five residents of the municipality in which an activity is located, the commissioner of environmental protection shall investigate to determine whether or not an activity described in the petition constitutes a public nuisance [CGS section 22a-108].

***Does the DEP have authority over coastal site plan reviews?***

Not directly. The authority for coastal site plan review lies with the municipal board or commission responsible for the decision on the underlying application. However, the DEP exercises an oversight role in municipal coastal management activities and, in accordance with CGS section 22a-110, has "party status" in all coastal site plan reviews and can appeal a municipal decision.

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<sup>1</sup> The mean high water mark is the average of all high tide elevations based on 19-year series of tide observations by the National Ocean Survey. The mean high water mark delineates the seaward extent of private ownership of upland property as well as the limits of municipal jurisdiction for regulating upland development projects; the State of Connecticut holds title as trustee to the lands waterward of mean high water.



Office of Long Island Sound Programs  
Fact Sheet  
for  
**COASTAL SITE PLAN REVIEW  
EXEMPTIONS**

***What activities may be exempt from coastal site plan review?***

Municipalities are required to conduct coastal site plan reviews for most activities within the coastal boundary in accordance with the Connecticut Coastal Management Act [CCMA, Connecticut General Statutes (CGS) sections 22a-90 through 22a-112, inclusive, see *Fact Sheet for Coastal Site Plan Reviews* for more information]. However, the CCMA also allows municipalities to authorize specific exemptions from the coastal site plan review requirements. Exemptions may be made for activities specifically listed in CGS section 22a-109(b) provided these exemptions have been adopted by the municipality and incorporated into its zoning regulations. The following activities are listed in CGS section 22a-109(b) as eligible for exemption from coastal site plan review:

- ★ minor additions to or modification of existing buildings or detached accessory buildings, such as garages and utility sheds;
- ★ construction of new or modification of existing structures incidental to the enjoyment and maintenance of residential property including but not limited to walks, terraces, driveways, swimming pools, tennis courts, docks and detached accessory buildings;
- ★ construction of new or modification of existing on-premise structures including fences, walls, pedestrian walks and terraces, underground utility connections essential electric, gas, telephone, water and sewer service lines, signs and such other minor structures as will not substantially alter the natural character of coastal resources or restrict access along the public beach. It should be noted that in this context "walls" does not include any structures that meet the definition of shoreline flood and erosion control structure found in CGS section 22a-109(b). (See *Fact Sheet for Shoreline Flood and Erosion Control Structures* for more information);
- ★ construction of an individual single-family residential structure except when such structure is located on an island not connected to the mainland by an existing road bridge or causeway (i.e., on an island without motor vehicle access) or except when such structure is in or within one hundred feet of the following coastal resource areas: tidal wetlands, coastal bluffs and escarpments, and beaches and dunes;
- ★ activities conducted for the specific purpose of conserving or preserving soil, vegetation, water, fish, shellfish, wildlife and other coastal land and water resources;
- ★ interior modifications to buildings; and
- ★ minor changes in use of a building, structure or property except those changes occurring on property adjacent to or abutting coastal waters.

In addition to the statutory exemptions, there are two items addressed in CGS section 22a-109 that are important to note:

1. shoreline flood and erosion control structures, as defined in CGS section 22a-109(b), **cannot be exempt** from the coastal site plan review requirements contained in the CCMA (See *Fact Sheet for Shoreline Flood and Erosion Control Structures* for more information); and
2. gardening, grazing, and the harvesting of crops are not subject to provisions of the CCMA.

### ***How can I tell if an activity is exempt?***

The exemptions must be formally adopted by a municipality in order for them to be in effect. The statutorily listed exemptions have been incorporated into the zoning regulations of most coastal municipalities. Thus, to determine whether a proposed activity is currently exempt from coastal site plan review, please refer to your municipality's zoning regulations for its specific list of exemptions and consult with the municipal planning and zoning office.

### ***Does the DEP have authority over determining whether an activity is exempt from coastal site plan review?***

Not directly. Although OLISP can provide assistance in determining whether or not a proposed activity meets the standards for exemption, the authority for establishing coastal site plan review exemptions lies with a municipality's zoning commission. However, if a municipality exempts from coastal site plan review an activity that should have received such a review, the DEP can deem the activity a public nuisance and take enforcement action in accordance with CGS section 22a-108.

### ***Must DEP be notified of a determination that an activity is exempt from coastal site plan review?***

No.

### ***What is the process for establishing exemptions?***

In order to exempt any of the listed activities, the municipality must first formally adopt the exemptions, generally as amendments to their zoning regulations. A municipality is not required to adopt any of the exemptions listed in the statutes nor must they adopt all of the exemptions if they choose to adopt some of them. They may also adopt a more restrictive description of exempt activities. However, a municipality cannot exempt activities that are not specified by CGS section 22a-109(b).

### ***What should be considered when specifying exemptions in the zoning regulations?***

Many municipalities have adopted the statutorily listed exemptions verbatim. In fact, in many cases the current municipal regulations indicate that certain uses "shall be exempt" from coastal site plan review rather than "may be exempt." This precludes any flexibility to require coastal site plan review of those activities that may present a threat to sensitive coastal resources due to their location, as the regulations automatically exempt the specified activities regardless of their location. Many of the statutorily defined uses and activities may seem to be minor and in most cases they are. However, we have learned from experience that it is really the location of these uses and activities relative to sensitive coastal resources that

is critical in determining the potential adverse impacts that such uses might have. Because municipalities are required to ensure that adverse impacts are minimized and found acceptable, the proposed location of the activity should be the main factor in determining what constitutes a "minor addition" and/or a "minor change in use."

This, combined with several other minor issues and questions from municipalities and applicants regarding the exemption of specific activities has led us to develop model exemption regulation language. We strongly encourage municipal zoning commissions to review the exemptions that are currently allowed under their existing zoning regulations to determine whether amendments are warranted to clarify which activities are exempt or to provide reasonable flexibility to better protect sensitive coastal resources, or both.

## MODEL EXEMPTION LANGUAGE.

To assist municipalities in the adoption of clearer and more flexible exemption language, the Office of Long Island Sound Programs has developed the following model for coastal site plan review exemption regulations. As you will note, the differences between the statutory language and the model regulation are very slight and differ only in that they do not exempt activities, no matter how minor, if they have the potential to impact sensitive coastal resources or affect access along public beaches. Such uses would not be prohibited by adoption of the model regulation; rather, the regulation preserves the authority of municipalities to require a coastal site plan review application and, importantly, to condition or modify such applications to mitigate impacts, where warranted, as part of the approval process.

Please note that in order to exempt any of the uses allowed pursuant to CGS section 22a-109(b) or modify the existing exemptions regulation, the municipal zoning regulations must be amended in accordance with the procedure specified in Section 8-3 of the Connecticut General Statutes. As with any proposed zoning regulation change that affects the coastal boundary, adoption of the listed exemptions or changes to the adopted exemptions requires referral to the Department of Environmental Protection for review and comment at least 35 days prior to the opening of the local public hearing. Please see the OLISP fact sheet regarding *Mandatory Referrals* for additional information regarding this process.

Notes on the model language below:

The language in *italics* is not contained in the statutory language of CGS section 22a-109(b).

Text in [brackets] is not necessarily intended as part of the final regulations, but rather is either narrative to clarify certain items or provided as alternate criteria for adoption. If the model language is adopted, this text should be either deleted if it is a clarification, or a selection should be made between the suggested alternatives.

In several sections, the model language requires coastal site plan review for activities within 25 feet of specific coastal resources. We are recommending 25 feet as a minimum; however, municipalities are encouraged to adopt wider review areas (e.g., all activities within 50, 75, or 100 feet). In any event, the review area should be consistent throughout the exemption regulations.

**Model Regulations:****SECTION XX: COASTAL SITE PLAN REVIEWS – EXEMPTIONS**

1. Minor additions to or modification of existing buildings or detached accessory buildings (e.g., garage, or utility shed) *except when such building or proposed addition or modification is in or within twenty-five feet of the following coastal resources as defined by section 22a-93 of the Connecticut General Statutes: tidal wetlands, beaches and dunes, coastal bluffs and escarpments or coastal waters.*
2. Construction of new or modification to existing structures incidental to the enjoyment and maintenance of residential property including walks, terraces, driveways, decks, swimming pools, docks, tennis courts, and detached accessory buildings *except: (1) where the proposed construction or modification is in or within 25 feet of the following coastal resources as defined by section 22a-93 of the Connecticut General Statutes: tidal wetlands, beaches and dunes, coastal bluffs and escarpment, or coastal waters; or (2) where access along a public beach may be affected.*
3. Construction of new or modification of existing on-premise structures including fences, walls (provided they do not meet the definition of shoreline flood and erosion control structure found in [use either of the following: section \_\_\_ of these regulations or section 22a-109(c) of the Connecticut General Statutes]), pedestrian walks and terraces, decks, underground utilities, essential electric, gas, telephone, water and sewer service lines, septic systems, and other services, signs and other minor structures *except: (1) where any of the work or associated activities will occur within 25 feet the following coastal resources as defined by section 22a-93 of the Connecticut General Statutes: tidal wetlands, beaches and dunes, coastal bluffs and escarpments, or coastal waters; or (2) where access along a public beach may be affected.*
4. Construction of an individual single-family residential structure *except when located on an island not connected to the mainland by an existing road bridge or causeway (i.e., on an island without motor vehicle access) or except when such structure is within one hundred feet of the following coastal resources as defined in section 22a-93 of the Connecticut General Statutes: tidal wetlands, beaches and dunes, coastal bluffs and escarpments; or coastal waters.*
5. Activities conducted for the specific purpose of conserving or preserving soil, vegetation, water, fish, shellfish, wildlife, and other coastal land and water resources, *except those activities that meet the definition of a shoreline flood and erosion control structure as defined in [use either of the following: section \_\_\_ of these regulations or section 22a-109(c) of the Connecticut General Statutes].*
6. Interior modifications to buildings.
7. Minor changes in use of a building, structure, or property *except those changes occurring on property adjacent to or abutting coastal waters.*

This model language is available to municipalities in electronic form. Please contact the Office of Long Island Sound Programs at 860-424-3034 to request a copy.



# Office of Long Island Sound Programs

## Fact Sheet

### for

# *STORMWATER MANAGEMENT*

### ***What is Stormwater Management?***

Stormwater management is a comprehensive process to minimize potential adverse impacts to natural resources and water quality from stormwater runoff. The traditional approach to handling stormwater runoff has been to collect it from the developed area and shunt it as quickly as possible to the nearest water body to prevent flooding in upland areas. In the past, little attention had been paid to the impacts of the associated increases in both the volumes and rates discharged and the pollutants carried in the runoff. The result has been severe erosion of streams, the loss and degradation of habitat, increased flooding and associated damage, increased siltation resulting in more frequent dredging to maintain navigation, and tremendous capital expenditures to address these problems.

Proper state-of-the-art stormwater management involves many techniques including pollution prevention, minimization of impervious surfaces, on-site retention of a portion of the runoff, where appropriate, and treatment of non-retained runoff to remove contaminants such as oils, greases, suspended solids and floatable debris. One general goal is to design development in such a manner that the changes in runoff rates and volumes are minimized. This is initially accomplished through the proper siting and design of proposed structures and infrastructure.

### ***Why is stormwater management important?***

Pollution of our surface and ground waters has been a recognized problem for many years. While great strides have been made in controlling point sources of pollution, primarily through the National Pollution Discharge Elimination System (NPDES) permitting program and corresponding state regulatory programs, there is a new awareness of the importance of controlling nonpoint sources of pollution (pollution generated by many diffuse sources). Stormwater runoff is a major contributor of nonpoint source pollution.

The amount of stormwater runoff from a given site is dictated by site-specific conditions, such as the soil's infiltration capacity, the type and extent of site cover (e.g., vegetation or pavement), the slope, and the duration and intensity of each rainfall event. Stormwater that penetrates the soil is slowed, filtered, cooled, and renovated. Renovation is a process by which bacteria and minerals in the soil treat and bind contaminants, removing them from the stormwater.

Impervious surfaces, such as pavement and buildings, reduce the area of soil into which rainfall can infiltrate, thus increasing the volume of runoff that flows over the land. As this runoff flows over impervious and pervious surfaces, it can pick up and transport floating, suspended, and

dissolved constituents such as pathogens, toxic materials (heavy metals, oils, antifreeze, pesticides, etc.), high levels of nutrients (fertilizers and organic matter), eroded sediments (topsoil and road sand), and trash. This runoff flows down gradient over the land to the nearest water body or depression where it not only deposits the contaminants it carries, but it alters the temperature, pH, and/or salinity of receiving waters. It should be noted that even clean, potable freshwater can be a pollutant when introduced to a brackish or saline environment in the coastal area. Freshwater dilutes the salt concentrations in the receiving area, adversely impacting the flora and fauna that are uniquely suited to such salty environs. Over the long-term, sediment settles out of the water column and can degrade habitat in stream bottoms, tidal wetlands, and shellfish beds.

Poorly planned new development and redevelopment can result in increased stormwater discharges, and ultimately more polluted runoff reaching watercourses and wetlands. Unlike conditions in the soil, there are few natural processes available in the receiving waters to treat, reduce, or control many of the harmful constituents in the runoff; they can only be diluted by the volume of water that they reach. With constant inputs after each rainfall, concentrations of many harmful constituents have been increasing in the sediments and the water column. Additionally, increasing stormwater discharges can lead to increased risks of flooding and flood damage and to increased siltation in coastal waters which often results in habitat degradation and an increased need to dredge to maintain navigation.

Design issues relate to the topography, soil conditions, existing drainage, and natural resources on and adjacent to the site. The implementation of structural and/or non-structural best management practices (BMPs) can also be used to provide both effective erosion and sedimentation control and minimization of other pollutants including oils, greases, toxics, pathogens and floatable debris. Please refer to the manual titled *Coastal Water Protection: A Guide for Local Officials*, (DEP, 1996) for additional detailed information. A copy of the guide has been provided to the planning and zoning department in each coastal municipality.

### ***What are the statutory policies that apply?***

The Connecticut Coastal Management Act (CCMA) contains several policies that highlight the need to incorporate stormwater management into individual project reviews and long-range planning. These include the following:

To manage estuarine embayments so as to insure that coastal uses proceed in a manner that assures sustained biological productivity, the maintenance of healthy marine populations and the maintenance of essential patterns of circulation, drainage and basin configuration; to protect, enhance and allow natural restoration of eelgrass flats except in special limited cases, notably shellfish management, where the benefits accrued through alteration of the flat may outweigh the long-term benefits to marine biota, waterfowl, and commercial and recreational finfisheries [Connecticut General Statutes (CGS) section 22a-92(c)(2)(A)].

It is found and declared that the pollution of the waters of the state is inimical to the public health, safety and welfare of the inhabitants of the state, is a public nuisance and is



harmful to wildlife, fish and aquatic life and impairs domestic, agricultural, industrial, recreational and other legitimate beneficial uses of water and that the use of public funds and the granting of tax exemptions for the purpose of controlling and eliminating such pollution is a public use and purpose for which moneys may be expended and tax exemptions granted, and the necessity and public interest for the enactment of this chapter and the elimination of pollution is hereby declared as a matter of legislative determination [CGS section 22a-422, as referenced by CGS section 22a-92(a)(2)].

The CCMA defines adverse impacts which must be avoided or, if avoidance is not possible, must be minimized in order for a project to be lawfully approvable. The following potential adverse impacts must be considered during the coastal site plan review process and when evaluating proposed zoning regulation and map amendments.

Degrading water quality through the significant introduction into either coastal waters or ground water supplies of suspended solids, nutrients, toxics, heavy metals, or pathogens, or through the significant alteration of temperature, pH, dissolved oxygen, or salinity [CGS section 22a-93(15)(A)];

Degrading existing circulation patterns of coastal waters through the significant patterns of tidal exchange or flushing rates, freshwater input, or existing basin characteristics and channel contours [CGS section 22a-93(15)(B)];

Degrading natural or existing drainage patterns through the significant alteration of groundwater flow and recharge and volume of runoff [CGS section 22a-93(15)(D)];

Degrading or destroying essential wildlife, finfish or shellfish habitat through significant alteration of the composition, migration patterns, distribution, breeding or other population characteristics of the natural species or significant alteration of the natural components of the habitat [CGS section 22a-93(15)(G)]; and

Degrading tidal wetlands, beaches and dunes, rocky shorefronts, and bluffs and escarpments through significant alteration of their natural characteristics and functions [CGS section 22a-93(15)(H)].

In addition, the state statutes pertaining to planning and zoning contain specific requirements for zoning regulations and plans of development that relate to the restoration and protection of coastal resources. These are:

In any municipality that is contiguous to Long Island Sound the regulations adopted under this section shall be made with reasonable consideration for restoration and protection of the ecosystem and habitat of Long Island Sound and shall be designed to reduce hypoxia, pathogens, toxic contaminants and floatable debris in Long Island Sound. Such regulations shall provide that the commission consider the environmental impact on Long Island Sound of any proposal for development [CGS section 8-2(b)].

The plan adopted under this section for any municipality that is contiguous to Long Island Sound shall be made with reasonable consideration for restoration and protection of the

ecosystem and habitat of Long Island Sound and shall be designed to reduce hypoxia, pathogens, toxic contaminants and floatable debris in Long Island Sound [excerpt from CGS section 8-23].

Proper management of stormwater will address these statutory requirements.

### ***Are stormwater discharges regulated by the Department of Environmental Protection?***

Yes. Technically, most discharges to the waters of the State Of Connecticut are regulated by the Department of Environmental Protection through either a general permit or individual permit requirement. There are several types of stormwater discharges that are covered by the issuance of a general permit. If the stormwater discharge does not qualify for coverage by the general permit because adverse impacts to the waters of the state would result, an individual permit may be required prior to discharge.

Registration is required to be submitted in order for stormwater discharges to be authorized by the following general permits issued by the Connecticut Department of Environmental Protection:

***Stormwater and Dewatering Wastewaters from Construction Activities:*** This general permit applies to all discharges of stormwater and dewatering wastewaters from construction activities which include, but are not limited to, clearing, grading, and excavation and which result in the disturbance of *five or more acres* of total land area on a site.

***Stormwater Associated with Commercial Activities:*** This general permit applies to all discharges from any conveyance which is used for collecting and conveying stormwater and which is directly related to retail, commercial, and/or office services whose facilities occupy *five acres or more* of contiguous impervious surface.

***Stormwater Associated with Industrial Activities:*** This general permit applies to all discharges from any conveyance which is used for collecting and conveying stormwater and which is directly related to manufacturing, processing or material storage areas at an industrial activity site.

### ***What can a municipality do to minimize impacts from stormwater runoff?***

- ◆ Maintain, enhance or restore the quality of coastal waters and submerged lands through the adoption and implementation of a stormwater management ordinance, either as an amendment to the municipal zoning regulations or as a "stand-alone" ordinance. In either case, it should require 1) that new development projects be designed to minimize clearing, cutting and filling in undisturbed areas to ensure that new development is consistent with the capabilities of the land to support such development; 2) soil erosion and sediment control plans for all development projects near sensitive coastal resources, even those projects with less than one-half acre land disturbance proposed; and strictly enforce appropriate

sedimentation and erosion control measures during construction; and 3) that site plan and special permit/exception applications include appropriate best management practices to retain and treat on-site the runoff generated by the first inch of rainfall, remove 80% of the total suspended solids on an annual basis, and, where site conditions allow, prohibit post-development increases in the pre-development rates and volumes of stormwater discharge.

- ◆ Review zoning regulations to determine the maximum impervious cover allowed in each district and carefully consider reducing these maximums wherever possible, particularly in areas abutting coastal waters and other sensitive coastal resources, but also for areas serviced by municipal stormwater systems that discharge to coastal waters. Include buildings, paved areas, sidewalks, terraces, patios and other non-porous surfaces when calculating impervious cover.
- ◆ Update subdivision regulations to encourage cluster developments that incorporate features such as curbless roads, narrow roads, grass swales, retention ponds, and other features that reduce impervious cover, disperse and treat stormwater, and minimize the collection and transport of stormwater to surface waters.
- ◆ Update the municipality's Plan of Conservation and Development and Municipal Coastal Program, if applicable, to encourage best management practices for stormwater for all new or substantially improved development, including improvements to municipal roads, bridges and other facilities; and for currently developed areas. Consider including the following:

An inventory of existing storm drain outfalls to identify opportunities to retrofit roads and other municipal facilities for stormwater retention and pollutant reduction;

Identification of illicit connections to municipal storm sewer system (anything that is not stormwater that is being discharged to the stormwater system without a permit) and recommendations to correct or mitigate adverse impacts associated with these connections;

Adoption of a municipal ordinance that prohibits illicit connections to municipal stormwater systems;

Consideration of (and preparation for) the use of alternatives to winter sanding and salting on roadways and parking areas;

Planning for and implementation of appropriate snow disposal practices;

Initiation of a storm drain stenciling program to help identify direct links to coastal waters and other waterbodies;

Adoption of an ordinance that limits the application of fertilizers and broad-based pesticides, particularly in months with historically high or low average precipitation such as April and August; and

Recommendations for regularly scheduled street sweeping and catch basin clean-

outs to minimize the amount of sediment, contaminants, and floatable debris entering coastal waters and other waterbodies through the municipal stormwater management system, and recommendations to amend the zoning regulations to require similar maintenance of private parking lots and streets.

Develop a watershed management plan with neighboring municipalities that share your watershed boundaries, and implement a coordinated stormwater management plan.

- ◆ Develop an educational handout that: addresses the importance of stormwater management; identifies actions that individuals can take to minimize potential stormwater impacts (including, for example, the proper use of fertilizer, disposal of used motor oil and composting of lawn clippings, etc.); and includes the municipality's standards for development. Include it in every application package for land use and/or building permits and authorization.
- ◆ Develop an open space/greenways plan to create recreational opportunities and buffer sensitive and important resources, particularly streams, tributaries, and coastal resources from stormwater impacts.
- ◆ During the review process for new or redeveloping marinas, require coastal site plan conditions that incorporate the practices identified in *Best Management Practices for Coastal Marinas* (DEP-OLISP, August 1992).
- ◆ Coordinate with the Department of Environmental Protection's Stormwater Management Unit to make sure that all eligible stormwater discharges from industrial, commercial, or construction activities are covered by the appropriate general permit and to ensure compliance with Stormwater Pollution Prevention Plans.
- ◆ Refer coastal site plan review applications for waterfront sites or significant development proposals within the coastal boundary to the DEP's Office of Long Island Sound Programs for comment and technical assistance.



**Office of Long Island Sound Programs**  
**Fact Sheet**  
 for  
**GENERAL PUBLIC ACCESS TO**  
**COASTAL WATERS**

***What is General Public Access to Coastal Waters?***

General public access to coastal waters, as used in the statutory definition of "water-dependent uses" [see fact sheet for *Water-Dependent Uses*], are uses or facilities which provide for recreational use or enjoyment of coastal waters and/or their adjacent shoreline by the general public. General public recreational use and enjoyment includes, but is not limited to: fishing, hiking, boat launching, birding or wildlife observation, and general passive enjoyment of scenic waterfront coastal views and vistas.

***When is it most appropriate to incorporate public access into a waterfront development proposal?***

As required by the Connecticut Coastal Management Act (CCMA) waterfront sites should, in most instances, be developed with water-dependent uses, unless site specific characteristics prevent such use. In an instance where a site is inappropriate for more active water-dependent uses, such as marinas, the creation or enhancement of public access should be a priority. (See *Fact Sheet for Water-dependent Uses* for more information.)

Generally, coastal public access should be provided where appropriate as a stand-alone water-dependent use and at any waterfront site proposed for non-water-dependent use to make the project consistent with the water-dependent use policies of the CCMA and to mitigate unacceptable adverse impacts of the proposed development on future water-dependent development opportunities. The acceptability of potential adverse impacts should be evaluated based upon a consideration of the:

- ▶ site's unique characteristics including its potential to accommodate a water-dependent development or use;
- ▶ effects of the proposed non-water-dependent use on possible future water-dependent development opportunities; and
- ▶ consistency of the proposed use with applicable CCMA policies and goals.

The degree to which potential adverse impacts to future water-dependent development opportunities are created by a proposed non-water-dependent use should be determined based upon a consideration of the amount and characteristics of the shoreline proposed to be developed for non-water-dependent uses and the intensity of such use. The following list of potential public

access opportunities and constraints should be considered in determining the type and extent of coastal public access appropriate for the site:

- ▶ general site topography including site elevation and contours;
- ▶ on-site or adjacent safety hazards;
- ▶ water depths;
- ▶ presence of sensitive coastal resources and the need to protect them;
- ▶ community coastal recreational facility needs;
- ▶ neighborhood privacy concerns; and
- ▶ views from the site.

### ***Can a commission legally require coastal public access as a condition of coastal site plan review approval?***

Yes, when necessary and appropriate to satisfy the water-dependent use requirements of the CCMA. The statutory language found within the CCMA authorizes a municipal planning and zoning commission to require the provision of coastal public access as a condition of coastal site plan approval for the otherwise non-water-dependent use of a waterfront site. This has been confirmed by the Connecticut Supreme Court in the decision *DeBeradinis vs. Zoning Commission of the City of Norwalk* 228 Conn. 187. The Court also found that the imposition of a requirement to provide public access at a site proposed for a non-water-dependent use was not an unconstitutional taking of private property without just compensation.

### ***What is the process for evaluating and siting coastal public access facilities?***

#### General Site Evaluation

- ▶ Get a sense of the site - is there potential for providing meaningful public access?
- ▶ Confirm information shown on the site plan (e.g., drainage, solar orientation, slopes, soils, hazards).
- ▶ Identify existing or potential site attractions (e.g., scenic view, water depths for fishing/boat launching, surficial geology-sandy beach or rocky shorefront).
- ▶ Is there evidence of existing public use at the site (e.g., foot paths)? If none, contact local potential user groups (e.g., birding or kayak clubs) to evaluate site's potential.
- ▶ Is there enough space to separate public from private use of the site? If not, redesign the project to accommodate public access.
- ▶ Are there significant public safety concerns?
- ▶ Can site safety constraints and coastal resource protection concerns be overcome through appropriate design (e.g., pedestrian overpasses, fencing, security lighting, etc.)?

- ▶ Can the proposed development be redesigned, if necessary, to better accommodate public use?

#### Locate and Map Potential Site Activity Nodes

- ▶ Identify areas appropriate to public and private uses, including areas for parking and access to the site.
- ▶ Develop linkages between public use areas and site access points; locate attractions to draw the visitor to the site from a public street or parking area.
- ▶ Identify and locate appropriate barriers to separate public from private areas (e.g., fencing, landscape screening).
- ▶ Identify links to off-site public areas (e.g., public parks) and barriers to adjacent incompatible uses (e.g., railroads).

#### Site Signage

- ▶ Provide signage design and wording details (e.g., open dawn to dusk) and indicate sign locations. Generally, signs should, at a minimum, be located at the street entrance to the site and, if somewhat distant from the entrance, at the parking area(s). Additional directional signage should be considered if the access area is remote and not obvious from the street entrance.
- ▶ Develop a town-wide signage program to promote uniform signage and special sign components (e.g., directional arrows) and to provide prefabricated signs. Prefabricated universal coastal public access signs are also available through the DEP's bookstore.

#### Administrative and Legal Items

- ▶ To ensure implementation and maintenance of public access component(s), condition coastal site plan approval to specifically require:
  - general public access component(s) as a separate, enforceable condition of approval, even if shown on developer's plans. The formal decision should include description of the public access components;
  - recorded public access easements on land records to ensure permanency of access;
  - maintenance of the public access area and associated amenities and establishment of a mechanism to provide such maintenance (e.g., create a homeowners association public access area maintenance account);
  - public access areas and linkages be built before issuing building permit(s) or certificate(s) of occupancy for the non-water-dependent components of the site development; and
  - applicants to post performance bonds or escrow accounts, as authorized by CGS section 22a-107, to ensure that coastal public access facilities are constructed.
- ▶ Perform follow-up inspections to ensure the access facilities are properly constructed and associated easements are filed prior to issuing certificate(s) of occupancy for the non-water-dependent components of the site development and periodic inspections to ensure facilities are properly maintained.

**Note: CGS section 52-557f relieves private property owners of liability for injury in most instances when they provide public access on private lands at no charge.**

### ***What are the principles of coastal public access site design?***

- ▶ Make the visiting public feel comfortable and welcome (methods: signage, amenities such as benches, trash receptacles, lighting and parking, if appropriate).
- ▶ Separate the public and private portions of the development (methods: plantings, fences, adequate space between public and private activity nodes).
- ▶ Design to attract and retain public use of access area (methods: provide sufficient space and amenities such as seating, trash receptacles and parking, if warranted).
- ▶ Promote a sense of visitor safety from on- and off-site hazards such as dogs, privacy conscious neighbors, industrial activities (methods: provide lighting, limit access from dawn to dusk except for fishing access, orient site away from visual distractions, provide vegetated buffers).
- ▶ Make access to area easy (methods: on or near site parking; connect site walkways to public sidewalks, provide gentle slopes).

### ***What can a municipality do to promote coastal public access?***

- ▶ Amend the Plan of Conservation and Development and Municipal Coastal Program, if applicable, to specifically identify both areas where coastal public access is particularly needed and the types of access facilities in greatest demand.
- ▶ Amend the zoning regulations to specify municipal authority and criteria to specifically require water-dependent uses including coastal public access through the coastal site plan review process, as already provided in the CCMA.
- ▶ Direct applicants for waterfront projects to meet with town planning and zoning staff prior to formal application for coastal site plan review approval to review the CCMA's water-dependent use requirements. The purpose of such meetings should be to explore whether a site is suitable for active water-dependent uses, and if not, how proposed non-water dependent uses of waterfront sites could be modified to incorporate meaningful water-dependent use components. Such meetings could also address concerns about the perceived effects of providing coastal public access (i.e., public access can be designed at "neighborhood scale"; time of access limited to dawn to dusk except where fishing access is appropriate, landowner liability is limited by statute, etc.).
- ▶ Make this fact sheet available to the public and the planning and zoning office.





September 1, 2004

Mark Nickerson, Chairman  
Zoning Commission  
Town of East Lyme  
108 Pennsylvania Avenue  
East Lyme, CT 06333

Re: Riverview Heights

Dear Mr. Nickerson:

This office has been asked by Friends of Oswegatchie Hills Nature Preserve Inc. to review and comment on the plans for this project. Our review is limited to plans dated 3/14/04, 4/1/04, 6/14/04 & 7/1/04 and titled "Riverview Heights (A Residential Community) Boston Post Road East Lyme Connecticut, Applicant/Developer: Landmark Development Group 460 Smith Street, Suite A Middletown, Connecticut 06457, Engineer/Surveyor: ASW Consulting Group 329 Main Street, Suite 203 Wallingford Connecticut 06492." We have not visited the project site nor have we reviewed any other documents that were prepared in connection with the project. The results of our review are summarized in the following comments. We request that this letter be made part of the public hearing record.

Access – The plans depict one means of regular vehicular access through the Deerfield 95 Investors property and an emergency access off Caulkins Road. One access for this number of units is unusual; a typical subdivision of 30-35 house lots has more than one means of access. The emergency access is up a long hill with no apparent means of drainage at its lower end. This access could be rendered impassable by weather conditions (rain, ice, snow).

Earthwork/Erosion Control – Considerable clearing and grading, including some 25-30 foot cuts, are required based on grading plans. Given site topography, proximity to the Niantic River, and the minimal Erosion and Sediment Control (ESC) measures (no diversion ditches, sediment traps or similar devices) there is potential for sedimentation and erosion. A significantly more aggressive ESC plan is warranted given these conditions.

Century Professional Center, Suite 3 • 100 Fort Hill Road, Groton, CT 06340 • (860) 448-0400 • Fax: 448-0899

www.dbengineers.com

e-mail: info@dbengineers.com

Read 5th  
9/2/04



Stormwater Management – At a number of locations, stormwater is being discharged to wetlands without the benefit of any treatment. This stormwater contains constituents from parking lots and lawns that could degrade water quality. Water quality basins and oil grit separators should be incorporated into the design at all discharges. It is unclear as to whether any stormwater quantity management is being provided. If not, there may be substantial increases in runoff from the site development.

Wetlands – Although this is not primarily a Zoning Commission consideration, there is no indication if the site has been checked for vernal pools. If there are any, this may warrant more detailed review of upland habitat areas.

Water Supply – Could not find the size of the water mains in the project. Has the system been modeled to see if pressures are adequate to serve the project? Wells are shown in close proximity to the Niantic River which raises the possibility of salt water intrusion. Has this been evaluated?

Sewage Disposal – Leaching system alternative utilizes high intensity system (Living Filter) located in fill. Topography and soils data pose limitations for this type of system to operate effectively. Has an analysis been conducted to determine where the sewage goes and whether or not it gets properly renovated before discharge to water resources?

We hope that these comments are of assistance to you in reviewing this matter.

Sincerely,

DICESARE-BENTLEY ENGINEERS, INC.

Clinton S. Brown II, P.E.  
Principal

CSB/pgb

pc: Friends of Oswegatchie Hills Nature Preserve Inc.  
04-097.01

**DiCesare-Bentley Engineers**  
100 Fort Hill Road  
Groton, CT 06340  
P: (860) 448-0400  
F: (860) 448-0899

# Facsimile Transmittal

**To:** Mark Nickerson, Chairman      **Fax:** 691-0351  
Town of East Lyme

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**From:** Clinton Brown      **Date:** September 1, 2004

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**Re:** Riverview Heights      **Pages:** 3, Including Cover

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**PC:** Mike Dunn (437-8079), 04-097.01

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Urgent     As Requested     Please Comment     Please Reply     Please Recycle

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Attached please find letter regarding Riverview Heights, original to follow by mail.

09/01/2004 10:03 FAX860 448 0899 DiCesare-Bentley ENGRS 001/003  
Mark Nickerson, Chairman  
Town of East Lyme  
September 1, 2004  
Riverview Heights  
Mike Dunn (437-8079), 04-097.01  
As Requested

U

exh #34

September 2, 2004

Michael B. Dunn  
7 Plant Drive  
Waterford, CT 06385

Mark Nickerson  
Chairman, Zoning Commission  
East Lyme, CT

RE: Oswegatchie Hills  
Attachment: Aerial Photograph

Dear Mr. Nickerson:

Numerous reasons have been presented for rejection of the application before you today. There are Public Health and Safety concerns. There is only one full access road leading to the proposed 352 units. There are wells located close to the Niantic River and the amount of water that would be pumped to support this size development would quite likely create a cone of influence that would suck salt water into the wells.

There are massive areas proposed to be clear cut and regraded for community septic leaching fields. These areas slope steeply to the Latimer Brook below.

Environmental experts have attested to the presence of endangered species and vernal pools and provided ample documentation to warrant rejection of this intense development.

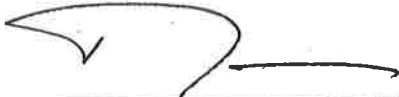
The site is generally steep and has shallow bedrock creating a precarious environmental risk to the Niantic River. The storm water runoff from this intensity of development would be devastating to the Niantic River ecosystem.

If the zoning commission denies this proposal, it will likely be appealed and then decided by a judge. Historically the court has sided with the developer 4 out of 5 times because the state statutes are written to encourage development of affordable housing projects.

So it may come down to the court deciding whether this location (as shown in the attached aerial photo) is one out of five sites that are unique enough and environmentally valuable enough to not be developed.

This natural treasure is better than one in five, it is one in a million.

Respectfully yours,



---

Michael B. Dunn  
Vice President  
Friends of the Oswegatchie Hills Nature Preserve

EKh. 35  
9/2/04  
Loring

E-mail message

From: acarlstamm@webtv.net(A. Carl Stamm)  
Date: Mon, Aug 30, 2004, 5:39pm  
To: acarlstamm@webtv.net  
Subject: (no subject)

East Lyme Zoning Board

From: A. Carl Stamm  
5 Saunders Drive  
Niantic, CT 06357

August 19, 2004, I listed my wide and varied 50 plus years of training and experience in many varied environmental fields. We discussed the numbers and species of Flora and Fauna resident in the Oswegatchie Hills, an area I have been intimately familiar with since 1935.

Today, I am going to discuss Vernal Pools and their importance to the environment. A Vernal Pool is a contained basin depression which fills with winter and spring melt or run-off and sometimes, but not always dries up in summer.

Wood Frogs, Mole Salamanders

(Jefferson, spotted, blue spotted and marbled), and wood and spotted turtles are totally dependent on Vernal Pools to complete their life-cycle. Vernal Pools provide an environment for numerous rare plants and animals enabling them to survive and thrive even in their harsh and temporary conditions.

To really appreciate the importance of Vernal Pools, it is necessary to visit them during the midnight hours of a warm, rainy and misty night. The pools would be alive with hundreds of amphibians of various species going through their breeding cycle. Several similiar nights in following weeks, you could observe the same ritual by other species. Visiting the same pools several weeks later you could observe the various species of Wood Frogs (spring peepers, gray tree frog, green and pickeral frogs) American and Fowlers Toads noisily going through their breeding ritual. Red spotted newts and 4-toed salamanders could also be observed.

During the days the water in the pools contain the varied colored eggs of the various species of frogs and salamanders, the hatching tadpoles and larva of many species. To estimate the magnitude of the pools use one should closely observe them from early March to May.

Any disturbance of the environment in the vicinity of these important pools will result in a drastic reduction or elimination of their reproductive potential. For this reason many states and towns mandate a 600 to 750 foot buffer around these pools. Even an access road across the slope within that range can severely hinder the access to the pool.

The Vernal Pools are widely distributed throughout Oswegatchie Hills. A number of them are found in the area owned and controlled by Landmark. Several pools appear to be in the area designated as a heavily developed area on the conceptual plan. The heavy development with all its auxilliary functions, plus the further impact of a thousand or more people, vehicles and pets, and the resulting pollution will turn this delicate environment into a biological desert.

Local residents have testified their "iffy" low yield wells would be impacted by this

development. A check of well drilling records in the vicinity will demonstrate their low yields, which show that water sufficient for the health and welfare of present and future residents may not be found; and the lack of volume and sufficient reservoir would not provide adequate fire protection for the projected residents.

The U.S. Soil Conservation maps and records show most of the soils in the area are inadequate to provide on-site sewage disposal for such a large development.

These extensive hearings have revealed to us a basic truth, the land and environment of this parcel and most of the Oswegatchie Hills can not absorb or tolerate the demand put up on it by this projected development.

A. Carl Stamm



5 Saunders Drive  
Niantic, CT 06357

September 2, 2004

Deborah Moshier-Dunn  
7 Plant Drive  
Waterford, CT 06385

Mark Nickerson  
Chairman, Zoning Commission  
East Lyme, CT

RE: Oswegatchie Hills

Dear Mr. Nickerson:

I grew up on the Hudson River, so I know what happens to a river, even as large as the Majestic Hudson, from over-development and its runoff. As a young girl, I was able to swim in and eat fish from the Hudson. Now, one eats the fish and swims in the Hudson at his/her own peril.

I am here tonight to speak for those who can't speak for themselves. Who speaks for the wild things – the fox, the osprey, the tiny minnows that feed the bluefish and the eel grass that houses the scallops? Who speaks for our children's right to clean air, land and water? I feel that in the face of excessive development, I must.

"You never really know what you've got 'til it's gone. They've paved paradise and put up a parking lot." The words of this song clearly describe what is happening to East Lyme and what I hope you will stop from happening to Oswegatchie Hills. It takes no more than a paddle up the Niantic River next to this last remaining stretch of woodlands on the river to see and feel its uniqueness. I invite each of you to take a ride up the Niantic River as I did and feel how special Oswegatchie Hills is. It is a place that should be preserved not just for us, but for our children and our children's children.

I bring with me the signatures of 78 people who are petitioning this town's elected officials to do all they can to save the Oswegatchie Hills. Last weekend, I was one of at least 125 kayakers on the Niantic River who gathered to rally in support of saving the Hills.

I also have brought my daughter Michaela here tonight. She's a mere 6 months old. But I wanted her to be here as you make this monumental decision, so I can tell her that she was there when you decided to preserve this land. And I want each of you, ten or twenty years from now, to be able to look her and her peers in the eyes and say that you did *everything* you could to save this beautiful wild place in East Lyme.

Respectfully yours,

  
Deborah Moshier-Dunn

exp #36  
with  
petition  
signed  
by  
78 people

Exh. 37  
9/2/04

**RESOLVED:** The East Lyme Board of Selectmen desires to state as a matter of public record that it is worthwhile to remind the Zoning Commission that the Oswegatchie Hills is especially suitable for preservation as open space, and that the public interest is best served by insuring that this property remain in it's present undeveloped state for use by future generations of the public. The Board of Selectmen urges the Zoning Commission to take this into consideration as it makes its decision on Landmark Investment Groups' application.

9/2/04

Rose Ann Hardy  
read - resolved for  
Board of Selectmen



exh #38  
(w/ pictures)

September 2, 2004  
65 Scotch Cap Road  
Quaker Hill, CT 06375

Mr. William Mulholland  
Zoning Officer  
Town of East Lyme  
108 Pennsylvania Avenue  
Niantic, CT 06357

Dear Mr. Mulholland and zoning officials,

My name is Karen Krohn. I live in the Quaker Hill area of Waterford. I would like to comment on the proposed development of the Oswegatchie Hills.

According to the "Soil Survey of New London County Connecticut" published by the United States Department of Agriculture, the Oswegatchie Hills area is composed of HrC (Hollis-Charlton Rock outcrop complex with 3% to 15% slopes), HrD (Hollis-Charlton Rock outcrop complex with 15% to 45% slopes), CrD (Charlton-Hollis fine sandy loam, very rocky with 15% to 45% slopes, and HkD (Hinkley gravelly, sandy loam 15% to 35% slopes).

The definition of the Hollis series on page 65 of the Soil Survey is as follows:

**The Hollis series consists of somewhat excessively drained, nonstony to extremely stony soils that formed in a thin mantle of loamy glacial till. These soils are on hills, ridges, and plains of glacial till uplands. Relief is influenced by underlying bedrock. Slope ranges from 3 to 45%.**

The area is similar to land along the Thames River north of Scotch Cap Road. Recently, construction began on a condominium project there. The key point to be made is that the land consists of a layer of soil over bedrock. This is an important point. **The whole area that is being build on in Quaker Hill has been denuded. The majority of the area being built on, I would say 90%, has been blasted. The whole area being built on has been regraded to facilitate building. The piping for water, sewer, gas mains, etc. has to be underground; thus, the blasting of the underlying bedrock.**

I am submitting photographs of the area to be included with this letter to the commission. As you can see, there is nothing left in its natural state. The blasting has been going on since the beginning of the year. I hope there is some way to stop the destruction of this pristine area.

I can only suggest that the owner get in touch with a land trust to investigate options to the development and desecration of this property. Perhaps a conservation easement to reduce taxes, an outright sale to a conservation group, or a sale at a reduced rate whereby the seller earns tax credit.

I can only hope that what happened in Quaker Hill will not be allowed to happen to the Oswegatchie Hills.

Thank you for your time.

Sincerely,

A handwritten signature in cursive script that reads "Karen Krohn". The signature is written in dark ink and is positioned above the printed name.

KAREN KROHN



## Cars Wear Out Water Runs Down Hill

by  
Robert S. De Santo, Ph.D.

### Introduction

Since about 1970, there has been increasing study of the relationship between vehicular traffic and water pollution. Every vehicular movement leaves a small but certain track of polluting residue on the travel surfaces of roads and parking areas over which the vehicle passes. The pollutants on the ground enter the ecosystem in storm water runoff where their cumulative residues impact the environment and its water quality. These chronic discharges are responsible for much of the persistent degradation in surface waters that results through the use of automobiles. Water pollution that traffic causes must be assessed and managed if water quality is to be protected for future generations.

The first step in confronting this problem is to recognize and quantify its sources. That is the objective of this article (see also *The Failure of Success* – Sherkin Comment Issue No. 29, and *Urban Sprawl* – Sherkin Comment Issue No. 30).

### Cars Wear Out

#### The Problem

Identifying levels of chronic pollution from vehicular traffic is based on knowing: (1) the mix and pattern of traffic movements in a study area, and (2) the Average Daily Traffic (ADT) predicted in an existing or proposed land use in that study area. When combined with: (3) knowing the pollutants generated by vehicular traffic and (4) the rate of their generation, we can calculate the mass of each pollutant deposited on road and parking surfaces in that study area. This information lets us quantify the water pollution cost to society generated by that traffic. Once quantified, we can then manage, minimize, or eliminate the problem.

#### Traffic Pollutants

The sources of traffic related pollutants, including pollutants blown or carried from adjacent land uses on to road and parking surfaces by traffic movement is based on scientific studies summarized in Table 1.

#### Insert Table 1 About Here

The most recent studies of storm water runoff from parking areas show that impervious (paved) surfaces directly effect the water quality of a watershed by generating suspended solids, trace metals that include cadmium (Cd), chromium (Cr), copper (Cu), iron (Fe), nickel (Ni), lead (Pb), and zinc (Zn), in both dissolved and particulate-bound phases, in addition to 25 polycyclic (i.e. polynuclear) aromatic hydrocarbons (PAHs). The highest mean concentrations of metals in this runoff include iron (810  $\mu\text{g/L}$ ), zinc (620  $\mu\text{g/L}$ ), copper (40  $\mu\text{g/L}$ ), and lead (40  $\mu\text{g/L}$ ).

#### Calculating Masses of Traffic Pollutants

exh. # 40

East Lyme Zoning Commission  
Town of East Lyme  
Town Hall  
Niantic, CT 06357

September 2, 2004

Re : Public Hearing for Affordable Housing – Landmark LLC & Jarvis LLC  
"River View Heights" East Lyme

Dear Chairman & Members –

Land use decisions impact the public. Public hearings give us the right to also participate in the decision making. I quote from Yokley, Zoning Law & Practice 2<sup>nd</sup> Edition.  
"Zoning regulations represent the common decision of the people to serve the common social & economic needs-----for their mutual advantage and welfare----The public can furnish a method of showing the commission the real effect a proposed development can do to natural resources. The environmental issues should be taken seriously and each one of the other issues should be addressed for the protection of the Health, Safety & Welfare of the public.

Under C.G.S Sec. 22a-92 the purpose of the site plan review procedure is to help communities determine whether a proposed project within the coastal boundary conforms to the intent and the requirements outlined in the Coastal Management Act. I am not sure of the distance from the proposed housing site is from the Niantic River but under C.G.S. Sec. 22a-94 the purpose of the coastal boundary is a continuous line formed by the farthest inland of the 100 year frequency flood line, 1000 ft. from mean high tide or 1000 ft. from the inland boundary of the tidal wetlands.

Under C.G.S. Sec. 22a-105 it requires a coastal municipality evaluate the impacts on coastal resources and on future water-dependent development activities. A coastal site plan must always be submitted to the local zoning commission. To-date I don't recall if a plan has been presented. If a project requires additional municipal approvals or applications each commission responsible for such approval must also conduct a separate coastal site plan. A separate coastal site plan would be required for each approval.

Under C.G.S. 22-a-106 It allows the commission to consider whether the potential adverse impact of the proposed activity effects both coastal resources and future water dependent activities.

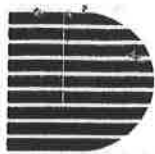
(2)

The units would not be affordable to us as senior citizens. I, therefore again urge you to deny the application as presented.

Sincerely,

A handwritten signature in cursive script that reads "Barbara Johnston". The signature is written in dark ink and is positioned above the typed name.

Barbara Johnston  
35 Seacrest Ave.  
Niantic, CT. 06357



LANDMARK INVESTMENT GROUP • LLC

460 Smith Street, Suite A  
Middletown, CT 06457  
TEL 860.613.0751  
FAX 860.613.0754

September 2, 2004

Board of Selectmen  
Town Hall  
108 Pennsylvania Avenue  
Niantic, Connecticut 06357

Re: Application for Approval of Affordable Housing Plans

Dear Board of Selectmen:

At the Zoning Commission's public hearing on August 19, 2004, the Applicants made a commitment, as outlined in the attached letter, to the Commission and the Town of East Lyme. The applicants will make available, for acquisition by the Town, the area that has been designated for open space acquisition (excluding the land in Phase I) on the Town's Plan of Conservation and Development. That area would be offered at fair market value to preserve it as open space. Most importantly, the Applicants are also prepared to work with the Town to develop a method by which the cost of acquisition would be totally offset by tax revenues to be generated by the condominiums and apartments to be built on Phase I. This approach would allow the Town to acquire approximately three quarters of the 5,000 feet of waterfront property depicted as "Proposed Open Space" on the Town's Open Space map (Fig. 11-2) in the Town's Plan of Conservation and Development, with no net outlay of Town funds. The Applicants are familiar with similar situations in which this type of financing has been successfully used.

The Applicants understand that the details of this proposal would require further discussion among the parties, but they are committed to work with the Town to "make it happen" if the Selectmen are interested.

We hope that this proposal will be favorably considered by the Selectmen.

Very truly yours,

Glenn Russo  
Manager

Even with a \$1,000,000 appropriation by the General Assembly in 1988, potential state grant funding, and interest on the part of the DEP, the Town of East Lyme has not taken the opportunity to fulfill its Plan of Development goal by preserving this portion of land through **acquisition**.

As you are aware, we proposed that if the Town cooperates with the Phase I proposed affordable housing development, we will work with the Town to draw up a mutually acceptable agreement that allows the Town to purchase the portion of the property identified as open space through **acquisition** in the Plan of Development in future development phases with no present outlay of money on the Town's part. This can be achieved by utilizing a Tax Increment Financing program. This offer, if accepted, would appear to resolve what always seems to be the stated problem, i.e. that the town's limited budget puts land purchases low on a wish list for the future. *(Attachment G)*

It is our view that we are offering the Town of East Lyme a golden opportunity to fund this purchase, approximately three-fourths of the Niantic River waterfront for preservation. Since we presented the offer on August 19<sup>th</sup>, we are disappointed that the Town has not contacted us and has not followed up on this opportunity.

Sincerely,



Glenn Russo  
Landmark Development

GR\jmh