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*Cassie Hillier Melvin*  
TOWN CLERK

East Lyme Zoning Commission  
December 7, 2023, Regular Meeting Minutes

Minutes of the East Lyme Zoning Commission December 7, 2023, Regular Meeting

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Date and time: 12/7/2023 7:30PM to 8:43PM  
Present: Jessica Laroco, Recording Secretary, Members Present: Deb Jett-Harris, Nancy Kalal, Norm Peck, Michael Foley, Denise Markovitz, Gary Pivo, Marc Peterson, Alternate, Roseanne Hardy, Ex-Officio, William Mulholland, Staff  
Absent: Jay Ginsberg, Alternate, Sarah Susco, Alternate  
Location: East Lyme Town Hall, Upper Conf. Room, 108 Pennsylvania Avenue

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**1. Call Meeting to Order & Pledge**

Ex-Officio, Ms. Hardy, called the December 7, 2023, Regular Meeting of the East Lyme Zoning Commission to order at 7:30PM and led the Pledge of Allegiance.

**2. Election of Officers & Attendance**

Ms. Hardy opened the floor to nominations for the Election of Officers.

**DECISION MOTION 1**

Mr. Peck nominated Ms. Jett-Harris for Chairman.

Mr. Foley seconded the nomination.

Motion carried 4-2-0

**DECISION MOTION 2**

Mr. Peck nominated Ms. Kalal for Secretary.

Ms. Jett-Harris seconded the motion.

Motion carried 6-0-0

Ms. Jett-Harris thanked the other members for her nomination and the public for attending. She also thanked Ms. Kalal for position as Secretary.

Ms. Jett-Harris took attendance and noted that Mr. Ginsberg had been elected to the Board of Finance and would therefore be resigning as Alternate. \*Please note that upon further investigation, it has been discovered that Mr. Ginsberg formally resigned through the Clerk's Office on December 4, 2023. (Attachment 1)

**3. Public Delegations**

A. Lisa McGowan, 33 Spinnaker, supports the Pollinator Pathway group. She additionally asked the Board to act courteously and professionally and expressed her displeasure with previous meetings.

B. Nick Menapace, 38 Hope Street, congratulated the Board Members and expressed good wishes for the upcoming year.

**4. Town Attorney**

A. Mark Zamarka, the Town Attorney, gave a brief overview of the duties and functions of the Board, calling it Zoning 101 or a framework for what's expected of Board Members when considering applications. He touched on the following topics:

B. In Connecticut, Zoning Commissions only have powers granted by the legislature, the power to zone land comes from Section 8.2 which allows Commissions to regulate the height, size and locations of buildings and structures, percentage of lot that can be covered, size of lots and use of land, buildings and structures.

- C. Three main functions of zoning commissions are: to enact and amend zoning regulations, change zoning of property in the municipality, and acting on applications for special permits, site plans and other zoning related permits.
- D. 6 members and 2 alternates (which are seated only if a member is unable to attend). There are 2 officers: the Chair (Ms. Jett-Harris) and the Secretary (Ms. Kalal). The Chair runs the meetings and public hearings, and the Secretary assists with those functions.
- E. The statutory timeclock which starts running on the date of receipt, pursuant to Section 8-7d of the CGS. The date of submission is the next regularly scheduled zoning meeting. From the date of submission, the Commission has 65 days to open a public hearing. Once the public hearing is opened, it must conclude within 35 days, and once the public hearing is closed, the Commission has 65 days to decide. The Applicant only can grant extensions of any of these timeframes, but it can total no more than 65 additional days. The failure to act within the timeline makes the application approved, also known as Inferred Approval.
- F. In a public hearing, the Applicant and their representatives, for example their attorneys or engineers or architects, will present the application via testimony and the submission of documents, maps etc. The Applicant goes first and then the members of the public can speak whether for, against or neutral in their opinion of the application. The Commissioners can then ask questions through the Chair. The main purpose of the public hearing is to allow the Applicant to present their case and make their record and allow input from members of the public. It is also a vehicle for the Commission to create a record and gather facts to help decide whether to approve or deny or approve with conditions, the application. The overriding concept of the public hearing is procedural due process and the fundamental fairness of that process.
- G. Members can be disqualified or should recuse themselves from sitting on a board for several reasons. Examples could be: 1. Predetermination (biased), if a member felt they could not fairly and impartially decide on an application, the proper thing to do would be to recuse themselves and have an Alternate sit in their place. 2. Conflict of interest, could be personal or financial, either a relationship with an Applicant or the application which could be seen as impeding the Members judgement, or if a member has a financial stake in the outcome of a decision. The best course of action, if it looks like a member could have a conflict of interest, the recommendation is that the member recuse themselves voluntarily. This is to avoid the appearance of impropriety. 3. If a member has a particular expertise, either by education or experience regarding an application or matter, that must be disclosed during the public hearing so that the applicant has the opportunity to investigate further to see if they feel there is anything that could potentially impact their application (example this previously happening given).
- H. Regarding decision making, it was noted that members can only consider information that has been disclosed during the public hearing. If a decision is made based off information not disclosed during the public hearing, the decision can be called into question and potentially invalidate a decision on appeal. Only members who sat for the entire public hearing in person or have afterwards reviewed the transcripts and familiarized themselves with the record can participate in the decision making. If a member has not been present, to participate in the decision making, they must go to the land use department, watch the meeting, review the associated documents, and at the next session note on the record that this has been done.
- I. Appeals: can be filed either by the applicant or by a member of the public who felt that they have been aggrieved by the decision. Those are appealed to the CT Superior Court, in this case the judicial district of New London.
- J. It is important to state reasons for an approval or denial for the record.
- K. Members of a municipal board, including the Zoning Commission, are subject to the Freedom of Information Act (FOIA). FOIA has two (2) basic purposes: 1. Is to allow access to public records and 2. Is to ensure open public meetings. He presented the FOIA definition of a public record as "information relating to the conduct of the public's business prepared, owned, used, received, or retained by a public agency". This includes text messages and emails, even on a private device, regarding public work. Conducting group texts or chats

regarding any substantive business before the commission is discouraged. These have been determined to be illegal public meetings by the Freedom of Information Commission. Any group texts or emails should be for administrative purposes.

L. Executive Session is when the Board will discuss pending litigation with the Town Attorney.

Ms. Markovitz questioned whether an alternate is allowed to ask questions during public hearings, as other commissions allow this. She noted that in the Bylaws, alternates may not speak.

Mr. Zamarka stated he did not recall whether that had ever come up but that the Bylaws control and if there was a reason that should not be allowed, it could be addressed.

Mr. Pivo asked if the Bylaws could be amended.

Mr. Zamarka said yes.

Mr. Pivo questioned what information could or could not be discussed among members outside of the meetings in messages, on the phone or in person. He questioned whether a caucus was covered.

Mr. Peck asked if commission members contacting other commission members, individually, regarding commission business and attempting to promote their position was allowed. He indicated that speaking about commission business outside of meetings could show a predisposition or bias towards an application.

Mr. Zamarka responded that any substantive business of the commission should not be discussed in a group setting under any circumstances. A quorum is four (4) of the six (6) members. Group messages would be considered eligible for FOIA request and a gathering of a quorum discussing substantive business would be considered an illegal meeting. Mr. Zamarka indicated anything that could be determined to lead to predetermination or bias should be avoided. He encouraged every board member to go into every application with an open mind and to take in and analyze whatever information comes in at the public hearing and make a decision based on that and how it applies to the regulations.

Mr. Pivo asked if two (2) commission members could have a conversation regarding their priorities for the commission for the coming year.

Mr. Zamarka replied that he would not recommend it, as it is better to conduct the agency's business during agency meetings, however, if there was not a quorum present, then the conversation would not fall under FOIA.

## **5. Public Hearing**

### **5-1 Application of East Lyme Zoning Commission for a Text Amendment to the East Lyme Zoning Regulations to amend Section 24 "Site Plan Review Requirements" by adding subsections 24.6E-I.**

Ms. Kalal read a memo from Mr. Mulholland, Zoning Official, to the EL Zoning Commission into the record (Attachment 2).

\*Note there was a typo on page four (4) which will be corrected.

Ms. Markovitz read a memo from Marcy Balint, of the CT DEEP, to the EL Zoning Commission into the record (Attachment 3).

Ms. Jett-Harris read a memo from Kirk Scott, Secretary of the EL Planning Commission into the record (Attachment 4).

Chairman Jett-Harris asked for public comment for/against/neutral.

Nick Menapace, 38 Hope St, Niantic, is in favor of the application and added he is concerned with the amount of parking near the shoreline. Having native plants will help, however, parking promotes runoff to the water, it is too hot, hurts the environment, and is unnecessary.

Lindsay Rush, 15 Grassy Hill Rd, East Lyme, is in favor of the application. Ms. Rush is a local educator and wants more specific language about expectations as the current language is vague and open to interpretation regarding the amount (percentage) of native plants required in plantings. She referred to a pair of papers recently published by UMass-Amherst regarding the role of nurseries and the new plantings that come from nurseries in the spread of invasive plants.

Marjorie Meekhoff, 6 Cedar Ridge Rd, East Lyme, is for the application and is looking forward to other progressive amendment changes. She pointed out that these changes will be impactful in the future.

### **DECISION MOTION 3**

Ms. Markovitz moved to close the public hearing.

Mr. Foley seconded the motion.

Motion passed 6-0-0.

### **5-2 Application of East Lyme Zoning Commission for a Text Amendment to the East Lyme Zoning Regulations. It is specifically proposed to add Section 34.2.1 "Flanders Village", and to modify the current Section 34.3 "Purpose", and by adding Section 34.6.1.1 "The Flanders Village Design District".**

Ms. Kalal read a memo from Mr. Mulholland, Zoning Official, to the EL Zoning Commission into the record (Attachment 5).

Ms. Jett-Harris read a memo from Marcy Balint, of the CT DEEP, to the EL Zoning Commission into the record (Attachment 6).

Ms. Jett-Harris read a memo from Kirk Scott, Secretary of the EL Planning Commission dated November 13, 2023, into the record (Attachment 7).

Ms. Jett-Harris read a memo from Kirk Scott, Secretary of the EL Planning Commission dated November 28, 2023, into the record (Attachment 7 reverse side).

Chairman Jett-Harris asked for public comment for/against/neutral.

Daniel Glynn, 103 Flanders Rd, East Lyme, read a prepared statement into the record (Attachment 8). He is in favor of the application with one condition. He requested that regulations be enforced.

### **DECISION MOTION 4**

Mr. Foley moved to close the public hearing.

Ms. Markovitz seconded the motion.

Motion passed 6-0-0.

### **5-3 Application of Christopher Herbert, for Constantine's on the Bay, for a Special Permit for Outdoor Dining for property located at 252-2 Main Street, Niantic, Assessor Map 12.1 Lot 115.**

Mr. Mulholland noted that this application had been withdrawn.

**6. Regular Meeting**

**6-1 Approval of Minutes of November 2, 2023.**

Tabled for the next meeting.

**6-2 Application of East Lyme Zoning Commission for a Text Amendment to the East Lyme Zoning Regulations to amend Section 24 "Site Plan Review Requirements" by adding subsections 24.6E-I.**

Ms. Markovitz suggested that, regarding Section 24.6 E 1.1.2, the wording should be changed to read "Only native plants shall be used in all landscape plans."

There was discussion as to whether text could be changed at this point or if it had to be accepted as is and then amended. There was also discussion on changing the language to read a certain percentage as well as what a native species screening planting might be regarding privacy or lighting. The percentage might change depending on the usage.

Mr. Pivo questioned if anyone knew of a native species which would provide 100% screening for all seasons.

Mr. Foley noted that the public hearing was closed, and more information could not be requested.

Ms. Kalal suggested adding an amendment to prohibit the use of collected specimens.

Mr. Mulholland suggested accepting the motion as written and then the commission could consider the wording and amend the motion later, if the commission wanted.

Mr. Pivo requested input from a landscape architect and was reminded that the public hearing was closed. Additionally, there were budget considerations for hiring such a person.

Mr. Zamarka noted that the public hearing could be reopened, as no decision had been made, nor posted.

Mr. Peck stated that the sections regarding the outdoor lighting were overbearing and would be in favor of approving the first two (2) sections only.

Ms. Jett-Harris agreed that the lighting was restrictive.

Mr. Pivo noted that the proposed lighting regulations are in line with the national IES standards.

Mr. Mulholland expanded on the IES standards.

Mr. Peck noted that the Town had been successful in working with developers on lighting and preferred that to this restrictive language.

Mr. Mulholland offered to redraft the current proposed text amendment to exclude the lighting section.

Mr. Pivo questioned what, specifically, was troublesome about the proposed lighting regulations.

**DECISION MOTION 5**

Mr. Peck moved to approve the application of East Lyme Zoning Commission for a Text Amendment to the East Lyme Zoning Regulations to amend Section 24 “Site Plan Review Requirements” by adding subsections 24.6E and 24.6F only and revisit the lighting portion later.

Ms. Jett-Harris seconded the motion.

Motion passed 4-2-0.

**TASK** Staff will run the legal ad on 12/14/2023, effective 12/15/2023.

**6-3 Application of East Lyme Zoning Commission for a Text Amendment to the East Lyme Zoning Regulations. It is specifically proposed to add Section 34.2.1 “Flanders Village”, and to modify the current Section 34.3 “Purpose”, and by adding Section 34.6.1.1 “The Flanders Village Design District”.**

Ms. Markovitz is in favor of the motion and would like to take Mr. Glynn’s advice to enforce the regulations.

Ms. Kalal asked if it was possible to change an approval once completed.

The answer is no.

Ms. Jett-Harris is in favor of this text amendment.

Mr. Peck noted that this should have been previously done, but that now is better than never.

**DECISION MOTION 6**

Mr. Peck moved to approve the application of East Lyme Zoning Commission for a Text Amendment to the East Lyme Zoning Regulations. It is specifically proposed to add Section 34.2.1 “Flanders Village”, and to modify the current Section 34.3 “Purpose”, and by adding Section 34.6.1.1 “The Flanders Village Design District”.

Ms. Markovitz seconded the motion.

Motion passed 6-0-0.

Mr. Pivo asked for clarification of content on Section 34 and noted that he would like a consultant for Flanders Design and for Downtown.

Mr. Mulholland responded that the Town does not currently employ one and there is not a current line item in the budget and the commission would have an opportunity to suggest that at a later meeting.

**TASK** Staff will run the legal ad on 12/14/2023, effective 12/15/2023.

**7. Old Business-None**

**8. New Business**

**8-1 Application of Bride Lake, LLC, (successor to Pazz & Construction, LLC) for site plan approval for the modification of the December 3, 2020, approval of an eighty (80) unit affordable housing multi-family residential development pursuant to Connecticut General Statutes 8-30g increasing the total unit count to one hundred (100) multi-family units on the westerly side of N. Bride Brook Rd (20.24 acres) now bearing street number 94, Assessor Map 9.0 Lot 37-2.**

Ms. Jett-Harris requested that Mr. Mulholland schedule the public hearing.

**8-2 Any business on the floor, if any, by majority vote of the commission-None**

**8-3 Zoning Official**

Mr. Mulholland noted that the 2024 Regular Meeting Schedule was approved, and a copy could be found in each commissioner folder along with the Zoning Liaison to the Planning Commission Schedule.

He noted that all present members received a copy of the Zoning Regulations and the Bylaws.

Mr. Mulholland stated that he received an email from Attorney Carey regarding the appeal of the Affordable Housing Application on Holmes Road stating that the appeal is moving forward.

Mr. Peck noted that the regulations provided had a date of October 21, 2021, and wondered if those were current.

Mr. Mulholland stated that he would report back to report if there was a more current set.

**8-4 Comments from Zoning Board Liaison to Planning Commission**

Mr. Schmitt was to have attended the last meeting; however, he was not present, nor on the Board any longer, therefore there was no report.

**8-5 Correspondence- None**

**8-6 Comments from Chairman**

Ms. Jett-Harris thanked everyone for their patience, and she looks forward to a good year.

**8-7 Comment from the Ex-Officio**

Ms. Hardy reminded the commission that the appointments tonight extend to the Aquifer Protection Agency.

Ms. Jett-Harris asked about the Aquifer Protection Regulations for the new members.

Mr. Mulholland noted that information will be forthcoming.

**DECISION MOTION 7**

Ms. Markovitz moved to adjourn the meeting at 8:43PM.

Mr. Foley seconded the motion.

Motion passed 6-0-0.



Attachment 1

**Jay Ginsberg**

2 Applewood Common

East Lyme, CT 06333

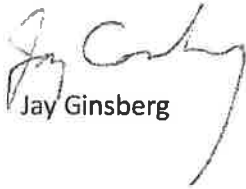
Email: [email@jay-ginsberg.com](mailto:email@jay-ginsberg.com)

November 29, 2023

To whom it may concern:

Due to my recent election to the East Lyme Board of Finance I would like to resign from my current position as an alternate for the Zoning Commission effective December 3, 2023.

Thank you for your consideration.

  
Jay Ginsberg

RECEIVED FOR RECORD  
EAST LYME, CT  
2023 NOV 30 P 2:44  
  
TOWN CLERK

# Town of

Zoning Department



# East Lyme

108 Pennsylvania Ave  
Niantic, Connecticut 06357

(860) 691-4114

Fax (860) 691-0351

MEMO TO: East Lyme Zoning Commission  
FROM: William Mulholland, Zoning Official  
RE: Proposed Zoning Regulation Text Amendment  
Section 24 Site Plan  
DATE: Sept 7, 2023

This past July, The Commission was beneficiary of a brief presentation by Marjorie Meekhoff, of the 501 (c)(3) nonprofit organization known as The Pollinator Pathway East Lyme (PPEL), regarding the use of native plants in our community. It was suggested that the Board may want to address this subject by adjusting our Zoning Regulations.

As a result of Ms. Meekhoff's presentation, the Commission Chair, Ms. Thurlow, asked that I review our Site Plan Regulations and develop an enhanced landscape regulation that would address the use issue of invasive plantings in new commercial developments. Based on this directive, I offer the following Text Amendment to the landscaping standards in the Site Plan Regulations, Section 24, of the Zoning Code.

It is specifically proposed to amend Section 24.6 E "Landscaping and Buffers" by adding the following to the sections:

\*Rename Section E "Landscaping Standards" modify section to read:

**24.6 E Landscaping and Buffers** – The purpose of this section is to provide standards for landscaping, street trees, fences, and walls. Together, these elements contribute to the visual quality, environmental health, and character of the community. Trees provide climate control through shading during warmer months and wind screening during winters. Trees and other plants create green spaces in developments which provide separation for pedestrians and traffic and contribute to the character of such development.

It is also proposed to amend this section by adding the following sub sections to 24.6 E:

**24.6 E 1.1** Non-native invasive and invasive plant species listed on the Connecticut Invasive Plant List shall not be used in the landscaping plan for any new development or redevelopment of property under these regulations.

**24.6 E 1.1.2** Native plants shall be used in all landscape plans. (A native plant is defined as one that lives or grows naturally in a particular region without direct or indirect human intervention and is indigenous to the northeast).

**24.6 E 1.1.3** Landscape plans shall facilitate greenways and planting to support local fauna, including pollinators.

**24.6 F Maintenance and Replacement** - All structures and areas contained within all approved site plan shall be maintained. All plantings, including shrubs, lawns, trees, evergreen trees, and ground coverings such as mulch beds that are delineated on an approved site plan shall be maintained. Such items may not be modified or altered without the approval of the appropriate zoning authority, either the Commission or its Agent.

Plants contained within a landscape buffer area designed to provide visual separation and screening of developments shall not be removed or trimmed as to limit their natural growth unless authorized by the zoning authority, either the Commission or its Agent. If such plantings become diseased or die, they shall be replaced by the end of the next planting cycle with a plant of similar type and size. Undergrowth in buffer areas, if natural, shall not be removed nor trimmed unless authorized by the Commission or its Agent. Failure to maintain any landscape area or buffer area shall constitute a violation of the Regulations. These may be exempt in the event of a catastrophic incident, such as a major storm, which necessitates immediate removal or trimming/limbing.

**24.6 G Outdoor Lighting** – All applications requiring a site plan pursuant to Section 24 of the Regulations shall include the following:

All Outdoor Lighting shall be designed, located, installed and directed in such a manner as to prevent objectionable Light Trespass and Glare at the property lines and disabling Glare at any location on or off the property. Lighting design levels and patterns as recommended in the Illuminating Engineering Society of North America (IES) Lighting Design Handbook (Latest edition), shall be followed and a photovoltaic lighting plan submitted showing the following:

1. The location, height and type of all outdoor lighting fixtures, including building mounted (wall packs), light poles and others.
2. The luminaire manufacturers specification date, including lumen output and photometric data showing cutoff angles.
3. The type of fixture: metal halide, compact fluorescent, high pressure sodium light emitting diode (LED).
4. The lumens plan shall delineate average lighting on site: maximum and minimum lighting levels expressed in foot candles at ground level.
5. A statement and copies of appropriate IES standards for the proposed use demonstrating that proposed lighting levels are consistent with recommended IES standards.
6. All lighting for parking and pedestrian areas, including wall-mounted lighting, shall be Full Cut-Off Type Fixtures.
7. Lighting for flagpoles, Ornamental Lighting (trees, sculptures, etc.), Buildings and aesthetics shall be shielded to prevent direct Glare and/or Light Trespass and shall also be, as much as possible, contained to the target area. All Building lighting for security or aesthetics shall be Full Cut-Off or a Fully Shielded/recessed type, not allowing any upward distribution of light.
8. Adjacent to all residential and multi-family uses and on properties in the RU and SU districts, no direct light source shall be visible at the property line at three (3) feet above ground level.
9. Adjacent to business, commercial or industrial uses the light source shall not be visible at a height greater than five (5) feet above ground level.
10. All Street lighting installed as part of residential developments shall be Full Cut-Off Type Fixtures.
11. Canopy lights shall be recessed into the structure or be surface mounted Full Cut-Off Type Fixtures.
12. Use of metal halide, compact fluorescent, light emitting diodes (LED) or high pressure sodium lamp types is strongly encouraged.
13. Any lighting provided along pedestrian walkways shall be provided by light bollards or other low-level lighting standards with shielded light sources or other low intensity lighting.
14. All non-essential lighting should be reduced or turned off after business hours, leaving only the necessary lighting for site security. Motion or infrared sensor lighting is encouraged.

15. The Height of Luminaires, except streetlights in public right-of-ways, shall not exceed a height of twenty-five (25) feet including the base, except for lighting for recreational facilities. The following performance standards shall be met:

- A. No Luminaire shall be closer than five (5) feet from any property line, and
- B. No lighting plan shall shed more than one-quarter (.25) Foot-Candles beyond any property line.
- C. This requirement may be waived by the Commission, by a majority vote, upon a written request submitted at the time of application.

**24.6 H. Changes to Lighting Plan after approval**- No change to Outdoor Lighting fixtures, type of light source used, or location of Luminaires may be made after the lighting plan has been approved, until a change request application has been submitted to the Commission demonstrating that the proposed changes meet the requirements of these Regulations.

**24.6 I Exempt Lighting** - The following lighting types shall be exempt from these Regulations:

- 1. Temporary Lighting used by police, fire, or emergency services,
- 2. Temporary Lighting needed for nighttime Road construction projects,
- 3. Lighting required and regulated by federal or state regulatory agencies,
- 4. Traditional seasonal or special event lighting,
- 5. Interior lighting,
- 6. Lighting in swimming pools and other water features governed by Article 680 of the National Electrical Code,
- 7. Code required exit signs,
- 8. Code required lighting for stairs and ramps, and
- 9. Customary exterior illumination of a One-Family or Two-Family Dwelling and Driveway.

Jessica Laroco

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**From:** Bill Mulholland  
**Sent:** Tuesday, November 21, 2023 4:47 PM  
**To:** Jessica Laroco  
**Subject:** FW: CT DEEP Comments on Proposed Zoning Text Amendments to Section 24.6.E regarding Landscaping Standards

**Importance:** Low

Deep letters

**From:** Balint, Marcy <Marcy.Balint@ct.gov>  
**Sent:** Tuesday, November 21, 2023 1:12 PM  
**To:** Bill Mulholland <billm@eltonhall.com>; Terry Granatek <tgranatek@hotmail.com>  
**Subject:** CT DEEP Comments on Proposed Zoning Text Amendments to Section 24.6.E regarding Landscaping Standards  
**Importance:** Low

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.



**Connecticut**  
Department of Energy &  
Environmental Protection

East Lyme Zoning Commission  
c/o William Mulholland, Zoning Official  
P.O. Drawer 519  
Niantic, Connecticut 06357

November 21, 2023

Subject: CT DEEP LWRD Comments on Proposed Zoning Text Amendments to Section 24.6.E regarding Landscaping Standards

Dear Commissioners:

Thank you for notifying the Land and Water Resources Division (LWRD) of the proposed text amendment noted above received by mail on October 26, 2023. Acting as the Commissioner's staff, our office has reviewed the revised text amendments for consistency with the policies and standards of the Connecticut Coastal Management Act (CCMA Connecticut General Statutes (CGS) sections 22a-90 through 22a-112, inclusive) and finds them generally consistent.

These comments are made in response to the review requirement contained in C.G.S. Section 22a-104(e) which requires that any zoning regulations or changes thereto affecting the area within the coastal boundary, shall be consistent with the policies of

C.G.S. Section 22a-92 and the criteria of subsection (b) of Section 22a-102 of the CCMA. Further, this section requires that notification be sent to the Commissioner of Energy and Environmental Protection *at least 35 days prior* to the commencement of the public hearing. Once notified, our Office is responsible for reviewing the proposal's consistency with the policies of Section 22a-92 and the criteria of Section 22a-102(b) of the CCMA. This response does not necessarily reflect other planning and zoning considerations which may apply.

Should you have any questions regarding this letter or any other coastal management matter, please feel free to contact me via email:

[Marcy.Balint@ct.gov](mailto:Marcy.Balint@ct.gov)

Sincerely,

*Marcy L. Balint*

Marcy L. Balint, Sr. Coastal Planner  
Land and Water Resources Division  
Connecticut Department of Energy and Environmental Protection  
79 Elm Street, Hartford, CT 06106-5127  
[Marcy.Balint@ct.gov](mailto:Marcy.Balint@ct.gov)  
860 424-3623

[www.ct.gov/deep](http://www.ct.gov/deep)

***Conserving, improving and protecting our natural resources and environment;***

***Ensuring a clean, affordable***

# Town of



# East Lyme

108 Pennsylvania Ave  
Niantic, Connecticut 06357  
Phone: (860) 691-4114  
Fax: (860) 860-691-0351


P.O. Drawer 519

Department of Planning &  
Inland Wetlands

Gary A. Goeschel II, Director of Planning /  
Wetlands Enforcement Officer

## MEMORANDUM

**TO:** East Lyme Planning Commission,  
William Mulholland, Zoning Official

**FROM:** Gary A. Goeschel II, Director of Planning / Wetland Enforcement Officer 

**DATE:** November 13, 2023

**RE:** Zoning Referral (CGS 8-3a) – Application of East Lyme Zoning Commission to amend Section 24 “Site Plan Review Requirements by adding subsections 24.6E-I;

Upon review of the above referenced Zoning Referral with the 2020 Plan of Conservation and Development, I have the following comments:

The proposed amendments would prohibit the use of any non-native invasive plant species in the development of any new development or redevelopment of property and require only native plant species be used. In addition, the proposed amendment would require that landscape plans facilitate planting to support pollinator pathways and greenways. Further, the proposed changes would require the maintenance of landscaping and replacement of vegetation as approved on site development plans. The proposed amendments also address outdoor lighting and would require lighting plans be designed to follow the Illuminating Engineering Society of North America (IES) Lighting Design Handbook. Essentially, this will require light to use full cut-off type fixture which eliminates or reduces sky glow.

Based upon my analysis of consistency with the 2020 POCD, Chapter 2 Agricultural Resources, Subsection 2.7 Recommendations, Recommendation 5, states the following:

“Critical to our ability to grow food, pollinator populations have been in sharp decline in recent years. Habitat loss and pesticide use have been tied to their decline. Educational programs for residents and encouraged residential beekeeping and native plantings are recommended. As a municipality, East Lyme should utilize best practice organic methods and native plants for landscaping and encourage growth of roadside wildflowers as possible when it does not interfere with public safety. Where possible, parking lot, roadway and cul-de-sac islands should be planted in lieu of pavement. Town-owned properties could be made available for beekeeping (ie: Darrow Pond area) for those homeowners whose residential lots do not allow beekeeping as an approved use.”

Therefore, it is moved that the East Lyme Planning Commission finds the proposed text amendment referenced above ~~CONSISTENT~~ **INCONSISTENT** with the East Lyme 2020 Plan of Conservation and Development for the following reasons:

1., 2, 3....



# Town of

**P.O. Drawer 519**

**Department of Planning &  
Inland Wetlands Agency**

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



# East Lyme

**108 Pennsylvania Ave  
Niantic, Connecticut 06357**

**Phone: (860) 691-4114**

**Fax: (860) 860-691-0351**

November 28, 2023

East Lyme Zoning Commission

Town of East Lyme

P.O. Box 519

108 Pennsylvania Avenue

Niantic, Connecticut 06357

**RE: Zoning Referral (CGS 8-3a) – Application of East Lyme Zoning Commission to amend Section 24 “Site Plan Review Requirements” by adding subsections 24.6E-I.**

Dear Sir or Madam:

The East Lyme Planning Commission at its meeting of November 13, 2023, found the above referenced text amendment, CONSISTENT with the 2020 East Lyme Plan of Conservation and Development.

If you have any further questions regarding this letter or the POCD, please do not hesitate to contact the Director of Planning, Gary A. Goeschel II, at (860) 691-4105.

Sincerely,

Kirk Scott, Secretary  
Planning Commission

cc: William Mulholland, Zoning Official

# Town of

Zoning Department



# East Lyme

108 Pennsylvania Ave  
Niantic, Connecticut 06357

(860) 691-4114  
Fax (860) 691-0351

MEMO TO: East Lyme Zoning Commission  
FROM: William Mulholland, Zoning Official  
RE: Proposed Architectural Design Review Regulation Amendment  
DATE: Sept 7, 2023

This proposed Text Amendment to Section 34 titled "Architectural Review Regulation" would expand the current Design Review Area to include the Flanders and Boston Post Road commercial areas. The intent of this amendment is to provide a similar level of design review for this area as exists for Niantic Village.

While it is recognized that the character of the Flanders area is different than the Niantic Village District, the existing design regulations can be readily applied. That is because the existing regulations were intentionally written to accommodate future expansion of the code into other commercial areas. While a separate set of design regulations could be developed, the existing regulations will provide a common regulatory vehicle to achieve community character through Architectural Review.

It is specifically proposed to add a new Section 34.21 and to modify Section 34.3 Purpose and by adding new Section 34.6.1.1 "The Flanders Village Design District". These modifications are highlighted in red in the attached proposal.

# SECTION 34

## ARCHITECTURAL DESIGN REVIEW REGULATIONS

### NIANTIC & FLANDERS VILLAGE DESIGN

#### DISTRICTS

#### 34.1 Authority

These regulations have been adopted pursuant to Connecticut General Statutes 8-2 and 8-2j; as amended.

#### 34.2 Introduction

Niantic is a traditional New England Village within the Community of East Lyme with unique qualities and a strong sense of place. It has small and cohesive neighborhoods; a vibrant main street; extensive waterfront with marinas, beaches and a public walkway which promotes extensive pedestrian access along Niantic Bay. The village center has historically functioned as the social, civic and commercial center of the community.

These characteristics in themselves constitute a sense of place which contributes to the high quality of livability of the village. A physically and aesthetically enhanced village also typically results in increased property values. These values ultimately reflect on the degree of a place's desirability.

34.2.1 Flanders Village is located in the northerly area of East Lyme and is unique in its own right with its own character and sense of place. This area is a highly developed commercial center at the juncture of two major state arterial roads. The center contains numerous businesses which provide various services to the community such as medical, grocery, retail, a mix of restaurants, and other businesses. There are many small strip malls and small businesses.

#### 34.3 Purpose

The purpose of these Architectural Regulations are to establish design standards for new or renovated buildings that will preserve and enhance the New England character of Niantic and Flanders Villages, protect the distinctive character, landscape and historic structures within the district, provide a framework for design that draws inspiration from the traditions of Niantic and Flanders and similarly situated New England Seacoast Communities and promote the safe, functional and attractive development of the Village District, and enhance the public experience.

#### 34.4 Architectural Design

No site plan and/or special permit required under these regulations shall be approved nor shall any structure be constructed, reconstructed or exteriorly renovated or substantially improved in the design district or be permitted until the Zoning Commission determines that the overall architectural character of the proposed site and building design is in harmony with the neighborhood in which such activity is taking place, or accomplishes a transition in character between areas of unlike character; protects property values in the neighborhood and preserves and enhances the beauty of the community, its historical integrity and architecture. In making the determination regarding historical integrity and

overall architectural character, the Zoning Commission shall take into consideration the architectural character of Niantic's structures.

New buildings and renovations should be designed to fit the specific characteristics of their particular site. The architecture should be influenced by traditional New England building forms and town making patterns, the specific needs of the intended users, the nature of the intended use and other site specific factors. All buildings shall follow fundamental architectural principles of scale, massing and appropriate detail, and special attention will be paid to the essential elements of building design. These elements include, but are not limited to: foundations; windows, doors and shutters; porches, stoops, entries and railings; siding and trim; roofs and dormers; and appurtenances such as: chimneys, gutters and downspouts, columns, vents, exterior lighting and building identification.

The overall architectural character of any proposed building design should be in harmony with the neighborhood in which such activity is taking place, or accomplish as a transition in character between areas of unlike character, protects property values in the neighborhood and preserves and enhances the beauty of the community, its integrity and architecture.

#### Human Scale

Buildings and site elements should be designed to human scale. The forms, massing and openings of buildings should be proportional to the size of a human figure. Many architectural elements can add scale to a building – water tables, planters, recessed openings, divided pane windows, building mounted light fixtures, dormers, cupolas, projecting rooflines, covered walkways, colonnades, and similar features – provided they are designed as integral parts of the overall structure.

#### Freestanding Accessory Structures

Where freestanding non-habitable structures are allowed (e.g., ATMs, garages, service stations, canopies, storage units, recycling sheds, trash enclosures, cart corrals, utility buildings) they should meet the same design standards as the principal building through repetition of architectural forms, materials, colors and detailing.

### 34.5 Approving Authority

The approving authority shall be the East Lyme Zoning Commission except that, in the case of minor site plan review pursuant to this Section 34 and Section 24 of these regulations, the approving authority may be the Zoning Official or such other person or agency as may be specified in these Sections.

### 34.6 Definitions

These definitions are intended to apply only to Section 34. They are not intended to apply to, or as a means to interpret, the same or similar terms in other Sections of these or any other regulations of the East Lyme Zoning Commission.

#### 34.6.1 District or Niantic Village Design District

The Niantic Village Design District (VDD) as delineated on the Zoning Map for the Town of East Lyme, shall be an overlay district encompassing the existing CB Commercial Area, the regulations of which shall be in addition to and not in lieu

of, the regulations applicable to the underlying Zoning District.

34.6.1.1 The Flanders Village Design District

The Flanders Village Design District (FVDD) as delineated on the zoning map for the Town of East Lyme, shall be an overlay district encompassing all properties in the existing commercial CA zoning district north of Gorton Pond and the intersection of Flanders Road and Laurel Hill Drive.

34.6.1 Historic District

Any Historic District in the Town of East Lyme formally adopted in accordance with CGS Section 7-147a et seq.

34.6.2 Historic District Commission

Fast Lyme Historic District commission as may be established by the Town.

34.6.3 Minor Site Plan Review

The procedure set forth in Section 34.7 c of these regulations.

34.6.4 Plan of Conservation and Development

The Plan of Conservation and Development of the Town of East Lyme as may be amended.

34.7 Applicability

These regulations shall apply to all proposed renovations to existing buildings and structures, and all proposed new buildings and structures as described below:

a. New Construction

b. Major Alterations

New construction and substantial reconstruction or rehabilitation of properties within the District and in view from public roadways, navigable waters, including but not limited to:

1. The design and placement of buildings;
2. The maintenance of public views;
3. The design, paving materials and replacement of public roadways and passageways, including crosswalks;
4. Fencing and landscaping;
5. Replacement of exterior structural surfaces and components, including roofing materials, lighting and signage, with materially different surfaces, such as a change from clapboard siding to vinyl or aluminum siding or from stucco to wood siding or from slate tiles to asphalt shingles.

c. Minor Alterations approved by the Zoning Official

Activities that are not classified as New or Major Alterations pursuant to Subsection 34.7 (a) and (b) above, but that may still noticeably affect and change the character and appearance of properties within the district, including but not limited to:

1. Any change in the exterior color of the structure;
2. Replacement of hedges and replacement or installation of trees or shrubs in existing landscaped areas.
3. Any exterior change to a building or structure that requires a building permit but is not considered a major alteration;
4. Site modification including but not limited to changes in lighting fixtures, ground surface material or minor changes to parking;
5. Streetscape accessories on Town property or installed by the Town or a public or private entity on State property; including but not limited to street trees and landscaping;
6. All signage, and windows, roofing, doors, steps, stairs, decks, patios, siding and other exterior features with the same or approximately similar styles that will have a minor impact on the property provided that all applications are in keeping with the intent of the Design Review Regulations. Otherwise the Zoning Official may refer applications to the Commission for further review if necessary in his opinion.

d. Submission Requirements

The applicant shall provide adequate information to enable the Zoning Commission to make a determination, including architectural plans of all buildings, other structures and signs. Such plans shall include preliminary floor plans and exterior elevations showing height and bulk, roof lines, door and window details, exterior building materials, color and all exterior lighting and be stamped and signed by a licensed architect in the State of Connecticut. Site plans shall show paving materials, landscaping, fencing, lighting design and other features of the site and buildings which are visible from the exterior of any building on the site or from adjacent properties or streets and which may impact on the character or quality of life on adjoining properties and throughout the Village District. Design review requirements shall apply to all structures, exterior renovations, and substantial improvements within the VDD zone. A site plan in accordance with Section 24 of the Zoning Regulations shall be submitted for all new construction or major alterations. Minor alteration applications shall include at a minimum a plot plan.

In addition to all other requirements of the Zoning Regulations, the applicant for all buildings or structures and sites subject to a review by the Commission under this section shall submit scaled elevation drawings of the proposed structures for a design review. The scale of such drawings shall not be smaller than one-eighth inch equals one foot (1/8" = 1'0").

The drawings shall locate and identify exterior materials, fixtures, roof pitch and building or structure height and include dimensions and architectural characteristics. The applicant shall also provide the Commission with all required comparative information regarding lots within two hundred (200) foot of the lot on which the development is proposed.

In cases of new construction or major alteration, a scaled streetscape colored rendering showing the proposed structure(s) in relation to the context of the surrounding area, particularly in regard to the criteria set forth in Section 34.8, shall be provided.

Said streetscape plan shall include the following:

1. Building elevations;
2. Streetscape materials and furniture;
3. Other appurtenances (i.e. light fixtures/poles, utilities, landscaping, street signs, etc).

---

All applications under this section shall demonstrate how the appearance of the proposed structure conforms to the criteria in Section 34.8. and, if applicable, the site plan criteria in Section 24 and the special permit criteria in Section 25.

#### 34.8 Design Criteria

The following criteria shall be considered in all designs. Designs shall be in keeping with the architectural fabric of the design district.



## Design, Massing, Scale & Proportions

Building design should incorporate features that add *visual interest* to the building while reducing the appearance of bulk or mass. Buildings should avoid long, monotonous, uninterrupted walls or roofs on their visible facades. They also should avoid long expanses of repetitive architectural elements. Whether symmetrical or asymmetrical, the buildings' facades should be *balanced in their composition*.

With the objective of maintaining a small-town character, buildings should appear to be *modest in scale*, relating to the scale of the immediate surroundings. The massing of larger commercial buildings should be deemphasized by the use of projecting and recessed sections, to reduce their apparent overall bulk.

The mass of buildings can be reduced by further introducing small-scale architectural features. The use of shutters, columns, and chimneys on building elevations and similar features help to establish a human scale at the street level.



*A good example of an active commercial block- visually interesting, balanced, modest in scale with many architectural elements*



*An example of a balanced and well-proportioned building*

## Architectural Style and Detail

Buildings may be either traditional in their architectural character or a contemporary expression of traditional styles and forms

Buildings should articulate the line between the ground and upper levels with a cornice, canopy, balcony, arcade or other architectural features. The cornice and/or parapet is an area where architectural detail and materials are important, as they can add distinctiveness and visual emphasis to a building, but they should be consistent with the body of the design in scale and detail.

The use of special architectural elements, such as but not limited to towers & turrets, muntins & window shutters, chimneys and dormers etc., is encouraged at major street corners to accent structures and provide visual interest.



*Visually interesting roof of a commercial building.*



*Cupola.*



*Visually appealing façade in the Greek revival architectural style*

## Storefront

Well-designed storefronts add vitality to the streetscape, encouraging pedestrian as well as vehicular traffic. Retail storefronts should make generous use of glass, face the street or sidewalk and not be obstructed by piers or other features that block view of the display windows. Carefully designed awnings coupled with appropriately scaled signage and lighting will further enhance the storefront's appearance.



## Roof Types

It is characteristic of traditional New England architecture that smaller-scaled structures have roofs that are *sloped* and *articulated* with dormers, chimneys, gables, cupolas, fascia etc.



Larger structures likewise can benefit from similar treatment that breaks up the massing into appropriately scaled elements. Avoid large flat-roofed areas, or conceal them behind parapets or sections of sloped roof.

## Windows

Fenestration (arrangement of windows on the wall) should be architecturally related to the style, materials, colors, and details of the building. Windows and door openings should be proportioned so that verticals dominate horizontals. To the extent possible, upper-story windows shall be vertically aligned with the location of windows and doors on the ground level, including storefront or display windows.



Upper stories should incorporate window patterns and designs that are compatible with and complimentary to existing upper-story window patterns on the block.



*Vertically-aligned windows and entrances*

First-floor window and display design should create a feeling of *transparency* on the ground floor of the building. This contributes to a sense of safety and is welcoming to pedestrians. The viewing zone of the first floor façade should be made up of approximately 75% transparent non-reflective glass. Window displays are encouraged, but visibility into the building from the sidewalk should be maintained.

With the exception of retail storefronts, modestly scaled, vertically proportioned windows articulated with *muntings* (dividers of panes of glass) are most appropriate to the local building vernacular. *Shutters* are also an enhancement.



*Window with muntins*

*Window with shutters*

## Entrances

Architectural detail should be incorporated into the ground-floor façade to create an easily identifiable and welcoming entrance. As one of the most important parts of the façade, the main entrance should be easily identifiable. Doors and entryways should follow a traditional storefront design (usually recessed) and should be compatible with the architectural style of the structure. The entrances should also address the primary street or pedestrian pathway.

When rear parking is provided, the provision of secondary rear entrances and pleasing rear facades is strongly encouraged. The design of the rear entrances and facades should be appropriately detailed to provide an attractive appearance, but should not be overly embellished to compete with the main storefront.

Where a new building is to be located on a corner, each side visible from a street should be considered a primary storefront façade and incorporate these fenestration patterns, unless doing so would unduly obtrude into a primarily residential street.



*Greek revival entrance.*



*Victorian era entrance.*



*Corner building with attractive entrances and windows facing both major streets*

## Materials and Colors

The Town strongly prefers authentic natural materials such as *wood, brick, and stone* for the exterior of structures and landscape features. Construct windows, storefronts and public doorways of wood where possible. Synthetic materials should be as close in appearance and detail to the natural material it simulates.



All sides of the building should use materials consistent with those on the front if visible from public streets or neighboring properties, and should be carefully designed with similar detailing, comparable quality, and compatible materials.



## Awnings

Awnings that are functional for shade and shelter are encouraged. These awnings should be made of canvas or a canvas-like material should fit the shape and scale of the window or door they are sheltering, and should be designed to be compatible with and complimentary to building signage and design. Awnings should break at the vertical divisions of the structure (i.e., the break between the display windows and the entrance).



The color and pattern of awnings affect the entire building and therefore should be carefully chosen. A facade with minimal architectural detailing can be enhanced with bright colors and patterns, while a more decorated facade may be complemented with a plain, subtle shade. The shape of awnings should be designed to fit the building's architecture and relate to other awnings that exist along the street. Traditional retractable awning styles are encouraged.



Other Elements That Add to New England Heritage:

## Shade Trees

Trees are an important element of landscape design. The inclusion of shade trees in site design is encouraged. Shade trees provide an aesthetic value as well as a functional purpose to Nanticoke Village. Shade trees are large deciduous trees with spreading canopies, with the most popular being oaks, maples, ashes, elms, and lindens. In addition to aesthetic qualities and commercial appeal of these trees, they also have more practical benefits such as reducing heating and cooling costs, reducing heat reflected from paved areas, converting carbon dioxide to oxygen, helping prevent soil erosion, increasing property value and much more. Therefore, preservation and protection of old shade trees as well as planting new ones is strongly encouraged.



## Plantings/Landscaping

Thoughtfully designed landscaping appropriate to the context of a small New England town should include the careful use of stone walls, wood fencing, paving materials and plantings. These features can tie a structure to its landscape, define spaces and make for a pleasant pedestrian experience. Preserve mature plantings, stone walls and other historic features where possible and minimize modifications to the natural topography of the site.

## Lighting

The exterior lighting scheme is important to the success of a storefront design. Lighting that highlights the sign and display area is often more effective than general lighting of the entire store. When a larger building has a number of storefronts, exterior lighting should be coordinated. Energy efficient lighting is also encouraged. East Lyme encourages energy conservation through the use of energy efficient bulbs and the elimination of extraneous light that can spill offsite or cause glare. Select pedestrian-scaled light fixtures appropriate to building type and location. Avoid the use of floodlighting, wall packs, and tall light posts intended for lighting large areas. Light fixtures should be of the full cut off variety to reduce sky glow.

Applications for new construction and major alterations shall contain a lumens plan prepared by a lighting/lumens engineer.



## Signage

In buildings with multiple storefronts, a coordinated approach to signage throughout the building is particularly important. Use signs of similar size, proportion, and materials on each store. Varying the color of individual signs can add variety. Signage should be appropriately scaled to the building or surface onto which it is placed, should not obscure important architectural features. East Lyme has comprehensive signage regulations (see Section 18 of the Zoning Regulations), which provide further detailed requirements.



Discouraged Architectural Designs

Pictured below are examples of types of Architecture that are discouraged.





### 34.9 Modification

Substantial changes to the proposal after approval shall be reviewed by the commission, including applications for a special permit or formal site plan approved by the commission. Minor changes that would not materially affect the applicant's compliance with any of the criteria may be reviewed by the Zoning Official.

### 34.10 Special Criteria for Exterior Renovations, New Construction and Substantial Improvement of Existing Buildings:

In addition to the above criteria, exterior renovation or substantial improvement of a building or structure visible from a public street or from navigable waters should adhere to the following criteria.

The removal or alteration of any historic material or distinctive architectural features should be avoided unless the alteration is a positive improvement to the renovation. The distinguishing original qualities or character of a building or structure, its site, and its environment should not be destroyed.

All buildings, structures, and sites should be recognized as products of their own time. Renovations should generally be compatible with the existing structure or buildings on-site, but renovations that have no historical character and which seek to create an inappropriate appearance are discouraged.

Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, its site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

Distinctive stylistic features or examples of skilled craftsmanship which characterizes a building, structure, or site should be treated with sensitivity.

Deteriorated architectural features should be repaired or replaced to the extent possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, texture and other visual qualities when feasible. Repair or replacement of missing architectural features should be based on accurate duplication of features, substantiated by historic, physical, or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

Renovations and additions which destroy significant historical, architectural, or cultural characteristics are discouraged.

Designs should generally be compatible with the size, scale, material, and character of the original structure.

Whenever possible, new additions or renovations to buildings and structures should be done in such a manner that if such additions or renovations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

Significant landscape features shall be designed by a licensed landscape architect.

## 34.11 Design Review Procedure

### 34.11.1 Application for a Certificate of Design Appropriateness

Each application for design review to be reviewed by the commission shall be submitted to the Zoning Official or other designated agent at least thirty (30) days prior to the next regular meeting of the Commission and accompanied by twelve (12) copies of the drawings regarding the proposal, which shall meet the requirements of these Regulations and shall be accompanied by a fee.

All applicants shall be subject to a pre-application development meeting with the Zoning Official to review the application and submission package.

#### 34.11.2.1 Receipt and Review of Application

Upon receipt of said application it will be scheduled for a hearing before the Zoning Commission unless it is a minor application. The Commission shall complete its review within 65 days. Applications that are determined to be incomplete shall not be accepted.

Applications that are subject to special permits or site plan review shall be reviewed separately from Design Review.

Applications shall contain all of the criteria contained within Section 34.

Minor Alteration applications shall be accompanied by at a minimum a plot plan, unless it is determined that a full site plan is needed to fully evaluate an application.

All applications for new construction and substantial reconstruction with the district and in view from public roadways and navigable waters shall be subject to review and recommendation by an architect contracted by the commission and designated as the Village District Consultant for such application. The Village District Consultant shall review an application and report to the Commission within thirty-five days of receipt of the application. Such report and recommendation shall be entered into the hearing record and considered by the commission in making its decision. Failure of the Village District Consultant to report within the specific time shall not alter or delay any other time limit imposed by the regulations.

Jessica Laroco

---

**From:** Bill Mulholland  
**Sent:** Tuesday, November 21, 2023 4:46 PM  
**To:** Jessica Laroco  
**Subject:** FW: CT DEEP Comments on Proposed Zoning Text Amendments to Section 34 regarding new Flanders Village Design District

**Importance:** Low

Fyi deep

**From:** Balint, Marcy <Marcy.Balint@ct.gov>  
**Sent:** Tuesday, November 21, 2023 1:22 PM  
**To:** Bill Mulholland <billm@eltonhall.com>; Terry Granatek <tgranatek@hotmail.com>  
**Subject:** CT DEEP Comments on Proposed Zoning Text Amendments to Section 34 regarding new Flanders Village Design District  
**Importance:** Low

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.



East Lyme Zoning Commission  
c/o William Mulholland, Zoning Official  
P.O. Drawer 519  
Niantic, Connecticut 06357

November 21, 2023

Subject: CT DEEP LWRD Comments on Proposed Zoning Text Amendments to Section 34 regarding addition of new Flanders Village Design District

Dear Commissioners:

Thank you for notifying the Land and Water Resources Division (LWRD) of the proposed text amendment noted above received by mail on October 26, 2023. Acting as the Commissioner's staff, our office has reviewed the revised text amendments for consistency with the policies and standards of the Connecticut Coastal Management Act (CCMA Connecticut General Statutes (CGS) sections 22a-90 through 22a-112, inclusive) and finds them generally consistent.

These comments are made in response to the review requirement contained in C.G.S. Section 22a-104(e) which requires that any zoning regulations or changes thereto affecting the area within the coastal boundary, shall be consistent with the policies of C.G.S. Section 22a-92 and the criteria of subsection (b) of Section 22a-102 of the CCMA. Further, this section requires that notification be sent to the Commissioner of Energy and Environmental Protection *at least 35 days prior* to the commencement of the public hearing. Once notified, our Office is responsible for reviewing the proposal's consistency with the policies of Section 22a-92 and the criteria of Section 22a-102(b) of the CCMA. This response does not necessarily reflect other planning and zoning considerations which may apply.

Should you have any questions regarding this letter or any other coastal management matter, please feel free to contact me via email:

[Marcy.Balint@ct.gov](mailto:Marcy.Balint@ct.gov)

Sincerely,

*Marcy L. Balint*

Marcy L. Balint, Sr. Coastal Planner  
Land and Water Resources Division  
Connecticut Department of Energy and Environmental Protection  
79 Elm Street, Hartford, CT 06106-5127  
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860 424-3623

[www.ct.gov/deep](http://www.ct.gov/deep)

***Conserving, improving and protecting our natural resources and environment;***

***Ensuring a clean, affordable***

# Town of

**P.O. Drawer 519**  
**Department of Planning &**  
**Inland Wetlands Agency**

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



# East Lyme

**108 Pennsylvania Ave**  
**Niantic, Connecticut 06357**

**Phone: (860) 691-4114**  
**Fax: (860) 860-691-0351**

November 28, 2023

East Lyme Zoning Commission  
Town of East Lyme  
P.O. Box 519  
108 Pennsylvania Avenue  
Niantic, Connecticut 06357

**RE: Zoning Referral (CGS 8-3a) – Application of East Lyme Zoning Commission to amend Section 34 .21 and to modify Section 34.3 “Purpose” and by adding Section 34.6.1.1 “The Flanders Village Design District”.**

Dear Sir or Madam:

The East Lyme Planning Commission at its meeting of November 13, 2023, found the above referenced text amendment, CONSISTENT with the 2020 East Lyme Plan of Conservation and Development.

If you have any further questions regarding this letter or the POCD, please do not hesitate to contact the Director of Planning, Gary A. Goeschel II, at (860) 691-4105.

Sincerely,

Kirk Scott, Secretary  
Planning Commission

cc: William Mulholland, Zoning Official

# Town of

P.O. Drawer 519

Department of Planning &  
Inland Wetlands

*Gary A. Goeschel II, Director of Planning /  
Wetlands Enforcement Officer*



# East Lyme


108 Pennsylvania Ave  
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## MEMORANDUM

**TO:** East Lyme Planning Commission,  
William Mulholland, Zoning Official

**FROM:** Gary A. Goeschel II, Director of Planning / Wetland Enforcement Officer 

**DATE:** November 13, 2023

**RE:** Zoning Referral (CGS 8-3a) – Application of East Lyme Zoning Commission to amend Section 34.21 and to modify Section 34.3 Purpose and by adding Section 34.6.1.1 “The Flanders Village Design District.”

---

Upon review of the above referenced Zoning Referral with the 2020 Plan of Conservation and Development, I have the following comments:

The proposed amendments would expand the current architectural design review area to include Flanders and Boston Post Road commercial area. Chapter 8 Commercial and Industrial Development, Section 8.2 Recommendations, recommendation 8, states the following:

“Consider a re-zone of the current Flanders commercial district on Boston Post Road from Chesterfield Road to the West as CB or given a new designation such as Flanders Village District FVD, with regulations that encourage redevelopment to improve upon the village concept. As in the existing CB zone, new buildings in this area should be located near the front of the parcel to emphasize both visibility for new businesses and enhancements for pedestrians and vehicles trying to access the property. Incentive-based zoning should encourage property owners to locate parking to the side or rear and abide by architectural regulations or recommendations which complement existing historic structures in the area and use various landscaping alternatives to compliment both the site and the structure.”

Therefore, it is moved that the East Lyme Planning Commission finds the proposed text amendment referenced above **CONSISTENT / INCONSISTENT** with the East Lyme 2020 Plan of Conservation and Development as the proposed amendments would improve upon the Village Concept and create a Flanders Village District.

# Attachment 8

December 7, 2023

Daniel Glynn  
103 Flanders Road

I am a licensed architect and I grew up and live in Niantic.

First, I'd like to welcome the new members on the Zoning Commission. I hope you will provide a more disciplined, more intelligent, direction for the Town of East Lyme.

Second, I am in favor of the proposed establishment of the Flanders Village Design District similar to the Niantic Village Design District, but I support it on one condition: If you are going to make regulations, then please enforce those regulations.

Two recent examples on Main Street, where non-compliant projects were approved in direct violation of the regulations, illustrate how town officials have failed to do their jobs when it comes to performing a thorough analysis and comparison of proposed plans against the regulations. Because of this negligence, certain developers have been given special treatment to essentially destroy the architectural fabric of Downtown Niantic.

First, the Norton Building which has become almost universally detested as the "Yellow Behemoth," flagrantly violates **Section 34.8** of the ARCHITECTURAL DESIGN REVIEW REGULATIONS which states, quote: "With the objective of maintaining a small-town character, buildings should appear to be modest in scale, relating to the scale of the immediate surroundings." The Norton has an enormous flat façade and a flat roof that towers over its neighbors and more closely resembles the photos in **Section 34** which depict, quote, "**Discouraged Architectural Designs.**"

Second, the ZDM Properties project on Main Street, which is going to demolish the former Café Sol and two adjacent buildings, is even worse. Not only does it violate **Section 34.8**, it also flagrantly violates **Section 9.3.1** pertaining to Minimum Lot Size. **Section 9.3.1** states, quote, "Lots used for mixed use shall have a minimum of 7,500 square feet plus 1,200 square feet for each efficiency or one bedroom living unit and 2,000 square feet for each two-bedroom living unit." By this formula, if you do the calculations, the 16,900 SF MONSTROSITY being crammed onto that site requires a lot that is almost 10,000 square feet larger than it actually is.

The Zoning Official does not dispute this error according to the November 20 article in The Day paper titled, "Development Debate in East Lyme: What kind of town is it?"

So, if you know there is an error, then please FIX IT. Don't triple down on the error by issuing a Building Permit and a Certificate of Occupancy for a project which you absolutely KNOW to be in violation of the regulations.

And, furthermore, please don't go relying upon the flawed legal opinion by the Town Attorney dated July 5, 2023 which opines that a zoning permit approval cannot be rescinded or revoked. This is absolutely wrong. First of all, the Town Attorney admits in their letter that they did not review the application, nor did they attend the public hearing, nor did they take a position on the allegations regarding lot size violation. If they had actually researched section 9.3.1 and performed the mathematical calculations of building size vs. lot size, they would have to concede that the proposed building is prohibited on that lot. Second, the legal case they cite to back up their position is "Voll v. City of Milford" which is a ridiculous comparison because that case was a private residence on a beach, not a Mixed-Use Monstrosity in the middle of Main Street. The most detrimental impact of this flawed legal opinion is that it sets a precedent and gives a green light for the Zoning Official and Zoning Commission to approve any and all "NON-COMPLIANT" projects in the future, regardless of what the regulations say, and to claim it was, quote, "AN ERROR." In the end, you might as well throw the regulations away, because ZONING APPROVAL appears to be an arbitrary and capricious act.

The Town still has an opportunity to correct its error, in this case, by denying the ZDM project a Building Permit and a CO. The best path forward is to sit down with the Owner and reach a settlement concerning the design fees that have been incurred to date. Please do this before the architectural character of Downtown Niantic is further destroyed for generations to come.

Again, this all relates directly to tonight's proposal for the Flanders Village Design District. The main lesson is: If you are going to make regulations, then please enforce those regulations.

Thank you.