

# Town of

P.O. Drawer 519

Department of Planning &  
Inland Wetlands Agency

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



# East Lyme

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## MEMORANDUM

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

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

**DATE:** February 15, 2024

**RE:** **Staff Review: 8-30g Zoning Permit Application for an Age Restricted Affordable Housing Development** and approval of a Conceptual Site Plan which proposes a twenty-five (25) unit single and multi-family affordable residential housing development designated as "Latimer Green" on property located at 91 Boston Post Road, East Lyme, Connecticut, Assessor's Map 31.0, Lot 2, pursuant to Connecticut General Statutes §8-30g

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### Information submitted by the Applicant which was considered in this review:

- **Zoning Application for Site Plan Review**
  - **A-2 Property Survey entitled** "Topographic Survey, Site Location: of 91 Boston Post Road (aka Route#1) East Lyme, Connecticut, prepared for Kristen Clarke P.E., dated May 2, 2023, and revised through January 8, 2024, (3 Sheet Plan Set)" by Donald L. Gesick Jr., L.S. of Gesick & Associates, P.C. 19 Cedar Island Ave., Clinton, Connecticut 06413
  - **Site Development Plan entitled:** "Conceptual Site Plan, Age Restricted Rental Housing Per C.G.S. 8-30g, 91 Boston Post Road, East Lyme, Connecticut, Feasibility & Layout Plan, Scale 1' = 40', dated January 15, 2024" prepared by Timothy May, P.E. of May Engineering LLC, 1297 RT 163 Oakdale, CT 06370
  - **Soils Map entitled:** East Lyme GIS Soils Map, dated 1/13/2024, scale 1" = 200'
  - **Traffic Report:** Memorandum to William Mulholland, Town of East Lyme Zoning Official, from Kristen Clarke, P.E., PTOE, regarding Proposed Age Restricted (55+) Residential Development – Boston Post Road in East Lyme, dated January 14, 2024.
  - **Affordability Plan entitled:** "Affordability Plan, Latimer Green, 91 Boston Post Road, East Lyme, Connecticut, dated January 11, 2024."
  - **List of Required Permits**
  - **Design Report entitled:** "Latimer Green 8-30g Housing Development, 91 Boston Post Road, East Lyme, Connecticut, dated January 11, 2024."
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The proposed application essentially proposes a de-facto rezoning the above referenced parcel to an Affordable Housing District (“AHD”). Upon review of the above referenced Zoning Referral with the 2020 Plan of Conservation and Development, as amended, I offer the following comments:

1. While Section 7.1.2 of the 2020 POCD does not provide explicit recommendations as to the siting of affordable housing developments, it does indicate the public sentiment as expressed in the Community Questionnaire and Public Forum conducted as part of the Plan of Conservation and Development update of the public’s desire to slow down growth and focus on preservation of open space, agriculture, and other natural resources. At the time of the 2020 update of the POCD, we were in the midst of the COVID-19 pandemic and witnessed a documented trend in populations leaving cities for more suburban and rural areas such as Connecticut. The 2020 POCD recommendations for Affordable Housing include but are not limited to the following:
  - Evaluate the options for reducing future impact on water and soil resources, particularly in the northern end of town where there are larger remaining tracts of undeveloped land. Consider adjusting agricultural regulations that better encourage and support the preservation of agricultural land. (i.e.: expand allowable uses in agricultural zones such as events, B&Bs etc.)
  - Continue to promote cluster residential development as a means of creating permanent open space, preserving environmentally sensitive areas and encouraging creative subdivision design. Revisit Conservation Design Development (CDD) Zoning Regulations (Section 23) to improve the configuration and connectivity of open spaces within residential areas. Consider increasing open space requirements for subdivisions. Encourage the Planning Commission to utilize CDD Regulations whenever appropriate for applications and require subdivisions of less than 10-acres and/or 4-lots or less to abide by conservation design requirements.
  - Consider additional protections in residential development areas near watersheds and aquifer recharge areas to ensure future development has minimal impact to the watershed/aquifer. Highest priority should be placed on maintaining undeveloped woodlands (particularly those surrounding Powers Lake, Bride Lake, Dodge Pond, Pattagansett Lake, Darrow Pond, Gorton Pond, Oswegatchie Hills, Stone’s Ranch and the Yale property) and maintaining and expanding wetlands particularly those adjacent to Pattagansett Marsh.

Whereas, the 2009 Plan of Conservation and Development (“POCD”), recommended when planning for the location of future multi-family housing areas, this type of housing should have easy accessibility to shopping and business centers and be located near bus routes. Currently, public transportation (a SEAT bus route) runs between New London and Niantic along Boston Post Road and south down Route 161. The proposed site location is less than 1-mile from Interstate Route 95 (I-95) and Interstate Route 395 (I-395). In addition, the site is located adjacent to existing shopping and business centers that are less than 1-mile away. As such, the proposed site development appears to achieve the goal of locating affordable multi-family type housing within a currently zoned Commercial “CA” Zoning District and a Rural Residential RU-40 Zoning District that has the potential for accessibility to shopping and business centers

via multi-modal forms of transportation. However, to provide for safe pedestrian access to the existing shopping and businesses centers, a sidewalk along Boston Post Road (Route 1) would need to be installed connecting the existing sidewalk that terminates on 15 Chesterfield Road with the subject site.

2. Section 7.3 of the 2020 POCD recommends allowing the construction of accessory apartments on single-family lots to diversify housing without contributing to sprawl provide it does not change or compromise the existing neighborhood character. The proposed site development and de-facto zone change to an AHD Zoning District promotes an additional variety of housing to the residential inventory near the Flanders Village Center. However, it may be construed that the proposed development contributes to sprawl as it is merely a commercial residential development with no commercial business or retail being prosed with it. Rather, the development is being proposed within proximity to an existing commercial business and shopping center. Whereas the 2009 POCD recommended permitting multi-family housing development in designated growth areas when such development is used to combat housing sprawl to rural areas of town and consideration should be given to the following as characteristics of development sites in deciding the placement of multi-family housing:
  - generally free of major site development constraints, such as wetlands, bedrock soils, steep slopes and primary aquifers
  - within the boundaries of, or readily connected to, the municipal water and sewer service area
  - accessible to arterial roadways
  - accessible to municipal services, particularly fire protection and schools
  - removed by distance, topography or vegetation from existing large-lot single- family residential development.
3. While the proposed application doesn't propose to change the underlying zoning districts, the application has been submitted under Section 8-30g of the Connecticut General Statutes (CGS) which, does not require an application for a zone change be submitted. However, the application has been referred to the Planning Director for review. While the application was submitted under CGS 8-30g and does not propose a zone change, it is my opinion, the proposed use constitutes a de-facto-zone change and the above referenced application most likely needs to be referred to the East Lyme Planning Commission pursuant to Section 8-3a of the Connecticut General Statutes.
4. A zone change to an Affordable Housing District at the above referenced property, would permit multi-family type housing within an area currently zoned CA-Commercial and RU-40 Rural Residential which, is served by municipal water and has direct access to and from an arterial roadway or interstate highway. However, the site is not located within the Sewer Shed service area. As such, the Ledge Light Health District (LLHD) would need to review any proposed subsurface sewage disposal system (aka septic system) to determine soils suitability.
5. East Lyme's recently adopted Affordable Housing Plan which, became effective January 1<sup>st</sup> of this year 2023, does not provide any specific recommendations as to locating or siting of affordable housing developments throughout the Town. Rather, it recommends several

changes be made to the Zoning Regulations. However, it does recommend the utilization of duplex and tri-plex units in lower density developments and subdivisions.

Whereas, Chapter 3, Section 3.3.1 of the 2009 POCD stated “The public recognizes the need and the value of more housing choices in East Lyme. The 2007 Community Survey (Appendix B of the POCD) found support for more rental, senior housing, accessory units, and two-family homes. Residents voiced their preference for affordable housing where it would strengthen village centers and bring awareness that such residential development in Niantic and Flanders villages would provide pedestrian access to shopping, employment and Town facilities. Residents articulated their strong desire to accommodate affordable housing to reach the goal of 10-percent and their preference for well-planned affordable housing development that is compatible with the community’s New England character.”

In addition to providing affordable housing options for residents, affordable housing must also contribute to revitalizing villages and aging commercial strips. Smaller, more compact, dense housing is more appropriate for areas of village and mixed-use development where access to utilities and public transportation already exists. As such, the proposed de-facto zone change and site development based on its proposed location relative to Flanders or Niantic Village center having access to Boston Post Road, Route 16, would potentially strengthen the Flanders Village center. However, as no sidewalk is proposed it would not necessarily provide for the safe and convenient pedestrian access to the existing shopping and business center, and employment, located in Flanders or Niantic Village.

The 2009 POCD recommended that Incentive Housing Zones be considered and pursued in certain identified areas. More specifically, it states “Designate incentive housing zones in areas outlined as locations where the Town wants to encourage affordable housing.” As the East Lyme Zoning Commission has adopted Incentive Housing Zones consistent with smart growth principles and the objectives of Public Act 07-4, the Town has identified where it wants to encourage affordable housing as well as where it would be most appropriately located and beneficial which, based on the 2009 and 2020 POCD, is within the village or commercial centers of Niantic and Flanders where access to public transportation and public utilities exist or are planned.

6. 2023 Affordable Housing Plan Strategy and guiding principles that frame East Lyme’s Affordable Housing Plan:

- **Protect and preserve – do no harm:** East Lyme will maintain the physical, aesthetic, and cultural character of the community by maintaining the rural-suburban residential development patterns of the community.
- **Focus on the needs of East Lyme residents and employees, with a view toward regional need.** East Lyme will seek to provide a housing stock that meets the needs of the community, as determined in the housing needs assessment. In doing so, East Lyme recognizes it does not exist in a vacuum and is part of a regional housing market—a market where East Lyme already outperforms its neighboring community in the amount/percent of qualified affordable housing provided.

- **Focus on redevelopment.** East Lyme will encourage and utilize multi-family housing and affordable housing as means to reposition older commercial areas to compete for investment. This includes areas with the public infrastructures available to support greater density.
- **A balanced and sustainable approach to housing.** East Lyme will encourage and support development opportunities that can and will strike a balance between economic, social, and environmental concerns.
- **Fair housing.** East Lyme, through its planning and zoning efforts will affirmatively forward fair housing.

The 2023 Affordable Housing Plan recommends the Town create an Affordable Housing or Inclusionary provision that is applied to all residential zones and development over ten (10) units. For example, a minimum of 5% or 10% qualified affordable for single-family and 10% or 15% for qualified affordable for multi-family.

Whereas the 2009 POCD Chapter 1, Section 1.3 Objectives and Policies, Objective 1.1 strives to maintain the traditional New England character of the community and enhance the village identities of East Lyme through the development of village area plans; encouraging single-family and two-family dwellings, small scale mixed-use, and senior housing, in the village districts, and continuing to provide for multi-family housing to meet need for a variety of housing types at affordable cost.

As the proposed property is located within the Flanders Village District and the application proposes a total of twenty-five (25) units comprised of two (2) and three (3) bedrooms each, the proposed de-facto zone change to permit the proposed site development encourages multi-family dwellings and senior housing in the village districts. In addition, Section 32 of the East Lyme Zoning Regulations also states, “Wherever possible, the district shall be located in proximity to existing commercial districts and /or along a public transportation route.” As the proposed application proposes to essentially rezone an existing RU-40 Zoning District and CA Commercial Zoning District to an AHD along Boston Post Road (Route 1) which, is in proximity multiple major public transportation routes, Route 1, Route 161, I-95 and I-395, appears to comply with this requirement.

7. The proposed Conceptual Site Plan which shows delineated wetlands is not signed by a certified soil scientist. In addition, the A2 Property Survey is also not signed by a certified soil scientist nor has a report from a certified soil scientist been submitted that verifies the delineation and provides an explanation of the impact of any proposed regulated activities. As such, a report verifying there will be no proposed regulated activities or no adverse impacts to any inland wetlands or watercourses from the proposed activities should be submitted to the Inland Wetlands Agency for review and a determination of whether the proposed activities are permitted non-regulated activities or require an Inland Wetlands Permit.
8. While the conceptual plans provide for stormwater detention areas for the private roads, it is recommended the plan include a stormwater management system designed to detain, treat, and infiltrate the 100-year storm on-site. The plan should be accompanied by a Drainage or Stormwater Management Report. In addition, the plan should include an Operations and

Maintenance Plan identifying the maintenance schedule and individual(s) responsible for the maintenance of the stormwater system.

9. An Erosion and Sedimentation Control Plan consistent with the 2002 Connecticut Guidelines for Erosion and Sediment Control should also be provided. The plan should provide the contact information of the individual responsible for implementation and maintenance of erosion and sedimentation controls during construction and an estimated timeline.
10. As the proposed application proposes twenty-five (25) units it is anticipated it will generate additional traffic on a daily basis. The findings in the Traffic Report indicate the “proposed residential development will generate approximately 6 AM and 7 PM vehicle trips during peak weekday hours. I recommend this also be determined for peak weekend hours. In considering the existing conditions of Boston Post Road from the site east to its intersection with the I-95 Exit 75 highway ramp and its proximity to the signalized 4-way intersection (aka Flanders Four Corners) of Boston Post Road (Route 1) and Flanders/Chesterfield Road (Route 161) to the west, there may be significant issues in with traffic queuing up within the site at peak hours particularly during the summer months and weekends. While the Traffic Report indicates the “proposed development would not be expected to result in a notable increase to area traffic volumes or impact to area traffic operations”, I would suspect that the existing area traffic and operations will have a negative effect on the site’s internal traffic circulation. More specifically, left hand turning movements from the site on to Route 1 have the potential to be significantly delayed queuing up the traffic within the site. As such, the existing driveway or Boston Post Road may need to be upgraded or widened to accommodate safe vehicular and pedestrian traffic.
11. As the plan proposes twenty-five (25) units with an associated driveway and parking to be constructed in proximity to Latimer Brook, it will create a significant increase in the impervious area on the site. As such, it’s necessary to treat the runoff from all impervious areas by an appropriate stormwater management system. More specifically, to reduce non-point source pollutant loads including total suspended solids (TSS), total phosphorous (TP), total nitrogen (TN), metals (Zn as indicator metal) and total petroleum hydrocarbons (TPH). The current plan only proposes a single detention pond and the Design Narrative indicates rain gardens will be added to the final plan. Therefore, I would recommend a pollutant loading analysis be provided to demonstrate the level of pollutants at the wetlands or watercourse boundary and how the proposed design reduces non-point source pollutant loads into the on-site wetlands, watercourse, and Latimer Brook.