

Town of

P.O. Drawer 519

**Department of Planning &
Inland Wetlands Agency**

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East Lyme

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Memorandum

To: East Lyme Planning Commission

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

Date: March 1, 2016

Re: Proposed Text Amendment to Section 4-14 of the East Lyme Subdivision Regulations

Recently, the Planning Commission approved various amendments to its Subdivision Regulations which became effect December 1, 2023. More specifically, because of pending litigation, the Commission made changes to Section 4-14 which, eliminated the requirement of an Environmental Review Team (ERT) report and replaced it with a requirement that the applicant submit an Environmental Impact Assessment (EIA) for review by the East Lyme Commission for the Conservation of Natural Resources (aka the Natural Resources Commission or NRC) and the Planning Commission before the Planning Commission renders a decision.

However, as the newly adopted text does not specify the amount of time the NRC has to review the EIA and furnish a report, I prepared for the Commission's review and discussion proposed language which, would provide the specific criteria regarding the amount of time the NRC would have for review of the EIA (please see the attached).

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East Lyme Subdivision Regulations

SECTION 4-14 – ENVIRONMENTAL REVIEW AND EVALUATION

14-14 ENVIRONMENTAL REVIEW AND EVALUATION

4-14-1 Review and Evaluation - Subdivisions where the land to be subdivided consist of environmentally sensitive resources such as but not limited to wetlands, steep slopes (>25%), watercourses, flood hazard areas, ridge lines, endangered or species of special concern shall be subject to an environmental review and evaluation by the East Lyme Planning Commission and the East Lyme Commission for the Conservation of Natural Resources. This requirement does not preclude the Commission from requesting an Environmental Review Team (ERT) Evaluation for applications which do not meet the above parameters, but for which concerns about environmental impacts of the development and their proper mitigation exist.

4-14-2 Actions which may Significantly Affect the Environment - “Actions which may significantly affect the environment” means individual activities or a sequence of planned activities proposed to be undertaken which could have a major impact on the Town’s land, water, air, historic structures, landmarks, existing housing, or other environmental resources, or could serve short term to the disadvantage of long-term environmental goals. Such actions shall include but not be limited to new projects and programs and any new projects supported by state contracts and grants but, shall not include (1) emergency measures undertaken in response to an immediate threat to public health or safety; or (2) activities in which Planning Commission’s participation is administrative in nature, involving no exercise of discretion on the part of the Town, department, institution or agency.

4-14-3 Environmental Impact Assessment - Any business, corporation, entity, or individual responsible for the initiation of actions which may significantly affect the environment shall in the case of each proposed action ~~make provide~~ a detailed written evaluation of its environmental impact ~~before the East Lyme Planning Commission decides whether to approve such action~~. All such Environmental Impact evaluations Assessments (EIA) shall be detailed statements setting forth the following:

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- (A) A description of the proposed action which shall include, but not be limited to, a description of the purpose and need of the proposed action, and, in the case of a proposed facility, a description of the infrastructure needs of such facility, including, but not limited to, parking, water supply, wastewater treatment and the square footage of the facility;
- (B) the environmental consequences of the proposed action, including cumulative, direct and indirect effects which might result during and subsequent to the proposed action;
- (C) any adverse environmental effects which cannot be avoided and irreversible and irretrievable commitments of resources should the proposal be implemented;
- (D) alternatives to the proposed action, including the alternative of not proceeding with the proposed action and, in the case of a proposed facility,
- (E) an evaluation of the proposed action's consistency and each alternative's consistency with East Lyme's Plan of Conservation and Development, an evaluation of each alternative including, to the extent practicable, whether it avoids, minimizes or mitigates environmental impacts, and, where appropriate, a description of detailed mitigation measures proposed to minimize environmental impacts, including, but not limited to, where appropriate, a site plan;
- (F) an analysis of the short term and long term economic, social and environmental costs and benefits of the proposed action;
- (G) the effect of the proposed action on the use and conservation of energy resources; and
- (H) a description of the effects of the proposed action on sacred sites or archaeological sites of municipal, state, or national importance. In the case of an action which affects existing housing, the evaluation shall also contain a detailed statement analyzing
 - (1) housing consequences of the proposed action, including direct and indirect effects which might result during and subsequent to

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the proposed action by income group as defined in section 8-37aa and by race; and

- (2) the consistency of the housing consequences with the East Lyme's Plan of Conservation and Development and Affordable Housing Plan for housing and community development prepared pursuant to Section 8-37t of the Connecticut General Statutes (CGS). As used in this section, "sacred sites" and "archaeological sites" have the same meanings as provided in Section 10-381 of the Connecticut General Statutes.

14-14-4 The East Lyme planning Commission shall refer the EIA to the Commission for the Conservation of Natural Resources for a report at least 35-days prior to the date assigned for a public hearing to be held thereon; or date of decision.

14-14-5 The report shall contain the findings of the Commission for the Conservation of Natural Resources, a statement of the vote, and any other recommendations the Conservation of Natural Resources commission deems relevant.

14-14-6 The failure of the East Lyme Commission for the Conservation of Natural Resources to report prior to, at the public hearing, or prior to any decision shall be taken as favorable of such actions.