

EAST LYME PLANNING COMMISSION

Regular Meeting

Tuesday, June 4, 2013

PRESENT: Brian Schuch, Chairman, Rita Palazzo, Frank Balantic, Secretary, Francine Schwartz, Ernie Covino, Joan Bengtson

ALSO PRESENT: Gary Goeschel, Planning Director, Catherine Ladd, Alternate

ABSENT: Ex-Officio, Rose Ann Hardy,

Chairman Schuch called this Regular Meeting of the Planning Commission to order at 7:03PM.

Pledge of Allegiance

The Pledge was observed.

I Additions to the Agenda

There were no additions to the Agenda.

FILED IN EAST LYME
CONNECTICUT
June 7, 2013 AT 3:10 AM (PM)
Kathleen M. Galbo, Atty
EAST LYME TOWN CLERK

II Public Delegations

Public Delegations is the time when members of the public are invited to speak to the Commission about certain matters. Issues or concerns related to approved subdivisions under construction (Item VI) and in-house proposals or general topics of discussion (Item VIII) are open to comment. Items, referrals, or applications subject to a decision by the Commission, a public hearing, or in litigation may not be discussed. The members of the Commission will not directly answer questions or make comment during delegations.

Mr. Schuch called for Public Delegations.

There were no Public Delegations.

III Approval of Minutes- Regular Meeting Minutes of May 21, 2013

Mr. Schuch called for any discussion or corrections to the Planning Commission Regular Meeting Minutes of May 21, 2013. Mr. Balantic pointed out three editorial errors in the Meeting Minutes:

1. (Page 3, paragraph 2) *Mr. Schuch asked Mr. Goeschel to clarify whether this Application was an amendment of as previously stated in the Application of October 2012 (should read) Mr. Schuch asked Mr. Goeschel to clarify whether this Application was an amendment to that previously stated in the Application of 2012.*
2. (Page 3, paragraph 3) *Mr. Balantic commented that with the initial Application, most of the Commission had a problem with the fact that the Primary area runs down route 161 and the many wonder about gas stations... (should read) Mr. Balantic commented that with the initial Application, most of the Commission had a problem with the fact that the Primary area runs down route 161 and that many wonder about gas stations...*
3. (Page 4, item B comment) *Ms. Schwartz stated that the Commission would need type... (should read) Ms. Schwartz stated that the Commission would need time...*

****Motion (1)**

Ms. Palazzo moved to approve the Planning Commission Regular Meeting Minutes of May 21, 2013 as amended.

Mr. Balantic seconded the motion.

Vote: 5-0-1. Motion passed.

Ms. Bengtson abstained from the Vote due to her absence from the May 21, 2013 Meeting.

IV Public Hearing

Mr. Schuch noted that there are no public hearings this evening.

V Zoning Referrals

- A. **East Lyme Zoning Commission proposal to delete Section 13 Aqp Aquifer and Primary Recharge District and Aqs Secondary Recharge District and Section 30 Aquifer Protection Districts from the East Lyme Zoning Regulations. It is also proposed to delete the Aquifer Protection zones from the East Lyme Zoning Map. (Public Zoning Hearing on June 20,2013)**

Mr. Schuch stated that we had begun to discuss this Application during the May 21, 2013 Meeting, and asked Mr. Goeschel if he had any further input. Mr. Goeschel noted that he included a letter to Bill Mulholland from Attorney Theodore Harris dated March 12, 2013 (Exhibit A), in the Member packet. He explained that Mr. Harris is trying to clarify what the State is mandating and that Mr. Harris also includes some supporting documentation. Mr. Goeschel next handed out three maps to help the Commission identify the changes that would be made if the Application is approved (Exhibit B, C, D).

Map number 1 shows the Town's water bodies, route 161, the 95 corridor and route 156 and highlights the Primary and Secondary Aquifer Protection Districts. Mr. Goeschel explained that the purple, red and green on the map and the boundary are the direct recharge area otherwise known as the Aquifer Protection Area as delineated by the State of Connecticut. He further explained that by repealing Section 13 of the Zoning Regulations that the shaded area (the Primary and Secondary Aquifer), would be eliminated. He added that the State is confident that if something occurred outside the hatched areas it would not impact the Town's water.

Mr. Goeschel next cited Map number 2, and noted that the squiggly lines are the Indirect Recharge Area. He stated that Map number 3 is Map 2 but shown on the Zoning Map. He explained that basically outside the line, the potential for contamination is a lot less. He added that confusion exists, because there is language in the State Statute regarding APA and that what happens is that under the Aquifer Protection Regulations, what is currently prohibited by the use of an Aquifer Protection District, may now be permitted within the APA so long as they meet certain criteria. The problem legally, is that if there is scientific evidence that says if the hatched areas are used in a particular way, it will impact the well, how can you extend regulation to outside that area. He asked the Commission if doing so would be overreaching what is actually allowed.

Mr. Goeschel commented that we currently have Zoning Regulations that conflict with both the State Statute and the APA Regulations, and that this conflict cannot exist. The conservative approach is to maintain the entire area that has previously been called the Aquifer Protection District but the problem is we can't call it an Aquifer Protection District for legal reasons. Saying anything having to do with an Aquifer and we end up overreaching the APA Regulations allowed. Mr. Goeschel stated that his argument is that the Indirect Recharge areas go beyond the white areas on the Map and added that it will be the white areas (on the map) in term of land use allowance that benefit.

Mr. Goeschel stated that he examined the Town's POCD, specifically Chapter 5, Section 5.1-5.3 with this Application in mind, and that the goal of the Planning Commission is to maintain and enhance, while protecting environmentally sensitive areas from improper use. Item number six of 5.3 says to *consider re-zoning land north of I-95, west of Route 161 that lies in part within the Pattagansett Aquifer Protection District from industrial to office/light industrial. A more suitable area for industrial development could be located to replace it* and Section 5.3.2 states that *East Lyme has delineated Primary and Secondary Aquifer Protection District boundaries, which operate as overlay zones and are regulated through Zoning.*

Mr. Covino asked what Mr. Harris was referring to in his letter (Exhibit A), when he stated "As you are aware, these districts were based on estimates and were not the result of any rigorous study." Mr. Goeschel explained that the districts were based on the Soil Survey of Southeastern Connecticut, so no in depth scientific study was performed. He stated that his understanding is that the Aquifer Protection District was based on a Level B Map, while the State Mandated Level A Mapping, and consists of more than the soil level. Mr. Covino asked who conducted the Level A Mapping and Mr. Goeschel informed him that the McGuire Group was contracted. He also clarified that the Level A Map contradicts the Aquifer Protection District.

Ms. Schwartz asked if there was another way to protect these areas and Mr. Goeschel cited the Town of Groton as an example, and the idea of a Watershed Management Plan. Mr. Goeschel further added that in the case of a Watershed Management Plan, it simply acts as a guide for making decisions with no regulatory powers. Ms. Schwartz wondered about possible outcomes development wise, given that devising a Plan is a large undertaking and that if you enacted removing the zone before a guiding force is in place, a gap in time would result. Mr. Goeschel stated that he reviews proposals and can make comments and plan reviews for consideration by the Zoning Department. Ms. Schwartz asked if a Plan would be worked on and Mr. Goeschel stated that he intends to meet with the Zoning Official and First Selectman to discuss this.

Mr. Schuch directed the Commission's attention to Map 1 (Exhibit B) and stated that they are trying to understand the differences between the old Primary and Secondary Districts and the new Aquifer Protection Area. He noted that an important difference is the aquifer that runs along Four Mile River It is a designated binary aquifer protection zone which currently does not a well. He stated that it appears the new APA started with the locations of our existing wells and that it is important to note the previous maps when using this area- that Planners anticipated that there may be a need for the addition of this well. He added that the Planners devised protection for this perspective well in advance and that we should draw the Zoning Commission's attention to this.

Mr. Balantic stated that a similar situation arises by northwest Pattagansett and that it is important to note that these are previously existing plans and shouldn't be discounted. We are not trying to enact something new. He observed that nothing has really changed from the initial Application of October 2012. Granting the request will allow for increased development, but that we sacrifice conservation as a result. He added that he didn't see the sense of urgency regarding this matter. Ms. Schwartz stated that she can see why it will ultimately probably be adopted, but that it does not fit into the Commission's charge which is to stay consistent with our Plan of Conservation and Development.

Mr. Covino asked what if the new land usage prohibited us from drilling a well in the future. Mr. Goeschel stated that we currently have four gas stations, a dry cleaning store and a car wash along that area, and that because they have been there, they are allowed to continue. In the future such businesses are prohibited. Mr. Schuch stated that we are prohibiting more gas stations because we plan to drill there in the future. Mr. Goeschel confirmed that the original map does say future well.

****Motion (2)**

Mr. Balantic moved that the Application was inconsistent as amended with the following comments:

- Nothing significant has changed since the initial Application of October 2012.
- The Application promotes growth while sacrificing conservation.
- The Commission is not attempting to enact something new; the protected areas by Four Mile River, Lake Pattagansett and Latimer Brook are preexisting plans.

Mr. Covino seconded the motion.

Mr. Goeschel stated that he is satisfied with his review, but that it is frustrating that legislation stimulates development while it sacrifices conservation. He noted that the law ties their hands a bit and he could make the suggestion of a Watershed Plan. He noted that much more planning needs to be done if this Section is omitted. Mr. Schuch stated that he wanted as unified voice as possible in terms of the vote.

Vote: 6-0-0. Motion passed.

The Commission took a short recess at 8:15 PM and reconvened at 8:21 PM.

B. The Town of East Lyme Zoning Commission proposal to amend the East Lyme Zoning Regulations Section 22, regarding parking. (Public Hearing on July 11, 2013).

Mr. Goeschel stated that the change in this Section makes things easier for the property owner by allowing them to count the number of parking spaces. He stated that it was a similar overlay zone to the one we have in the CB Zone downtown, and that Hope Street and Grand Street may benefit while route 161 would not. Mr. Balantic stated that it is a perfectly acceptable plan, that they're not claiming spaces, they just get to count them. Ms. Palazzo added that it sounded fair. Mr. Goeschel stated that the number of spaces required for commercial use to meet the regulations is 100+ spaces, and cited Stop & Shop as an example. He explained that the change is directed towards small businesses and that downtown will benefit from it.

****Motion (3)**

Mr. Balantic moved that the Referral was consistent.

Ms. Bengtson seconded the motion.

Vote: 6-0-0. Motion passed.

C. The Town of East Lyme Zoning Commission proposal to amend the East Lyme Zoning Regulations Section 15, "Flood Hazard Areas," to maintain compliance with the minimum standards of the National Flood Insurance Program. (Public Hearing on July 11, 2013.)

Mr. Goeschel stated that a great deal of this is actually an insurance matter. He added that it addresses a bit of an issue that the Town has seen over time i.e. I can make changes and alterations over a ten year period of time versus, I'll wait till year eleven so that I don't have to comply, and I'll have another ten years to address the issues. Mr. Balantic stated that it is consistent; it is clearly geared towards minimizing development at risk areas.

****Motion (4)**

Mr. Balantic moved that that the Referral is consistent with the POCD of 2009 as amended and without comment.

Ms. Palazzo seconded the motion.

Vote: 6-0-0. Motion passed.

D. The Town of East Lyme Zoning Commission proposal to amend the East Lyme Zoning Commission proposal to amend the East Lyme Zoning Regulations Section 4.2 regarding Agriculture or Farm use, including the raising of livestock or poultry, and Section 25.5, Table of Minimum Controls. (Public Hearing on July 11, 2013.)

Ms. Palazzo asked who would be responsible for enforcing these new regulations and Mr. Goeschel responded that enforcement would be complaint based. Mr. Balantic stated that this is an attempt to allow smaller landowners the opportunity for farming and livestock. He added that it is also an effort to allow what is already occurring. Mr. Goeschel stated that there was some concern about landowners with only one acre, but that two acres is the standard.

****Motion (5)**

Ms. Palazzo moved that the Referral is consistent with the comment that the enclosure size of the pen has to be established and adhered to.

Ms. Bengtson seconded the motion.

Vote: 6-0-0. Motion passed.

VI 8-24 Referrals (Municipal Improvements)

There were none.

VII OTHER BUSINESS

A New Business

There was none.

B Old Business

- a. Discussion of updates to Chapter 2 and Chapter 7 Plan of Conservation and Development.

Mr. Goeschel stated that he has nothing new to report at this time.

VIII REPORTS

1. Chairman

Mr. Schuch stated that he had nothing to report at this time.

2. Ex-Officio- Rose Ann Hardy

Ms. Hardy was not in attendance.

3. Zoning Representative

a. Liaison Schedule Assignments

1. June 6, 2013- Ms. Bengtson
2. June 20, 2013- Mr. Covino
3. July 11, 2013- Ms. Palazzo

4. Regional Planning Commission Representative- Brian Schuch, Luane Lange

Mr. Schuch stated that they did not meet.

5. Subcommittees

- **Sustainable Development and Climate Adaptation- (Gary Goeschel, Francine Schwartz)**

Ms. Schwartz and Mr. Goeschel both stated that they had nothing to report at this time.

6. Staff Communications

- **Route 11 Greenway Authority Commission**

Mr. Goeschel stated that there was nothing new at this time.

ADJOURNMENT

****Motion (6)**

Ms. Palazzo moved to adjourn this Regular Meeting of the East Lyme Planning Commission at 8:53 PM.

Ms. Bengtson seconded the motion.

Vote: 6-0-0. Motion passed.

Respectfully submitted,



Brooke Stevens,
Recording Secretary

Exhibit A

STEVENS, HARRIS, GUERNSEY & QUILLIAM, P.C.

ATTORNEYS AND COUNSELORS AT LAW

351 MAIN STREET

P. O. DRAWER 660

NANTIC, CONNECTICUT 06357

RONALD F. STEVENS
THEODORE A. HARRIS
PAUL M. GUERNSEY
PAIGE STEVENS QUILLIAM

TEL (860) 739-6906

FAX (860) 739-2997

E-MAIL shg-realestate@snet.net

March 12, 2013

MEGAN O. FLAHERTY

Mr. William Mulholland
Zoning Enforcement Officer
Town of East Lyme
P.O. Box 519
Niantic, CT 06357

Dear Bill:

As you are aware, we have been discussing the potential conflict between the new aquifer protection regulations and agency with respect to the zoning regulations to a similar effect, which were adopted in the early 70's. The current Regulations for the Town of East Lyme, have as their goal, the protection of "designated aquifer and recharge areas". To that end, it provides a variety of use restrictions and has promulgated two aquifer protection districts, a primary and secondary, which districts are indicated on the Zoning map for the Town of East Lyme. As you are aware, these districts were based on estimates and were not the result of any rigorous study. Further, a wide variety of uses are prohibited in this district under the East Lyme Zoning Commission Aquifer Protection Regulations.

The recent State regulatory framework and model regulation however, provide two distinct differences from that which exists in the Town of East Lyme prior to the adoption of the model State Regulations. First, the mode of regulation in the East Lyme Regulations is one of prohibition, where outright prohibited activities are minimized, while allowing others to be undertaken if registered and in compliance with applicable standards and best management practices. In the Public Hearing Minutes with respect to the initial proposed regulation, the drafters noted is as follows: "the Regulation as proposed, strikes the balance between environmental protection and economic development that the Connecticut General Assembly mandated in the Aquifer Protection Act. While the Regulation prohibits a limited number of high risk activities, many other activities are not regulated". Further it noted that "regulated activities may be granted an exemption from prohibition in aquifer protection areas provided the owner of any such activity can demonstrate that if any hazardous materials released into the ground from a regulated activity, treatment would not be required to render the groundwater suitable for drinking".

Two things are clear in viewing public hearing and informational materials distributed by DEEP. First, the model aquifer protection regulations were developed as a balance of protection for recharged area to public wells, while not inhibiting economic activity and growth. To that end, as noted above, the model regulations provide a list of prohibited activities, many of which may be undertaken, provided they are registered and adhered to certain design and permitting standards. The enabling Statute specifically required an examination of the economic effects of potential regulation, and this was considered as part of the public hearing with respect to the current regulatory construct. And while there is apparently no prohibition on a municipality exacting standards, higher than that of the model regulations, it would seem to negate the balance sought between protection and economic activity.

The second difference is abundantly clear in the Regulations:

The aquifer protection line which has been delineated and approved by the State is based on level A mapping, and may not be altered by a local municipality without the permission of the Commissioner (DEEP). In addition, the purpose of any such alteration can only be to match property lines and other physical monuments, and not in any sense, result in a wholesale expansion of an aquifer protection area. This restriction is in part based on concerns over the enforceability of the aquifer protection program. Given the scientific nature of the level a mapping with respect to direct and indirect precharge areas, expansion beyond those lines would not be deemed reasonably necessary to achieve the stated purpose and could render the full regulatory scheme and valid. Accordingly, DEEP has made the following comment about this process in its informational materials:

“The APA boundary may not be extended without written approval of the Commissioner and requires more extensive public notice than adopting a map as provided by DEEP. DEEP urges Towns to carefully consider any proposed boundary extension and to minimize extensions as much as possible. While boundary extension can facilitate administration of the program, such extensions are vulnerable to the challenge by affected property owners. Zoning district lines and property lines should be examined to see how well they match the APA boundary”. DEEP went on to give an example, “Care should be used particularly where boundary funds through a business property and the portion of the property outside the boundary is large enough to be used for other purposes. In that case, if the boundary line was taken directly from the level A map, the business could conceivably install new regulated uses on the property outside the APA.”

This reluctance to expand to Level A mapping area of regulation is described in Section 22a-354i-4 of the promulgated regulations which provides a procedure for extending any boundary “to coincide with the nearest property line municipal boundary or topographic feature” and further concludes as follows:

Mr. William Mulholland
March 12, 2013
Page 3

“An Aquifer Protection Agency boundary may not be extended without prior written approval of the Commissioner”.

The upshot of the regulatory framework is as follows:

1. While a municipality may exact more stringent regulatory framework, the existing State framework represents a careful balance between economic activity and protection, as was mandated by enabling act from the General Assembly.

2. Even to the extent that more stringent regulations were enacted, the regulatory boundary for the aquifer protection area cannot be extended beyond the Level A mapping without permission of the Commissioner, and then only to meet property boundaries and/or natural features. Finally, extensions are not to be summarily requested or enacted, as such extensions, if not grounded in the scientifically based mapping, could implicate the enforceability of the regulatory framework.

As applied to the Town of East Lyme, there are two aquifer protection lines which were developed in the early 1970's, neither of which were based on scientific testing or evidence, but rather gross assumptions. These boundaries far exceed those that have now been determined through scientific accuracy, and at the very least, pursuant to the regulatory framework, must be removed and the scientifically determined line be adopted. Given the lengthy hearings and consideration that went into the State model regulations, it would seem to be advisable to remove the redundant and over reaching regulation, as currently exist in the Town of East Lyme. Further, to the extent that further regulations is deemed appropriate within the Town, it should be done with careful consideration to economic activity.

Yours very truly,

A handwritten signature in black ink, appearing to read 'Theodore A. Harris'. The signature is fluid and cursive, with a large initial 'T' and 'H'.

Theodore A. Harris

TAH:jpl

3 | Aquifer Protection Area Mapping

Aquifer Protection Area maps show the boundaries of the areas supplying groundwater to Connecticut's largest public water supply wells. These are wells in stratified drift that serve more than 1,000 people. Mapping the contributing areas is the responsibility of the water company that owns the wells.

Groundwater and its movement can't be seen on the land surface, making groundwater mapping complicated, expensive, and time consuming. Therefore, the mapping is completed in two phases: (1) Level B, or preliminary mapping; and (2) Level A, or final mapping.

The Level B mapping provides only a rough estimate of the contributing areas to the well field. (See Figure 7 below.) This mapping is based upon very limited information about the wells. It is essentially a circle around the well based on the pumping rate, which is extended uphill to encompass areas that topographically drain down into the circle. The Level B mapping was completed for most existing well fields in the 1990s and distributed to the towns for planning and inventory purposes only, as it was not an accurate boundary to be used as a regulatory boundary.

The Level A mapping is a refinement of Level B mapping, and replaces Level B once completed. The Level A mapping is based

on extensive site-specific data and groundwater modeling. This mapping must be conducted in accordance with DEEP's mapping regulations (Section 22a-354b-1 of the RCSA), and DEEP must review and approve it. The shape and size of the area encompassed by the Level A mapping can be significantly different from the Level B area. (See Figure 7 below.)

The Level A mapping defines the regulated Aquifer Protection Area. When the Level A mapping is completed and approved, an approval letter is sent by DEEP to the water company and the municipal Aquifer Protection Agency receives a copy. This serves as an alert that Agency action will be needed shortly. A separate, formal notification letter is subsequently sent to the town. The notification letter outlines the steps the municipality must take and sets implementation deadlines for the town to establish their local Aquifer Protection Area program.

3.1 | Delineation of Aquifer Protection Areas

When DEEP sends the town the formal notification of mapping approval, the approved Level A mapping will be included. The Agency must delineate each Aquifer Protection Area boundary on the town's official Zoning District Map in accordance with



Figure 7. Level A and Level B Aquifer Protection Areas. This map shows both the Level B (Preliminary) indicated by the blue line, and the Level A (Final) mapping indicated with a red line, of an Aquifer Protection Area. The Level B is a rough approximation of the area from which the well is pulling groundwater, with the well essentially centered in the area. The Level A is based on more extensive site-specific information which takes into account the nearby streams and the extent and properties of the aquifer materials. The Level A area is significantly different in shape and location and much more accurately shows the areas contributing groundwater to the well.

3 | Aquifer Protection Area Mapping

AQUIFER PROTECTION AREA MAPPING

CGS § 22a-354n. If no Zoning District Map exists, the Agency must delineate the Aquifer Protection Area on the town's Inland Wetlands and Watercourses Map.

The delineation must include the area as shown on Level A maps approved by DEEP. The DEEP provides maps to towns at a 1:12,000 scale, as this is a typical zoning map scale. However, the DEEP can provide maps at any scale the town requests. Electronic copies of the maps are available for download from DEEP's website on the GIS download page at www.ct.gov/deep/gis.

The map delineation must be completed within four (4) months of DEEP's notice that Level A mapping is approved. [RCSA Sec. 22a-354i-2]

There may be multiple Aquifer Protection Areas in a town. The mapping for each will not necessarily be completed at the same time, as each well field and Aquifer Protection Area is considered independently. Therefore, the town may need to conduct the delineation procedure more than once, depending on the number of Aquifer Protection Areas, the timing of map completion, and development of future well fields.

3.1.1 Delineation Procedures

Once DEEP provides the Level A mapping to the town, the municipal Aquifer Protection Agency must adopt the APA within one hundred twenty (120) days after notification. Because the mapping is based on numerical groundwater modeling, the boundaries do not necessarily follow physical features visible on the land surface, and may cut across property lines, roads, streams, etc. Therefore, the delineation of the boundaries may be done in one of two manners:

- (1) the boundary line on the Level A map can be transferred to the local maps exactly as provided by DEEP, or
- (2) the boundary line may be extended out to the nearest identifiable physical feature to clarify the location for administrative purposes.

These options are described in more detail below. In either case, the boundary must be delineated on the Zoning District Map, or if no Zoning District Map exists, then it must be delineated on the town's Inland Wetlands and Watercourses map. If the Aquifer Protection Agency is not the Agency with jurisdiction over the Zoning map (or Wetlands map if appropriate), there must be cooperation between the two agencies to accomplish the delineation.

Option 1: Delineation of APA Boundaries as Provided by DEEP

Delineating the Aquifer Protection Area boundaries consists of transferring the Level A mapping boundaries onto the town's Zoning map. When the boundaries are transferred exactly as provided by DEEP, the adoption process should follow the Regulations of Connecticut State Agencies [RCSA

Sec. 22a-354i-2]. The "Aquifer Protection Area Map Delineation Flow Chart" indicates the necessary actions and timeframes to accomplish the delineation, and it may be used as a checklist for the adoption process. Adopting the boundaries as provided by DEEP is a simpler administrative process than Option 2 below.

Option 2: Extension of APA Boundaries for Administrative Purposes

As mentioned above, APA boundaries do not necessarily follow property lines or identifiable physical features. In order to clarify the location of an APA boundary, the Agency may extend the boundary to coincide with the nearest property line, municipal boundary or topographic feature. The extension must, at a minimum, fully encompass the APA bounded by the approved Level A mapping, but shall not exceed the distance necessary to clarify the location of the APA or facilitate the administration of regulations. When APA boundaries are extended for administrative purposes, the adoption process must follow RCSA Sec. 22a-354i-4. The "Extension of APA Boundaries Flow Chart" indicates the necessary additional actions and timeframes to accomplish the extended boundary delineation. The APA boundary may not be extended without written approval of the Commissioner, and requires more extensive public notice than adopting the map as provided by DEEP.

DEEP urges towns to carefully consider any proposed boundary extension and to minimize extensions as much as possible. While boundary extension can facilitate administration of the program, such extensions are vulnerable to challenge by the affected property owners. Zoning district lines and property lines should be examined to see how well they match the APA

Aquifer Protection Area vs. Zoning

The delineated Aquifer Protection Area drawn on the town's official zoning map is subject to local Aquifer Protection Area regulations.

The APA is *not* a typical zoning district and it is *not* part of local zoning regulations. Unlike zoning, existing land use activities as well as future land use activities are regulated under the APA program.

The statutory authorities and regulations for zoning and Aquifer Protection Areas are separate and distinct. It is therefore very important to differentiate the Aquifer Protection Area from a zoning district.



3 | Aquifer Protection Area Mapping

boundary. These lines, road boundaries, topographic features, or easily measurable distances from any such features may be used to extend the boundaries. Existing land use conditions are also an important consideration. For example, in residential areas where the APA regulations have relatively little impact, extending the boundary to existing property lines may simplify administration. However, care should be used, particularly where the boundary line runs through a business property and the portion of the property outside the boundary is large enough to be used for other purposes. In that case, if the boundary line were taken directly from the Level A map, the business could conceivably install new regulated uses on their property outside the APA. The business could therefore reasonably argue against such a boundary extension.

3.1.2 Notice Requirements

The Aquifer Protection Agency must carry out the proper public notice requirements for the delineation. The notice should appear in the newspaper and include a map or a detailed description of the Aquifer Protection Area and the name, address and telephone number of a representative of the municipal Aquifer Protection Agency who maybe contacted for more information. Examples of notices are included at the end of this section.

3.1.3 Availability of Aquifer Protection Area Map

A map of the delineated Aquifer Protection Area boundaries must be made available for inspection in the Office of the Town Clerk or the Agency during regular office hours.

3.1.4 Effective Date of Map

The effective date of the map is important in that it sets the date for the eligibility of facilities to register their land use activities. The effective date is the date of publication of the map in the newspaper or otherwise established by the Agency. To verify completion of the delineation process, send a copy of the map with the effective date to the DEEP Aquifer Protection Area Program at:

Aquifer Protection Area Program
CT Department of Energy and Environmental Protection
Bureau of Water Protection and Land Reuse
79 Elm Street
Hartford, CT 06106-5127

3.1.5 Requesting Maps of Special Scale or Electronic Format

Final (Level A) maps will be (or have been) provided to towns as the mapping is approved by DEEP. However, if the town needs an additional copy, a special scale to match the existing zoning map, or would like the map in electronic format (as a GIS shape file), please contact DEEP at 860-424-3020.

3.1.6 Security Issues

Specific water supply well locations should not be shown on delineated maps or made available to the general public, for

security-related reasons. However, regulated entities must be able to determine if they are within 500 feet of the well field, because commercial fuel oil tanks are only regulated under the program if they are within 500 feet of the well field. The DEEP can provide a map to the town showing a 500-foot radius line, if requested. Because the approximate location of the supply wells could be determined from this information, it should not be publicly disseminated. The town may either:

- (1) Make a separate map showing the 500-foot line that is kept on file at the Town Clerk or the Agency's office and may not be copied or borrowed. The businesses within the APA would be required to come in and check the map to determine if they are located within the 500-foot line; or
- (2) The Agency and water utility can review the inventory of and uses within the 500-foot area. Because the area is relatively small and the water company typically owns much of the land within that area, there may be very few facilities within the 500-foot area. It may therefore be more efficient (for both the registrants and the Agency staff) for Agency staff to notify potential registrants that are within the 500-foot area. Additional security issues regarding the mapping can be referred to DEEP or to the water company that owns the wells.

3.2 | Challenges to Aquifer Protection Area Boundaries

In accordance with CGS Section 22a-354n, no person may challenge the boundaries of the Aquifer Protection Area at the local level unless the challenge is based solely on a failure by the Agency to properly delineate the boundaries in accordance with state regulations. Any other challenge must be in the form of a petition to the DEEP in accordance with the mapping regulations under RCSA Sec. 22a-345b-1(j).

3.3 | Revisions of Aquifer Protection Areas

Water companies may be required to revise the mapping of APAs if, for example, they are adding a new well, removing or decommissioning a well, or if new data on the aquifer becomes available. These situations are infrequent, but if they occur, the water company must first submit a plan for revising the mapping and then the revised mapping from DEEP for DEEP's approval. The Agency would receive a copy of the approval of the plan for revising the mapping, which would serve as notice to the town that the mapping is in the process of being revised. The timeframe between approval of the plan and approval of the revised mapping is typically six months to a year. DEEP will notify the Agency when the revised APA mapping is approved. The Agency will then need to adopt the revised APA and delineate the revised area by following the formal procedures outlined in the above paragraphs.