

EAST LYME PLANNING COMMISSION

Regular Meeting

FILED IN EAST LYME
CONNECTICUT
May 24 2013 AT 3:15 AM/PM
Valen Gulbo, Jr.
EAST LYME TOWN CLERK

Tuesday, May 21, 2013

PRESENT: Brian Schuch, Chairman, Rita Palazzo, Frank Balantic, Secretary, Francine Schwartz, Ernie Covino, Catherine Ladd, Alternate ******(Sat as Regular Member)

ALSO PRESENT: Gary Goeschel, Planning Director, Sami Yousuf, Alternate

ABSENT: Joan Bengtson, 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

- Mr. Goeschel noted that there were three additional 8-23 items to add to the Agenda:
 1. The proposal of the Zoning Commission to amend the East Lyme Zoning Regulations Section 22, regarding parking.
 2. The proposal of the Zoning Commission to amend the East Lyme Zoning Regulations Section 13, flood hazard areas to maintain compliance with minimum standards of the National Flood Return Program.
 3. The proposal of the Zoning Commission 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.

****Motion (1)**

Mr. Schuch moved to add these proposals to the Agenda under Zoning Referral, item B.

Ms. Schwartz seconded the motion.

Vote: 5-0-0. Motion passed.

Mr. Schuch sat Alternate Member Catherine Ladd as a Full Member for the remainder of the Meeting.

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 7, 2013

Mr. Schuch called for any discussion or corrections to the Planning Commission Regular Meeting Minutes of May 7, 2013. There were none.

****Motion (2)**

Ms. Palazzo moved to approve the Planning Commission Regular Meeting Minutes of May 7, 2013.

Mr. Balantic seconded the motion.

Vote: 5-0-1. Motion passed.

Mr. Covino abstained from the Vote due to his absence from the May 7, 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.**

Mr. Schuch asked Mr. Goeschel to share his thoughts regarding this proposal, with the Commission. Mr. Goeschel stated that it is a very similar proposal to what we previously saw, and that he has included in the Member Packet a previous Commission decision from October of 2012, a Memo from a Zoning Official to the Zoning Commission, which gives background on the proposed change. He added that he also included supplemental information from the Southeastern Connecticut Council of Governments as well as an email response from the Coastal Planner, CT DEP, and Office of Long Island Sound Programs.

Mr. Goeschel stated that he is not really sure what the differences are between this Application and the Application from October of 2012. His understanding is that the Zoning Commission is going to make this housekeeping change while they can, and that the State is encouraging them to do so. Mr. Covino commented that he does not consider the elimination of protection a housekeeping issue. Mr. Goeschel added that our task is to determine whether this change is consistent or inconsistent in regards to the POCD. He noted that we have ample time to consider, discuss and deliberate and that it is coming up for Public Hearing before the Zoning Commission on June 20, 2013.

Mr. Schuch asked Mr. Goeschel to clarify whether this Application was an amendment of as previously stated in the Application of October 2012. Mr. Goeschel explained that they are looking to delete the Aquifer Aqp Primary and Secondary Aqs- in essence, delete Section 13 and Section 30 from the Regulations. He added that they would also delete the zones from the East Lyme Zoning Map. Mr. Goeschel further explained that there would no longer be any direct Aquifer Regulation governing what occurs. He stated that the Town requires an Aquifer Agency which the Zoning Commission has also been designated as, so they currently act as two different regulatory agencies.

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 the gas stations, fuel storage and the amount that is stored there. He mentioned Crest Ford who just opened up a new lot with 250 cars, and that each car contains fuel and how the Zoning Commission accounts for this gas storage. Mr. Goeschel stated that the Regulations require a registration process for existing businesses which have fuel storage or similar type use and those new businesses are prohibited outright. He also added that he believes that the Zoning Commission only looks at the auto mechanic end of it, and that Crest Ford was built prior to the creation of the Aquifer Protection Area.

Mr. Goeschel recommended that we obtain the Aquifer Regulations so that we are provided with some background information, which allows for better comparison between maintaining current Sections verses deleting them. Mr. Covino asked if the map with the protected zone would be archived for reference if this proposal was approved. Mr. Goeschel noted that the protected zone would be deleted, so it no longer would exist, and that people would not have this current map for perusal. Mr. Covino commented that it shouldn't be omitted, that the reason it was there in the first place, was for protection- that the protection will cease to exist due to a housekeeping project. Ms. Palazzo wondered if the Application is contradictory in nature i.e. let's get rid of it and let's not have it, but let's protect. Mr. Goeschel responded that he thinks it is more akin to Inland/Wetlands in the sense that we regulate rather than prohibit.

Mr. Covino wondered if someone from the State actually came to Town to evaluate the Aquifer before making this recommendation. Mr. Goeschel stated that the Town was mandated by the State to do Level A Mapping to determine direct recharge areas of obvious water supply. He explained that the Level A Mapping essentially is our Aquifer Protection Area verses Primary and Secondary recharge areas. Mr. Goeschel stated that he feels that the State is saying that we have been more conservative than we need to be. He stated that his main concern in regards to the removal of Primary and Secondary recharge areas is that they are areas still within the commercial zone that are no longer protected, that fell outside of the Aquifer Protection Area and would be subject to the potential for a gas station. Mr. Goeschel commented that it sounds like the Commission wants to know how the Zoning Commission will ensure that the Aquifer Protection Agency will review any potential Applications.

Motion (4)

Mr. Balantic made a motion to further discuss this matter during the next Planning Commission Meeting and made the following comment and recommendation:

- Measures must be put in place to ensure that commercial activity involving the storage of significant amounts of hazardous materials above or below ground, are referred to the Aquifer Protection Agency for approval and endorsement prior to action by the Zoning Commission.

Ms. Palazzo seconded the motion.

Mr. Schuch stated if this idea is largely a housekeeping issue, he is curious to know what the rush is. He added that the issue of disorder due to two separate agencies is speculative being that these two separate agencies are actually the same people. He noted that in the discussions that he has had about Aquifer Protection, these are technical definitions. He felt that it was important to note that a Watershed is what drains the area into a given waterway while an Aquifer is gravel and sand that holds water very well. He questioned if it is really that big a housekeeping issue that the same people have to consider it on the new State mandated Aquifer Protection and the existing Town Regulations.

Mr. Schuch and Mr. Covino did not find the idea of ceding Town Regulation of Aquifer Protection to Hartford compelling. Mr. Covino said that the State wants everything to be consistent but that it is not based on reality. Ms. Schwartz felt that the information that is targeted for elimination could be very useful. Ms. Palazzo felt that the use of the word "housekeeping" minimizes the importance of this issue. Mr. Schuch stated that it comes down to State Regulations verses Town Regulations. Ms. Schwartz noted that the Town's Open Space is essentially based on Aquifer designation. She felt that it couldn't hurt to have this Mapping as reference, that it could always be overridden for an Application so why should we delete it.

Vote: 6-0-0. Motion passed.

- B. The proposal of the Zoning Commission to amend the East Lyme Zoning Regulations Section 22, regarding parking, proposal of the Zoning Commission to amend the East Lyme Zoning Regulations Section 13, flood hazard areas to maintain compliance with minimum standards of the National Flood Return Program, proposal of the Zoning Commission 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.

Ms. Schwartz stated that the Commission would need time to review the Zoning Commission Minutes regarding these proposals. Mr. Balantic noted that it would be best to table this discussion until the next Meeting.

VI 8-24 Referrals (Municipal Improvements)

There were none.

VII OTHER BUSINESS

A New Business

There was none.

B Old Business

- a. Update- Application of Pazz Construction, for a waiver request from Section 6-8-1 through 6-8-6 of the East Lyme Subdivision Regulations and a three lot subdivision of 5.24 acres of property located at 249 Upper Pattagansett Road, East Lyme, CT, property identified on the East Lyme Assessor's Map 39.0, lot 6. (Approved May 7, 2013)

Mr. Goeschel stated that the site is still under construction and that a port-a-potty was in place.

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

Mr. Goeschel stated that he has incorporated Ms. Palazzo's comments into the revisions, and that he has pulled in other staff to assist him in completing these chapters.

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

Mr. Balantic stated that the May 16, 2013 Meeting of the Zoning Commission consisted largely of Public Hearing for the JAG Capital Drive Application, which will continue at their next scheduled Meeting on June 6, 2013. He added that the builder and their attorney are determined to get Approval and have made significant changes to their plan to make it work. He noted that the Applicant focused greatly on the lack of affordable housing within the Town. Ms. Palazzo noted that the ribbon cutting for the boardwalk will occur on June 6, 2013.

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 stated that she had nothing to report at this time.

Mr. Goeschel stated that he was able to attend the training available at UCONN Avery Point on May 14 through May 16, 2013 on Climate Adaptation, and that he will gather his notes to present at the next Meeting. He added the Commission may want to consider putting another person on this subcommittee.

6. Staff Communications

- **Route 11 Greenway Authority Commission**

Mr. Goeschel stated that the Greenway Meeting scheduled for May 15, 2013 was cancelled because the DOT was not ready, and that it will occur in another two months.

ADJOURNMENT

****Motion (5)**

Ms. Palazzo moved to adjourn this Regular Meeting of the East Lyme Planning Commission at 8:05 PM.

Mr. Balantic seconded the motion.

Vote: 6-0-0. Motion passed.

Respectfully submitted,

Brooke Stevens,
Recording Secretary

Town of

P.O. Drawer 519
Zoning Department

May 10, 2013

Brian Schuch, Chairman
East Lyme Planning Commission
Town of East Lyme
PO Box 519
Niantic, CT 06357



East Lyme

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

RE: Referral/Text Amendment Proposal

Dear Mr. Schuch,

I am writing to refer the following application for your review and comment in accordance with Section 8-3 a (a), (b) of chapter 124 of the Connecticut General Statutes.

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.

This modification is a housekeeping item which is a result of the East Lyme Aquifer Protection Agency's adoption of the State of Connecticut DEEP mandated model aquifer protection regulations and associated aquifer mapping. The commission reviewed this item last fall and took no action. The commission has decided to reconsider the matter due to the disorder created from having aquifer regulatory functions performed by two separate agencies; the Zoning Commission and the Aquifer Protection Agency. Responsibility for Aquifer Protection will be the purview of the Aquifer Protection Agency and DEEP.

The Zoning Commission has scheduled a public hearing for June 20, 2013. Please forward any comments for inclusion into the public hearing record. If you have any questions please do not hesitate to contact the Zoning Commission staff person, Mr. Mulholland.

Sincerely,

Matthew Walker
Secretary, East Lyme Zoning Commission

MW/jl

Town of

P.O. Drawer 519
Zoning Department



East Lyme

108 Pennsylvania Ave
Niantic, Connecticut 06357

(860) 691-4114

Fax (860) 691-0351

DATE: October 4, 2012

TO: East Lyme Zoning Commission

FROM: William Mulholland, Zoning Official *WM*

RE: Zoning Regulation - Aquifer Protection Regulation Text deletion & Zoning Map Amendment

This proposal is a commission generated proposal to delete the existing Aquifer Protection regulations in the zoning regulations and to delete the aquifer protection zones from the zoning map.

As the commission is aware since it also functions as the Town's "New Aquifer Protection Agency" this agency recently adopted the State of Connecticut's mandated model aquifer protection regulations and the aquifer protection area mapping.

Currently this agency regulates aquifer protection in East Lyme as well as the Zoning Commission. During the adoption process of the new aquifer model regulations it was suggested by DEEP that East Lyme may want to eliminate any regulatory confusion between the zoning board and the Aquifer Agency by deleting the zoning regulatory jurisdiction. This would place sole aquifer regulatory jurisdiction with the Aquifer Agency. However I note here that said deletion is not mandated and is a choice.

The zoning regulations, should the board retain the code, could be viewed as complimentary to the Aquifer Agency's regulations. Section 13 of the zoning regulations provides criteria to regulate uses within the Aquifer zones including a list of 22 prohibited uses. These prohibitions have provided protection to the town's zoning aquifer from inappropriate uses.

As the commission is aware, the Aquifer zones as delineated in the zoning map covered a much larger area of the community than the state mandated aquifer areas recently adopted. This coverage essentially increases the regulated areas of town.

In closing, the commission should carefully consider whether it is in the best interests of the community to keep the aquifer zoning regulations and zones or to delete them as proposed.

Town of

P.O. Drawer 519

Department of Planning &
Inland Wetlands

*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

October 3, 2012

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

RE: Zoning Referral – Town of East Lyme Zoning Commission: Application to amend the East Lyme Zoning regulations to remove Section 13, Aquifer and Primary Recharge District and Secondary Recharge District, and Section 30, Aquifer Protection Districts, and a request for a zone change to remove/delete the Aquifer Protection Zones from the East Lyme Zoning Map due to new approvals as required by the State of Connecticut.

Chairman Salerno:

Pursuant to Section 8-3A of the Connecticut General Statutes, the Planning Commission of the Town of East Lyme, at its meeting of October 2, 2012, exercising its authority and having reviewed the proposal to omit Section 13 and 30 of the East Lyme Zoning Regulations, referenced above, unanimously found the aforesaid proposal **INCONSISTENT** with the 2009 Plan of Conservation and Development as amended, based on the findings in a Memorandum dated October 2, 2012, from Gary A. Goeschel, Director of Planning to the East Lyme Planning Commission and William Mulholland, Zoning Official (memorandum attached) with the following recommendations and comments:

1. Primary and Secondary Aquifer Protection District Boundaries in non-residential areas, which operate as overlay zones and are regulated through zoning, should remain.
2. The Zoning Regulations should contain Aquifer Protection Regulations in order to foster cohesion between the land use boards and effective implementation of the POCD.

If you have any further questions regarding this letter or the POCD, please do not hesitate to contact me.

Sincerely,

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

cc: William Mulholland, Zoning Official

Town of

P.O. Drawer 519
Department of Planning &
Inland Wetlands
*Gary A. Goeschel II, Director of Planning /
Inland Wetlands Agent*

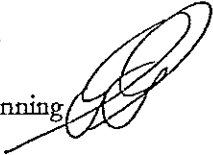


East Lyme

108 Pennsylvania Ave
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Phone: (860) 691-4114
Fax: (860) 860-691-0351

MEMORANDUM

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

FROM: Gary A. Goeschel II, Director of Planning 

DATE: October 2, 2012

RE: Town of East Lyme Zoning Commission: Application to amend the East Lyme Zoning regulations to remove Section 13, Aquifer and Primary Recharge District and Secondary Recharge District, and Section 30, Aquifer Protection Districts, and a request for a zone change to remove/delete the Aquifer Protection Zones from the East Lyme Zoning Map due to new approvals as required by the State of Connecticut.

The proposed application proposes to omit Section 13 and 30 of the Zoning Regulations.

Upon review of the above referenced Zoning Referral with the 2009 Plan of Conservation and Development, as amended, I offer the following:

FINDINGS:

1.3 Objectives and Policies

OBJECTIVE 3.2: To protect East Lyme's native ecosystems, biodiversity and maintain the quality of East Lyme's watercourses.

POLICY:

The Town should continue making attempts to preserve environmentally sensitive lands, such as Oswegatchie Hills and other lands as identified in the Open Space Plan of the Town of East Lyme (annexed hereto as Appendix D), and develop conservation restrictions to protect natural ecosystems. Further, the Town should preserve and enhance the water quality of East Lyme's inland wetlands, watercourses, and aquifers.

SOUTHEASTERN CONNECTICUT COUNCIL OF GOVERNMENTS
REGIONAL PLANNING COMMISSION
5 Connecticut Avenue, Norwich, Connecticut 06360
(860) 889-2324/Fax: (860) 889-1222/Email: office@seccog.org

September 24, 2012

Matthew Walker, Secretary,
Planning and Zoning Commission
108 Pennsylvania Ave.
Niantic, CT 06357

Dear Mr. Walker:

I am writing in response to the proposed revisions to the Town's Zoning Map regarding Aquifer Protection Zones, as detailed in your letter dated September 5, 2012. The proposed revisions were referred to this agency under the provisions of Section 8-3b of the Connecticut General Statutes and received on September 7, 2012 (via mail).

Based on a review of the information submitted, it was determined that the proposed map amendments would not have any adverse inter-municipal impact.

Sincerely,



James D. Rabbitt, AICP
Senior Planner

Chapter 5 Open Space, Natural, Historical, and Cultural Resources Section 5.3.2 Groundwater and Surface Water Protection (Aquifer Protection) states that East Lyme has delineated primary and secondary aquifer protection district boundaries, which operate as overlay zones and are regulated through zoning. Areas within the protection districts retain their underlying residential, commercial or industrial zoning but are subject to additional restrictions for protection of the underlying groundwater. Certain uses with the greatest potential for pollution of the groundwater are prohibited outright within the primary protection districts. Other uses are permitted only upon granting of a special permit by the Zoning Commission. The applicant must show, on the basis of plans and reports, that any hazardous materials used on the site will be properly stored and disposed of, that there will be no increase in storm water runoff from the site after development and that the provisions for disposal of sanitary wastes are adequate. These restrictions apply to new development only and do not affect the continued operation of prohibited or special permit uses in place prior to the adoption of the regulations.

The Zoning Commission, which has been designated the Aquifer Protection Agency, adopted Aquifer Protection regulations and designated areas as on the East Lyme Zoning Map to which those regulations apply. However, the Aquifer Protection Areas as shown on the Zoning Map are significantly smaller in area than the Primary and Secondary Recharge Districts. I would note the majority of the land within the Primary and Secondary Recharge districts is zoned Residential, either RU-40 or RU 80. The majority of the commercially zoned areas within the recharge districts will fall with the Aquifer Protection Areas. If section 13 and 30 are omitted, commercial zoned land previously within the aquifer protection district where uses such as automotive repair, fuel or petroleum storage where prohibited such uses would now be permitted. As such, the omission of Section 13 and 30 would not continue to preserve and enhance the water quality of East Lyme's inland wetlands, watercourses, and aquifers.

Therefore, I offer the following resolution:

BE IT RESOLVED:

Pursuant to Section 8-3A of the Connecticut General Statutes, the Planning Commission of the Town of East Lyme, exercising its authority and having reviewed the proposal to omit Section 13 and 30 of the East Lyme Zoning Regulations, referenced above, **FINDS** the aforesaid proposal **CONSISTENT/INCONSISTENT** with the 2009 Plan of Conservation and Development, as amended based on the above findings (with the following comments and or recommendations):

- 1.
 - 2.
 - 3.
 - 4.
- Etc...

Jennifer Lindo

From: Balint, Marcy [Marcy.Balint@ct.gov]
Sent: Monday, October 15, 2012 2:44 PM
To: Bill Mulholland
Cc: Jennifer Lindo
Subject: CT DEEP OLISP Comments on zone change referral to remove Sec. 13 Aquifer Protection Districts and remove zones from the East Lyme Zoning Map

Importance: Low

To: East Lyme Zoning Commission
c/o Bill Mulholland, ZEO and Mathew Walker, Secretary, Zoning Commission
From: Marcy L. Balint, Sr. Coastal Planner, CT DEP, Office of Long Island Sound Programs
Date: October 15, 2012
Subject: CT DEEP OLISP Comments on Zone change referral to remove Sec. 13 Aquifer Protection Districts and remove zones from the East Lyme Zoning Map due to new approvals as required by CT DEEP

Thank you for forwarding the above noted zoning amendment to OLISP received on September 11, 2012 pursuant to CGS Section 22a-104 (e) of the Connecticut Coastal Management Act (CCMA). We have reviewed the proposed amendments for consistency with the goals and policies of the Connecticut Coastal Management Act and find them generally consistent.

We understand this modification is a housekeeping item which is a result of the East Lyme Aquifer Protection Agency's adoption of CT DEEP's model aquifer protection regulations and associated aquifer mapping.

We hope these comments prove useful to the Commission. These comments are made in response to the review requirements contained in Section 22a-104(e) of the Connecticut General Statutes, which requires that notification be sent to the Commissioner of Environmental Protection at least 35 days prior to the commencement of the public hearing for such proposed revisions in accordance with Section 8-23. Once notified, our office is responsible for reviewing the proposal's consistency with the policies and criteria of Section 22a-101 and Section 22a-102(a) and (b) of the Connecticut Coastal Management Act.

Should you have any questions on this letter or any other coastal management matter, please contact me at 424-3623 or Marcy.balint@ct.gov

Marcy L. Balint
Senior Coastal Planner
Office of Long Island Sound Programs
CT DEEP (Department of Energy and Environmental Protection)
79 Elm St.