April 23, 2024 - Public Hearing

Town of East Haddam Zoning Regulations
Gateway Recommended Changes
(with Additions and ~~Deletions~~) additional comment in blue

SECTION 5 DEFINITIONS

Coastal Jurisdiction Line (CJL): The location of the topographical elevation of the highest predicted tide from 1983 to 2001, based on the most recent National Tidal Datum Epoch published by NOAA and described in terms of feet of elevation above the North American Vertical Datum of 1988. This replaces "high tide line" as the line of jurisdiction waterward of which State authority occurs. PA 12-101.

Commercial Cutting: Any cutting or removal of forest tree species which isn't covered under the definition of non-commercial cutting contained herein.

Commercial Cutting Plan: A plan showing the applicant's property and abutting property owners, a description of the activity to be undertaken, and a certification by a public or consulting forester.

Conservation Area: Environmentally sensitive areas with characteristics such as wetlands, floodplains, unprotected elements of the natural landscape such as steep slopes, mature or productive forestland, contiguous open space or connective green belts, prime farmland, land that protects critical or threatened natural communities and species as identified by the Department of Energy and Environmental Protection, areas that have recreation value as recommended in the Recreation and/or Open Space Plan component of the Plan of Conservation and Development, wildlife habitats, and cultural features such as historic and archeological sites, and scenic views.

Connecticut River: For the purposes of Section 9.9, Conservation Zone (Gateway), those portions of the Connecticut River or any of its tributaries or associated wetlands located within the Conservation Zone.

Conservation Zone: Also known as the Gateway Conservation Zone, is defined in Section 25-102e of the Connecticut General Statues as it now exists or may thereafter be amended. Such zone is governed by the standards promulgated by the Gateway Standards and is the area in which the Connecticut River Gateway Commission is charged with the protection of the "natural and traditional riverway scene". See Section 9.9 and 10 of these Regulations.

Developed Area: For the purposes of Section 9.9, Conservation Zone (Gateway), *Developed Area* shall be defined by one of the following procedures:

1. An area adjacent to the *Connecticut River* which has within the fifty (50) foot *Riparian Area* immediately upland (landward) of the *Coastal Jurisdiction Line (CJL)* is

characterized by buildings and construction of greater density than average in the *Conservation Zone* in such a manner so as to make the retention and replacement of vegetation impractical, infeasible, or inconsistent with the traditional riverway scene, and which has been or may be mapped and designated by the East Haddam Planning & Zoning Commission as a *Developed Area* for the purposes of the Gateway Standards and as approved by the *Gateway Commission*.
Need to revise the Conservation Area Map to include the Town Office Site, GSOH & Gelston House & Parking Area. See Appendix IX.

2. The fifty (50) foot *Riparian Area* will also be considered as a *Developed Area* if clearing or construction has previously occurred in such a manner so as to make the retention and replacement of vegetation within said fifty (50) foot *Riparian Area* impractical, infeasible, or inconsistent with the traditional riverway scene, as determined by the East Haddam Planning & Zoning Commission for the purposes of the Gateway Standards in the context of a pending land use application, and as approved by the *Gateway Commission* prior to the approval of such application.

Earth Materials: Minerals, sand, gravel, clay, bedrock, peat, loam or topsoil.

Earth Materials Removal: The removal, excavation or mining of minerals, sand, gravel, clay, bedrock, peat, loam or topsoil.

Earth Materials Addition: The addition, placement or deposition of minerals, sand, gravel, clay, bedrock, peat, loam or topsoil.

Enlargement, or to Enlarge: Any addition to the floor area of an existing building, an increase in the size of any other structure, or an increase in that portion of a tract of land occupied by an existing use. Any change to an existing structure or structures which in any way enlarges the envelope of a structure or structures, either horizontally or vertically. "To enlarge" is to make an enlargement.

Erosion and Sediment Control Plan: A plan which sets forth measures to be undertaken for the control of erosion and sedimentation as prescribed in the 2002 CT Guidelines for Soil Erosion and Sediment Control as amended and in accordance with Section 14A.2.C of these Regulations.

Gateway Commission: The Connecticut River Gateway Commission as defined in Section 25-102e of the Connecticut General Statutes.

Height: For the purposes of Section 9.9, Conservation Zone (Gateway), the vertical distance between the horizontal plane through the highest point of a building or structure, excluding chimneys, and the lowers point of a building or structure which is visible above existing natural grade prior to site grading. The height of any retaining wall constructed to create a site platform and of any backfill along the foundation in excess of the existing natural grade, will be included as a part of the measured height. **See Section 10.1.4.1 of these regulations.**

Human Occupancy: The use of an enclosed space having a means of egress, light, ventilation and access to sanitary facilities to house any person or persons for the purpose of living, working or playing.

Light Pollution. For the purposes of Section 9.9, Conservation Zone (Gateway), light pollution is defined as excessive, misdirected, or obtrusive light from artificial sources emanating from a site shone into the sky, onto the land or into the water column of the Connecticut River and its tributaries, including but not limited to site and architectural lighting, lighting on private residential docks, and up-lighting of trees or other site features, which may result in: brightening of the night sky, inhibiting the observation of stars and planets; light trespass onto neighboring properties including the Connecticut River; visual glare and discomfort; or significant disruptions to wildlife and ecological cycles. See Section 26 – Outdoor Lighting

Marine Facility: A dock, wharf, slip, basin, or similar landing facility for waterborne vessels and/or an open yard for the building, storing, repairing, servicing, or refueling of such vessels, together with any accessory buildings or other structures necessary for the operation of the foregoing that require direct access to the water.

Member Town(s): The Connecticut River Gateway Commission as designated by Chapter 477a, Section 25-102d of the Connecticut General Statutes, the member towns are Chester, Deep River, East Haddam, Haddam, Lyme, Old Lyme, and Old Saybrook, including the Borough of Fenwick.

Non-Commercial Cutting: The cutting or removal of forest tree species on a lot for the purpose of preparing a site for the construction of a building or other structure and/or cutting for the customary maintenance and lot improvement. Sale of cordwood or other incidental forest projects resulting from such maintenance and lot improvement will not constitute commercial cutting.

Non-Commercial Cutting Plan: A plan showing the existing mix of forest tree species, their approximate height, age and density; a description of the cutting or removal activities to be undertaken; and any other information that may be necessary and reasonably required.

Riparian Area: The area upland (landward) of the Coastal Jurisdiction Line (CJL) of the Connecticut River.

Riparian Vegetation Buffer: The natural and traditional plant life indigenous to the Riparian Area as designated and mapped by the East Haddam Planning & Zoning Commission, but not less than fifty (50) feet from the Coastal Jurisdiction Line (CJL), which plant life was legally existing as of the adoption of these Gateway Standards, and not to include grass, gardens and ornamental shrubs and trees.

Site Plan: For the purposes of Section 9.9, Conservation Zone (Gateway), a plan which includes the description and location of all existing and/or proposed buildings, structures and uses on a lot; utility lines, vehicular driveway and parking areas, access, external lighting, drainage and waste disposal facilities adjacent ownership, outstanding physical features, watercourses and

wetlands; any proposed modification or alteration of the lot's natural features, including the disturbance of vegetation and soil cover; and such further information as may be reasonably be required. **See Section 14a of these regulations.**

Town: For the purposes of Section 9.9, Conservation Zone (Gateway), a town and any municipal corporation located therein which as voted to be governed by the provisions of Section 6 to 9 of the Act in accordance with Section 4(b) of the Act.

Total Floor Area: For the purposes of Section 9.9, Conservation Zone (Gateway), the sum of the gross area of all floors in a structure, measured from the exterior faces of exterior walls. For the purposes of this definition, gross floor area includes any area which is capable of being used for human occupancy, including garage or attic space, whether finished or not, provided the area has a structural head room of at least seven (7) feet. A basement or first floor which is located entirely below ground surface will not be included in *Total Floor Area* calculations.
The International Building Code says habitable space requires 7 feet.

Vegetation: The natural and traditional plan life of a region legally existing as of the adoption of the Gateway Standards, and not to include grass, gardens, and ornamental shrubs and trees.

Viewshed Analysis: A visual impact evaluation comprising, at a minimum, topographic maps and photographs showing the site, with such photographs taken from locations along the *Connecticut River* including upriver, downriver and opposite the site.

Zone: An area within which certain uses of land and buildings are permitted, certain others are prohibited, and certain others are designated as uses requiring a Special Exception ~~or Special Permit~~ from the East Haddam Planning & Zoning Commission **[**or the East Haddam Zoning Board of Appeals**]**; yards and other open spaces are required; lot areas, building height limits, and other requirements are established; all of the foregoing being identical for all property located within the zone to which they apply.
Only the P&Z Commission reviews Special Exception Applications - Deleted ZBA

Section 9.10 Conservation Zone (Gateway) (with Additions and ~~Deletions~~)

9.10.1 Setback

Within the Conservation Zone, no building or other structure shall be constructed, reconstructed, enlarged, extended, moved or structurally altered within one hundred (100) feet of the Coastal Jurisdiction Line (CJL) of the ~~high tide line, as defined in the Connecticut General Statutes, of the~~ Connecticut River ~~or any of its tributaries or associated wetlands~~. At its discretion, upon determination of functional need, the East Haddam Planning & Zoning Commission ~~local commission having jurisdiction~~ may issue a special ~~permit~~ exception to reduce the setback for Marine Facilities. ~~structures that require direct access to the water as an operational necessity such as piers, docks, and boathouses~~.

9.10.2 Design

1. Site Plans. No building permit will be issued in connection with any multi-family project, single family home, or permitted non-residential use in any district unless a *Site Plan* Application has been submitted to and approved by the East Haddam Planning & Zoning Commission.

2. Erosion and Sediment Control. An erosion control and sedimentation control plan are to be submitted as part of the supporting documentation filed with a required Site Plan or as one of the required exhibits submitted for land subdivision approval.

   Such a plan may be referred to the appropriate soil and water conservation district for its technical review and advisory opinion before approval of the project is granted by the East Haddam Planning & Zoning Commission and is to meet the following criteria:

   a. The development plan should be fitted to the topography and soils so as to create the least erosion potential.

   b. Wherever feasible, natural vegetation should be retained and protected.

   c. Only the smallest practical area of land should be exposed at any time during development.

   d. When land is exposed during development, the exposure should be kept to the shortest practical period of time.

   e. Where necessary, temporary vegetation and/or mulching should be used to protect areas exposed during development.

   f. Sediment basins (debris basins, desilting basins, or silt traps) should be installed and maintained to remove sediment from runoff waters and from land undergoing development.

g. Provisions should be made to effectively accommodate the increased runoff caused by changed soil and surface conditions during and after development.

h. The permanent final vegetation and structures should be installed as soon as practical in the development.

9.10.4 Signs [Renumbered]

No sign shall be constructed, reconstructed, enlarged, extended, moved or structurally altered in such a manner so as to move or rotate mechanically or be illuminated by a light source which visibly flashes, oscillates or otherwise automatically changes in intensity or color, nor shall any sign be permitted which calls the attention of the general public to any commercial activities, services or products not available on the premises where the sign is located.

9.10.5 Building Height [Renumbered]

No building or other structure shall be constructed, reconstructed, enlarged, extended, moved or structurally altered in such a manner as to exceed a height of thirty-five (35) feet. However, spires, cupolas, towers, flagpoles, and other similar architectural features occupying not more than ten (10) percent of the building footprint and not designed or used for human occupancy may be constructed, reconstructed, enlarged, extended, moved or structurally altered to a reasonable and necessary height upon the granting of a Special Exception by the East Haddam Planning & Zoning Commission, provided that the architectural features will not have a significant visual impact on the River scene. Exceptions to the height limitations **within the East Haddam Village District will be by Special Exception and governed by the standards of the district.**

9.10.6 Vegetation Requirements ~~Cutting of Timber~~

1. Riparian Vegetation Buffer ~~Required Vegetative Buffer~~

Within the Conservation Zone, there shall be no cutting of vegetation within the Riparian Vegetation Buffer as defined in these Regulations, ~~a strip of land extending fifty (50) feet in horizontal distance inland from the high tide line, as defined in the Connecticut General Statutes, of the Connecticut River or any of its tributaries or associated wetlands,~~ except as provided in this section.

a. There shall be no clear-cut openings, and a well distributed stand of trees and other vegetation, including existing ground cover, shall be maintained. Existing vegetation less than three (3) feet in height and other ground cover shall not be removed except to provide for a footpath or other permitted uses. Pruning of tree branches on the bottom third of trees is permitted. Fields which have reverted primarily to shrubs, trees or other woody vegetation shall be regulated under the provisions of this section. Cleared openings legally in existence on the effective date of these regulations may be maintained but shall not be enlarged.

b. There shall be no timber harvesting within the buffer area except to remove safety hazards. When removal of storm-damaged, diseased, unsafe or dead tree results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present. Prior to cutting of diseased or damaged trees, a determination about the conditions of such trees shall be made to the zoning enforcement officer by a public or consulting forester.

c. In no event shall an opening be cleared for development, including but not limited to surface regrading, stormwater drainage structures, construction of retention walls, construction of principal or accessory structures, driveway construction, sewage disposal areas, and lawns and gardens.

d. A footpath not to exceed five (5) feet in width is permitted provided said footpath and associated clearing is not oriented in a direct downslope manner, a practice which may promote unwanted transport of eroded materials into the Connecticut River. ~~that a cleared line of sight to the water through the buffer strip is not created.~~

e. Stairs or similar structures may be allowed with a permit from the Inland Wetlands and Watercourses Commission to provide shoreline access in areas of steep slopes or unstable soils, provided that the structure is limited to a maximum of five (5) feet in width and does not extend below or over the high tide line of the Connecticut River or its tributaries or the upland edge of a wetlands, and the applicant demonstrates that no reasonable access alternative exists on the property.

f. A Riparian Vegetation Buffer ~~vegetated buffer~~ shall not be required for areas within the Conservation Zone ~~District~~ which have been ~~mapped and~~ designated as "Developed Areas" in accordance with Section 4, Definitions. In such Developed Areas, property owners are encouraged, where feasible, to maintain a vegetated area of trees and shrubs immediately adjacent to the water to avoid erosion and to enhance the scenic and ecological quality and health of the Connecticut River and the River scene. ~~by the Planning and Zoning Commission as "developed areas". In such developed areas, property owners are encouraged, where feasible, to maintain a vegetated area of trees and shrubs immediately adjacent to the water to avoid erosion and enhance the scenic quality of the River scene.~~

(Note: The Gateway Commission urges each Member Town to identify Developed Areas for the exclusion from this requirement and submit such areas to the Gateway Commission for approval. If Member Towns wish the Gateway Commission to make recommendations as to the location of these areas, please request assistance.)

[Definition, Relocated to Section 4]
~~Developed Area; An area adjacent to the Connecticut River or its tributaries and associated wetlands within the Conservation Zone which has, within the 50-foot riparian area immediately landward of the high tide line as defined in Section 22a-359(c) CGS, been developed in the sense of being armored through the use of bulkheads, rip-rap or~~

~~other structural stabilization methods or materials. The 50-foot riparian area shall also be considered "developed" if clearing and or construction activities have occurred in such a manner so as to make the retention or replacement of vegetation within the 50 foot riparian area impractical, infeasible, or undesirable.~~

(Note: Developed areas are identified in appendix IX)

2. Timber Cutting ~~Non-Commercial Cutting~~

a. *Non-Commercial Cutting*. A non-commercial cutting plan shall be submitted as part of the supporting documentation filed with a required site plan or as one of the required exhibits to be submitted for land subdivision approval.

b. Commercial Cutting – Please review the East Haddam Inland Wetlands Watercourses Commission Forestry Practice Regulations.

~~3. Commercial Cutting - See Section 20 – Commercial Cutting of Timber~~

3. [Relocated] Burning of Undergrowth

The burning of undergrowth shall be in accordance with those regulations of the Connecticut Department of Energy and Environmental Protection which are in effect from time to time to control and abate air pollution and in accordance with all other applicable provisions of law.

9.10.7 [Renumbered] ~~Removal of~~ Soil and Earth Materials

a. Removal. The removal of ~~soil and~~ Earth Materials shall be prohibited except for:
(1) valid non-conforming uses in existence as of May 14, 1974;
(2) those exceptions set forth in Section 19.2 of these Regulations. See Section 19, Regulations of Earth Material Operations.

b. Addition. The addition, placement or deposition of Earth Materials will be prohibited except for:
(1) valid non-conforming uses in existence as of May 14, 1974;
(2) foundation, trench and related site excavation or filling performed after the issuance of a building permit and in conformance with all plans submitted in support thereof; and
(3) addition, placement or deposition of Earth Materials in connection with landscaping and grading of land for a purpose for which a building permit is not required, provided that such addition, placement or deposition will not exceed three hundred (300) cubic yards of such materials in any calendar year.

9.10.8. [Renumbered] Dumping and Storing of Refuse

No dumping or storage of refuse shall be permitted other than the temporary dumping or storage of small amounts of such material for brief periods pending final lawful disposition nor shall any

new public solid waste disposal facility be established, or an existing facility be expanded in area.

9.10.9 [Renumbered] Additional Requirements for Residential Structures over Four Thousand (4,000) Square Feet in ~~Gross~~ Total Floor Area

To assure that large scale residential structures and significant site modifications located within the Conservation Zone will not cause deterioration of the natural and traditional Connecticut River scene, a special exception **review and approval** is required for all construction, reconstruction, enlargement, or structural alterations of principal and accessory residential structures which results in one or more buildings or structures having a combined Total Floor Area in excess of four thousand (4,000) square feet for all floors except in accordance with the following exceptions:

~~A special exception is required for all construction, reconstruction, enlargement, or structural alterations of principal and accessory residential structures which results in one or more buildings or structures having a combined Gross floor area in excess of four thousand (4,000) square feet of total floor area (all floors). The purpose of this requirement is to assure that large scale residential structures and significant site modifications located within the Gateway Conservation Zone will not cause deterioration of the natural and traditional river scene.~~

1. **Exceptions from Special Permit Requirement**

a. No exceptions to review by Special Permit are permitted for development on parcels fronting the Connecticut River or only one lot removed from the Connecticut River, nor if significant clearing of natural vegetation is proposed.

b. Site Plan in Lieu of Special Permit. A local authority may, by regulation, choose to allow a Site Plan application instead of a Special Permit review for residential structures over four thousand (4,000) square feet in total floor area under this Section if it can be demonstrated by a Viewshed Analysis that:

i.The proposed structure or structures will not be significantly visible from the Connecticut River due to an intervening land mass or existing permanent structure, OR

ii. The proposed addition to an existing structure is either substantially hidden from view from the Connecticut River by the existing structure or other structures either on- or off-site or the addition does not add significantly to the visual profile of the existing structure even when see from an angle, OR

iii. The structure's distance from the Connecticut River combined with its elevation/lack of elevation below the ridge line causes it to be of insignificant visual impact.

2. Exemption from both Site Plan and Special Permit requirement. Except as required by Section 1(a) above, a special permit or site plan review will not be required for residential principal or accessory structures over four thousand (4,000) square feet in total floor area and

separated from the Connecticut River by two lots under this Section if it can be demonstrated to the Zoning Enforcement Officer by the applicant that the following are applicable:

a. An area topographic map and photographs of the property from the Connecticut River showing there is intervening ground at an elevation at least thirty-five (35) feet above ground elevation of the proposed structure.

b. A plan view map of the property showing a proposed addition to an existing structure where the existing structure or structures on the same property block the view of the addition from the Connecticut River.

c. A plan view map of the property showing a proposed addition to an existing structure, or a new structure blocked by a structure or structures located on adjacent properties blocking the view from the Connecticut River.

d. Large stands of trees located on an intervening property or properties which will obscure sight of the proposed development from view from the Connecticut River.

~~A special exception under this Section may be waived by the Commission for residential structures over four thousand (4,000) square feet in gross floor area under this Section if it can be demonstrated by the applicant that the proposed structure or structures will not be visible from the Connecticut River. Demonstration that a structure will not be visible from the Connecticut River shall consist of an area topographic map showing that there is intervening ground at an elevation at least thirty-five (35) feet above ground elevation of the proposed structure.~~

b. [Renumbered] Submission:

In addition to other town requirements for special exception applications, the applicant will provide site plans and building elevations prepared by an architect and/or landscape architect which show information on existing and proposed topography, building design and height measurements, proposed grading including cuts, fills and retaining walls, any required buffer area, proposed landscaping and plans for access to the waterfront, if applicable.

c. [Renumbered] Special Exception Criteria: **Also see Section 14B of these Zoning Regulations**

i. Proposed site development shall maintain the essential natural characteristics of the site, such as major landforms, natural vegetative and wildlife communities, hydrologic features, scenic qualities, and open space that contributes to a sense of place.

ii. Structures shall be adapted to the existing terrain, rather than altering the earth form to create a platformed development site.

iii. Structures located above the crest of hillsides facing the Connecticut River shall be held back from the crest of the hill to maintain a clear sense of the hillside brow in its natural condition.

iv. Vertical architecture elements shall not be over emphasized in a manner which disrupts the natural silhouette of the hillside. Structures shall be designed so that the slope angle of the roof pitch is generally at or below the angle of the natural hillside or manufactured slope.

v. Building forms shall be scaled to the particular environmental setting to avoid excessively massive forms that fail to enhance the hillside character. Massing of structural elements such as large roof areas shall be broken up to approximate natural slopes.

vi. Roof lines shall relate to the slope and topography. Rooftop treatment shall be designed to avoid monotony of materials, forms and colors. Dark colored roof treatments, which reduce visual impact of the structure on the landscape, are preferred.

vii. Site design shall preserve the existing natural landscape where possible and include new landscaping, which is compatible with existing natural vegetation, the scenic character of the area, and increases visual buffering between the building and the **Connecticut** River or its tributaries within the Gateway Conservation Zone.

viii. Development shall be located to minimize disturbance of sensitive areas. The smallest practical area of land should be exposed at any one-time during development and the length of exposure should be kept to the shortest practical time. Disturbed areas shall be replanted with trees, shrubs and ground cover which are compatible with existing vegetation.

ix. Site grading shall avoid straight and unnatural slope faces. Cut and fill slopes shall have curved configurations to reflect as closely as possible the forms and shapes of surrounding topography. At intersections of manufactured and natural slopes, abrupt angular intersections should be avoided, and contours should be curved to blend with the natural slope.

x. Within the Conservation Zone, lighting of properties, including site lighting and the illumination of building facades and other architectural features, shall be the minimum necessary for health and safety. The purpose of this standard is to minimize the amount of artificial lighting emanating from Conservation Zone properties in a way that may contribute to light pollution. **Also see Section 26 Outdoor Lighting of these Regulations**

4. Findings: A special exception shall not be granted until the East Haddam Planning and Zoning Commission has determined that all the following conditions have been satisfied.

a. Proposed structures and site work have been designed to fit the hillside, rather than altering the hillside to fit the structure and site design.

b. Disturbance to existing topographic forms is minimized and proposed grading and excavation will not result in soil erosion and silting of lower slopes.

c. The proposed development retains or enhances the visual character of the site and the area by utilizing proper structural scale and character, varied architectural treatments and appropriate plant material to buffer the mass of the building from the Connecticut River or its tributaries in the Gateway Conservation Zone.

d. The proposed design preserves or enhances significant natural features and maintains or restores the natural and traditional character of the Connecticut River scene.