

Bettie Perreault

From: Zoning Official <zoningofficial@chesterct.org>
Sent: Friday, March 5, 2021 8:26 AM
To: bettie.p@sbcglobal.net
Cc: Jon Lavy (lavy@centerbrook.com)
Subject: FW: Notice of CT DEEP LWRD Reorganization/ new coastal contact for CSPR/Zone change/POCD referrals.
Attachments: Mandatory Municipal Referrals FS.pdf; Coastal Site Plan Review FS.pdf; Shoreline Flood & Erosion Control Structures FS.pdf; Municipal Coastal Management Review Process Flowchart.pdf

Hi Bettie-

Could you include this email and the attachments as Correspondence for next weeks PZC meeting?

Thanks.

-John

From: Gondek, Brooke <Brooke.Gondek@ct.gov>
Sent: Friday, March 5, 2021 8:08 AM
To: Zoning Official <zoningofficial@chesterct.org>
Subject: Notice of CT DEEP LWRD Reorganization/ new coastal contact for CSPR/Zone change/POCD referrals.

Dear Town of Chester: Planning & Zoning,

In an effort to better serve our coastal communities and most effectively deploy our staff resources, the Land and Water Resources Division (LWRD) has undergone a minor reorganization. As a result, I will now be the coastal contact for the town of Chester for municipal land use/coastal management purposes.

This means I'll be the first point of contact for your office regarding coastal site plan reviews (CSPRs), zone changes/zoning amendments, harbor management plans and amendments, and revisions to the municipal plan of conservation and development/municipal coastal program that occur within or affect the coastal boundary [pursuant to Connecticut General Statutes Section 22a-104(e) and Sections 22a-105 through 109]. In the event that you are unable to reach me, you can also contact my team leader Marcy Balint at marcy.balint@ct.gov or David Blatt, Supervisor of the LWRD Planning Unit, at david.blatt@ct.gov.

To help me provide you with the most efficient and effective assistance, especially while we continue to work remotely through the pandemic, I am asking that you continue to send CSPR and zone change referrals to me via email at brooke.gondek@ct.gov ; I will contact you if we determine that we also need a paper copy.

As you know, there are several types of applications that, by statute, require a referral to our office with a 35-day review period. These include zone changes/zoning regulation amendments that affect the coastal boundary, and applications for shoreline flood and erosion control structures (e.g., seawalls and revetments). I've attached a fact sheet regarding these mandatory referrals, as well as fact sheets about coastal site plan review in general and shoreline flood and erosion control structures in particular, as well as a flowchart showing the municipal coastal management review process for your information and use.

In addition, I am asking that you give us at least 35 days to review any other coastal site plan applications you'd like us to comment on, even the non-mandatory referrals. If we're not provided with sufficient time to review CSPR applications, it might be necessary for us to request that a public hearing remain open until we can comprehensively review the proposal and provide comments if warranted.

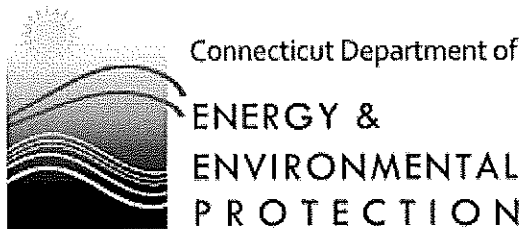
Regarding other reorganization changes in our office that might be of interest to you, LWRD's regulatory programs (i.e., tidal wetlands and/or structures, dredging, and fill) are now organized into two regions, the East (Stonington to Westbrook) supervised by Bill Sigmund, and the West (Clinton to Greenwich) supervised by Susan Jacobson. Any questions regarding coastal permitting can be directed to either of them at susan.jacobson@ct.gov or william.sigmund@ct.gov. We have also created a dedicated Enforcement, Compliance and Outreach unit, supervised by Brian Golembiewski. Any questions regarding enforcement or compliance issues can be directed to him at brian.golembiewski@ct.gov, but if you observe any potentially unauthorized activities within DEEP jurisdiction (waterward of the coastal jurisdiction line or in tidal wetlands), please contact Carol Ladue at carol.ladue@ct.gov to file an enforcement complaint.

Thank you for your contributions in helping to manage Connecticut's coastal resources and uses, and for your patience as we work through this administrative transition. Please feel free to contact me with any questions you have regarding this or any other coastal management matter brooke.gondek@ct.gov.

Sincerely,

Brooke Gondek

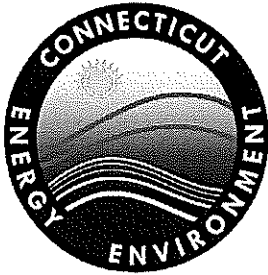
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Ensuring a clean, affordable, reliable, and sustainable energy supply.***

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Connecticut Coastal Management Program
Fact Sheet
for
MANDATORY MUNICIPAL
REFERRALS

What types of reviews are required by law to be referred to the Department of Energy and Environmental Protection (DEEP) in accordance with the Connecticut Coastal Management Act (CCMA)?

Any coastal site plan applications that include shoreline flood and erosion control structures as defined in Connecticut General Statutes (CGS) Section 22a-109(c) [CGS Section 22a-109(d)].

Any proposed municipal plan of conservation and development, municipal coastal program, or zoning regulations and any proposed changes to a municipal plan of conservation and development, municipal coastal program, or zoning regulations or zoning map [CGS Section 22a-104(e)].

Are there any time frames for such referrals?

Yes. Any coastal site plan review application that includes either a shoreline flood and erosion control structure or a zoning regulation or map amendment, or both, must be referred to this Department in accordance with the general statutes as described below.

A copy of each coastal site plan submitted for any shoreline flood and erosion control structure must be referred to the DEEP **within fifteen days of its receipt by the zoning commission**. The zoning commission must allow the commissioner of DEEP thirty five days from the day of receipt by the Department for review and comment before it may render its decision [CGS Section 22a-109(d)].

Proposed municipal plans of conservation and development or zoning regulations or changes thereto (including zoning map amendments) must be referred to the commissioner of the DEEP at least **thirty-five days prior to the commencement of the public hearing** thereon [CGS Section 22a-104(e)].

Please note that submission of these mandatory referrals directly to your DEEP Land and Water Resources Division (LWRD) liaison is considered by this Department to be proper submission to the "Commissioner" and is preferred in the interest of expediency.

What are the municipality's statutory responsibilities with regard to these applications?

Shoreline Flood and Erosion Control Structures: All projects must be reviewed to ensure that: the structure is necessary and unavoidable to protect infrastructural facilities, water-

dependent uses, commercial and residential structures and substantial appurtenances attached or integral thereto constructed as of January 1, 1995, or a cemetery or burial grounds; **AND** no feasible, less environmentally damaging alternatives exist; **AND** all reasonable mitigation measures and techniques have been provided to minimize adverse environmental impacts. Note that some types of living shorelines and other resource restoration projects are not defined as shoreline flood and erosion control structures under CGS Section 22a-109(c)(2). However, these projects must be primarily intended for resource restoration or enhancement in order to be exempt from CGS Section 22a-109(d) (mandatory referral). See the *Shoreline Flood and Erosion Control Structures* fact sheet for more detailed information.

Municipal Plans of Conservation and Development or Zoning Regulations, or changes thereto (including zoning map amendments): To ensure that the proposal is consistent with the policies contained in CGS Section 22a-92 and the criteria contained in CGS Section 22a-102(b), the applicable land use board must consider:

- the character and distribution of the coastal resources within its coastal boundary;
- the capacity of and limitations on such resources to support development;
- the types and methods of development compatible with wise use, protection, and enhancement of such resources;
- the nature and pattern of existing development; and
- the need for public services.

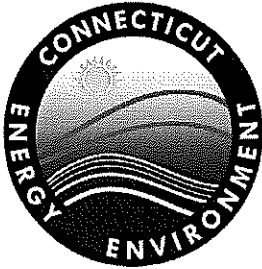
If the DEEP Commissioner (or authorized DEEP staff agent) comments on and makes recommendations on any such proposals or changes, such comment, in its entirety, must be read into the record of the public hearing and must be considered by the appropriate board or commission before final action on the proposals or changes. Failure to comment by the commissioner shall not be construed to be approval or disapproval [CGS Section 22a-104(e)].

Are there any applications that the DEEP would like to review, even though there is not a mandatory referral requirement?

Yes. LWRD staff is available to and interested in providing technical assistance to coastal land use boards and commissions. Any coastal municipality can take advantage of this free service and benefit from our many years of experience in the evaluation of coastal site plan reviews. There are several types of applications that typically can either be difficult to evaluate for coastal consistency or raise specific coastal management concerns. In particular, LWRD staff is interested in reviewing:

- major development proposals in the coastal boundary;
- all waterfront proposals, including those that are characterized as living shorelines; and
- development proposals where sensitive coastal resources such as beaches and dunes, coastal bluffs and escarpments, wetlands and coastal waters could be affected.

However, we are willing to evaluate any other coastal site plan review application, if time allows, although given limited staff resources and the large number of coastal site plan reviews typically conducted in a year's time, we generally must pass on the more simple applications. We recommend that you contact LWRD staff to discuss individual applications and the advisability of their referral well in advance of the Board or Commission's review.



**Connecticut Coastal Management Program
Fact Sheet
for
*SHORELINE FLOOD AND EROSION
CONTROL STRUCTURES***

What are Shoreline Flood and Erosion Control Structures?

The Connecticut General Statutes (CGS) define shoreline flood and erosion control structures as:

any structure the purpose or effect of which is to control flooding or erosion from tidal, coastal or navigable waters and includes breakwaters, bulkheads, groins, jetties, revetments, riprap, seawalls and the placement of concrete, rocks or other significant barriers to the flow of flood waters or the movement of sediments along the shoreline [CGS Section 22a-109(c)].

The term does not include any activity (including, but not limited to, living shorelines projects) for which the primary purpose or effect is the restoration or enhancement of tidal wetlands, beaches, dunes, or intertidal flats.

What are the statutory policies that apply?

To manage coastal bluffs and escarpments so as to preserve their slope and toe [CGS Section 22a-92(b)(2)(A)].

To discourage uses which do not permit continued natural rates of erosion [CGS Section 22a-92(b)(2)(A)].

To disapprove uses that accelerate slope erosion and alter essential patterns and supply of sediments to the littoral transport system [CGS Section 22a-92(b)(2)(A)].

To preserve the dynamic form and integrity of natural beach systems in order to provide critical wildlife habitats, a reservoir for sand supply, a buffer for coastal flooding and erosion, and valuable recreational opportunities [CGS Section 22a-92(b)(2)(C)].

To ensure that coastal uses are compatible with the capabilities of the beach/dune system and do not unreasonably interfere with natural processes of erosion and sedimentation [CGS Section 22a-92(b)(2)(C)].

To promote nonstructural solutions to flood and erosion problems except in those instances where structural alternatives prove unavoidable and necessary to protect infrastructural facilities, water-dependent uses, commercial and residential structures and substantial appurtenances attached or integral thereto constructed as of January 1, 1995, or a cemetery or burial grounds [CGS Section 22a-92(b)(2)(F)].

To maintain the natural relationship between eroding and depositional coastal landforms [CGS Section 22a-92(b)(2)(J)].

To minimize the adverse impacts of erosion and sedimentation on coastal land uses through the promotion of nonstructural mitigation measures [CGS Section 22a-92(b)(2)(J)].

Structural solutions are permissible when necessary and unavoidable for the protection of infrastructural facilities, water-dependent uses, commercial and residential structures and substantial appurtenances attached or integral thereto constructed as of January 1, 1995, or a cemetery or burial grounds, and where there is no feasible, less environmentally damaging alternative and where all reasonable mitigation measures and techniques have been provided to minimize adverse environmental impacts [CGS Section 22a-92(b)(2)(J)].

What are the concerns regarding shoreline flood and erosion control structures?

Shoreline flood and erosion control structures are generally proposed for areas such as beaches and bluffs, which can experience erosion in the presence of significant wave action. However, the placement of these structures in such sensitive and dynamic areas usually causes adverse impacts to adjacent properties, worsens the erosion problem rather than eliminating it, and can cause significant adverse impacts on the resources themselves.

When waves break on a gently sloping sandy beach, their energy is gradually absorbed by the beach. In contrast, when waves encounter a solid structure such as a seawall placed parallel to the shoreline, their energy is not absorbed, but rather it is redirected in all directions along the face of the structure. Energy directed downward can cause erosion or scouring of sediments or wetland vegetation at a structure's base, allowing even greater wave energy to reach the structure because of increased depth of water, eventually undermining the structure and causing its collapse. In addition, waves directed upward over the wall often severely damage or destroy the very structure the wall was placed to protect, and can cause flooding when that water is trapped behind the seawall. Further, wave energy focused by a hardened shoreline can result in faster-than-normal erosion of nearby sediments and vegetation, potentially resulting in the rapid loss of neighboring waterfront property.

Shoreline flood and erosion control structures such as groins or jetties placed perpendicular to a beach are intended to interfere with the natural transport of sand along the shoreline. Sand continues to move away from the groin in the downdrift direction but is blocked from passing the groin on the opposite side, resulting in the accretion of sand on one side but also the loss of sand from the opposite side.

In addition, the placement of a flood and erosion control structure in a beach environment eliminates the beach as a source of sediments for other beaches in the system and often accelerates erosion due to a lack of replacement sediment. This results in a narrowing of the beach since currents continue to transport sediment offshore and along the shore. Further, the

structure prevents the beach from migrating landward as it would naturally tend to do. The combination of structure-induced scour and the cutting off of the sediment supply can cause dramatic changes in beach contours in a relatively short time.

What are the adverse impacts associated with shoreline flood and erosion control structures?

The CCMA defines adverse impacts which must be avoided or, if they can't be avoided, must be minimized in order for a project to be approvable. From a resource perspective, shoreline flood and erosion control structures can have the following adverse impacts on valuable features and functions of shoreline areas and coastal resources:

- eliminate natural buffer for coastal flooding and erosion
- alter natural rates of erosion and sedimentation
- interrupt sand supply
- reduce valuable recreational opportunities
- destroy critical wildlife habitats
- detract from the visual quality of a natural shoreline

Any proposals for shoreline flood and erosion control structures must be carefully evaluated, and non-structural erosion control alternatives such as vegetative stabilization to stop or slow down any erosion and/or flooding problems should be promoted (see the *Adverse Impacts* fact sheet).

When are shoreline flood and erosion control structures generally consistent with the Connecticut Coastal Management Act?

The Connecticut Coastal Management Act (CCMA) contains strong policies that discourage the placement of shoreline flood and erosion control structures except in those limited instances where they are deemed necessary and unavoidable to protect the following:

- water-dependent uses as defined in CGS Section 22a-93(16);
- infrastructural facilities (e.g., roads and sewer and water lines);
- commercial and residential structures and substantial appurtenances attached or integral thereto constructed as of January 1, 1995;
- a cemetery or burial grounds.

Shoreline flood and erosion control structures are not allowed for commercial and residential structures constructed after January 1, 1995 because any commercial or residential structure built after that date—fully 15 years after passage of the CCMA in 1980—should have been planned and designed to be elevated and/or placed at sufficient distances from coastal waters, thereby eliminating the need for shoreline flood and erosion control structures. Shoreline flood and erosion control structures are also not allowed to protect appurtenances or accessories such as detached garages, sheds, patios or swimming pools that are not structurally integrated with the primary residential or commercial structure, since appurtenances and accessories can generally be located more easily away from coastal hazards.

There must also be a clear and compelling demonstration that there is a threat to the use or structure from erosion or flooding, and that there are no feasible, less environmentally damaging alternatives, and that all reasonable mitigation measures and techniques have been provided to minimize adverse environmental impacts.

In an effort to help identify feasible, less environmentally damaging alternatives and reasonable mitigation measures and techniques, the CCMA specifically defines these terms. “Feasible, less environmentally damaging alternatives” include, but are not limited to

- relocation of a commercial or residential structure to a landward location,
- elevation of a commercial or residential structure,
- restoration or creation of a dune or vegetated slope, or
- living shorelines techniques that use a variety of structural and organic materials, such as tidal wetland plants, submerged aquatic vegetation (e.g., eelgrass), coir fiber logs, sand fill and stone to provide shoreline protection **and** maintain or restore coastal resources and habitat [CGS Section 22a-92(e)].

“Reasonable mitigation measures and techniques” include, but are not limited to,

- providing for the upland migration of on-site tidal wetlands,
- replenishing the littoral system and the public beach with suitable sediment at a frequency and rate equivalent to the sediment removed from the site as a result of the proposed structural solution (also known as beach nourishment), or
- on-site or off-site removal of other existing shoreline flood and erosion control structures from public or private shoreline property to the same or greater extent as the area of shoreline impacted by the proposed structural solution [CGS Section 22a-92(e)].

See the *Shoreline Flood and Erosion Control Structure Consistency Checklist* for more information.

What are the requirements for action on a shoreline flood and erosion control coastal site plan application?

- A copy of each coastal site plan submitted for any shoreline flood and erosion control structure (including those proposed as a component of a larger development project) **must be referred to the DEEP within 15 days of its receipt** by the municipal land use commission [CGS Section 22a-109(d)].
- The DEEP may comment on such plans; any comments must be submitted to the commission within 35 days of its receipt at the DEEP [CGS Section 22a-109(d)].
- The commission must consider any DEEP comments prior to final action on the application [CGS Section 22a-109(d)].

- If the DEEP does not comment within the 35-day time frame or any extension granted by the municipal land use commission, the commission may take final action [CGS Section 22a-109(d)].
- The commission may hold a hearing on a shoreline flood and erosion control structure, and must hold a hearing upon the request of the Commissioner of Energy and Environmental Protection [CGS Section 22a-109(e)].

A coastal site plan for a shoreline flood and erosion structure must be approved if the record demonstrates and the commission makes specific written findings that:

1. The shoreline flood and erosion control structure is **necessary** and **unavoidable** for the protection of infrastructural facilities, water-dependent uses, commercial and residential structures and substantial appurtenances attached or integral thereto constructed as of January 1, 1995, or a cemetery or burial grounds, **AND**
2. There is no feasible, less environmentally-damaging alternative, **AND**
3. All reasonable mitigation measures and techniques are implemented to minimize adverse environmental impacts [CGS Section 22a-109(a)].

In the case of any application for a shoreline flood and erosion control structure that is denied on the basis of a finding that there may be feasible, less environmentally damaging alternatives to such structure or that reasonable mitigation measures and techniques have not been provided, the municipal commission must propose on the record, in writing, the types of feasible alternatives or mitigation measures and techniques that the applicant may investigate. This requirement does not shift the burden from the applicant to prove that he/she is entitled to approval of the proposed shoreline flood and erosion control structure, or to present alternatives to such structure [CGS Section 22a-92(f)].

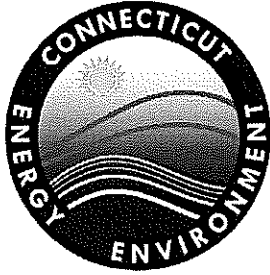
A copy of any municipal decision on a coastal site plan for a shoreline flood and erosion control structure shall be sent to the Commissioner of Energy and Environmental Protection within 15 days after such decision is rendered [CGS Section 22a-109(f)].

Does the DEEP regulate shoreline flood and erosion control structures?

Maybe, depending on the specifics of proposed activities. The Department of Energy and Environmental Protection (DEEP) has direct regulatory jurisdiction over activities occurring in tidal wetlands and/or waterward of the coastal jurisdiction line. If any construction activities or structure(s), in part or in whole, or any incidental work proposed in conjunction with the construction of structure(s) is proposed at or waterward of the coastal jurisdiction line or in tidal wetlands, authorization from the DEEP's Land and Water Resources Division would be required prior to construction in accordance with the Tidal Wetlands Act (CGS Sections 22a-28 through 22a-35) and/or the statutes governing the placement of structures, dredging, and fill in tidal, coastal or navigable waters (CGS Sections 22a-359 through 22a-363g, inclusive).

What's the difference between DEEP and municipal regulatory areas?

The DEEP has direct regulatory jurisdiction over activities occurring in tidal wetlands and/or waterward of the coastal jurisdiction line. The municipality regulates upland activities waterward to the mean high water mark. In general, the mean high water mark is lower than (waterward of) the coastal jurisdiction line. Therefore, on gently sloping shorelines, there will be an area of overlapping jurisdictions (because the coastal jurisdiction line will be landward of mean high water). Along steep shorefronts, for instance along a seawall, the coastal jurisdiction line and mean high water mark may be closely aligned or may even coincide in the same vertical plane. The area of overlapping jurisdictions will be minimal in that case. Regardless of whether the DEEP and/or the municipality have jurisdiction, the same statutory policies and standards apply in both jurisdictions (see the *State and Municipal Regulatory Jurisdictions* fact sheet).



Connecticut Coastal Management Program Fact Sheet for *COASTAL SITE PLAN REVIEW*

What are Coastal Site Plans?

The Connecticut Coastal Management Act [CCMA, Connecticut General Statutes (CGS) Sections 22a-90 through 22a-112, inclusive] requires “coastal site plan reviews” for certain site plans, plans and applications for activities or projects located fully or partially within the coastal boundary. Coastal site plan reviews must be conducted for the following applications if the proposed activity or use is located landward of the mean high water mark¹:

- site plans submitted to a zoning commission in accordance with CGS Section 22a-109;
- plans submitted to a planning commission for subdivision or resubdivision;
- applications for special exceptions or special permits submitted to a planning commission, zoning commission or zoning board of appeals;
- applications for variances submitted to a zoning board of appeals; and
- referrals of proposed municipal projects to a planning commission pursuant to CGS Section 8-24 [CGS Section 22a-105(b)].

In accordance with CGS Section 22a-109(b), certain minor uses and activities may be exempted from coastal site plan review by municipal zoning regulations. Check your municipality’s zoning regulations for exemptions.

What must be included in a coastal site plan?

The CCMA identifies the minimum level of information that must be included in a coastal site plan application. A complete application must contain the following:

- ✓ a plan showing the location and spatial relationship of coastal resources on and contiguous to the subject site;
- ✓ a description of the entire project with appropriate plans, indicating project location, design, timing, and methods of construction;
- ✓ an assessment of the capability of the resources to accommodate the proposed use;
- ✓ an assessment of the suitability of the project for the proposed location, especially if the project site is waterfront or abuts tidal wetlands;
- ✓ an evaluation of the potential beneficial and adverse impacts of the project on coastal

- resources and future water-dependent development activities;
- ✓ a description of proposed methods to mitigate (minimize, not compensate) adverse effects on coastal resources and future water-dependent development activities; and
- ✓ any other requirements specified by municipal regulation [CGS Section 22a-105(c)].

For more information regarding what constitutes a complete application, please see the *Coastal Site Plan Review Application Checklist*.

What must the commission or board consider when acting upon a coastal site plan?

The appropriate commission or board must determine: 1) whether or not the proposed activity is consistent with all applicable coastal policies and standards in the CCMA; and 2) whether or not the potential adverse impacts of the proposed activity on both coastal resources and future water-dependent development activities are acceptable. In making this determination the municipal authority must look at the following aspects of the proposal:

- consider the characteristics of the site including the location and condition of coastal resources on-site;
- consider the potential effects, both beneficial and adverse, of the proposed activity on coastal resources and future water-dependent development opportunities;
- follow all applicable goals and policies stated in CGS Section 22a-92 and identify conflicts between the proposed activity and any goal or policy;
- determine whether any remaining adverse impacts have been adequately minimized (see the *Adverse Impacts* fact sheet for more information); and
- determine that the proposed activity satisfies other lawful criteria including, specifically, the municipal zoning or subdivision regulations or other applicable municipal regulations or ordinances [CGS Sections 22a-106(a) and (b)].

Must a coastal site plan application be referred to the DEEP for review?

Maybe. If a coastal site plan review application includes a shoreline flood and erosion control structure or includes a change in the zoning map or regulations, referral to DEEP is required by statute (see the *Mandatory Municipal Referrals* and *Shoreline Flood and Erosion Control Structures* fact sheets). **However, even if the project does not require mandatory referral, we strongly recommend consultation with DEEP's Land and Water Resources Division (LWRD) regarding coastal site plans for major development proposals, all waterfront proposals including those that are characterized as living shorelines, and proposals where wetlands, beaches and dunes, coastal bluffs and escarpments, or coastal waters could be affected.** In these cases, referral to LWRD for technical review assistance may be appropriate.

Are there additional statutory considerations when acting upon a coastal site plan application?

Yes. These include:

DECISION

A municipal commission or board may approve, modify, condition, or deny a coastal site plan based upon the review criteria listed above. The commission or board must state in writing the findings and reasons for its action (i.e., the action to approve, modify, condition, or deny the coastal site plan review application) [CGS Section 22a-106(d)].

DECISIONS REGARDING SHORELINE FLOOD AND EROSION CONTROL STRUCTURES

A municipal commission or board must approve a coastal site plan application for a shoreline flood and erosion structure if the record demonstrates and the commission makes specific written findings that the structure is:

(1) necessary and unavoidable for the protection of

- water-dependent uses,
- infrastructural facilities,
- commercial and residential structures and substantial appurtenances attached or integral thereto constructed as of January 1, 1995;
- a cemetery or burial grounds; **AND**

(2) there is no feasible, less environmentally damaging alternative; **AND**

(3) all reasonable mitigation measures and techniques are implemented to minimize adverse environmental impacts.

In the case of any application for a shoreline flood and erosion control structure that is denied on the basis of a finding that there may be feasible, less environmentally damaging alternatives to such structure, or a finding that reasonable mitigation measures and techniques have not been provided, the commission must propose on the record, in writing, the types of feasible alternatives or mitigation measures and techniques that the applicant may investigate. However, this requirement does not shift the burden from the applicant to prove that he/she is entitled to approval of the proposed shoreline flood and erosion control structure or to present alternatives to such structure (see the Shoreline Flood and Erosion Control Structures fact sheet and the Shoreline Flood and Erosion Control Structures Consistency Checklist).

WRITTEN FINDINGS

When a coastal site plan review decision is made, the commission or board must state in writing the findings and reasons for its actions. These are commonly termed "written findings" and should document and support the commission's decision. For example, when an application is approved, with or without conditions or modifications, the written findings should detail why the commission found that the project:

- is consistent with all applicable goals and conditions contained in CGS Section 22a-92; and
- incorporates as conditions or modifications, if applicable, all reasonable measures to mitigate (or lessen) the adverse impacts of the proposed activity on both coastal resources and future water-dependent development activities [CGS Section 22a-106(e)].

If a coastal site plan review application for a shoreline flood and erosion control structure is denied, the written findings must detail in writing

- the types of feasible, less environmentally damaging alternatives to such structure, or
- which reasonable mitigation measures and techniques have not been provided that the applicant should investigate.

See the *Shoreline Flood and Erosion Control Structures* fact sheet and the *Shoreline Flood and Erosion Control Structures Consistency Checklist*.

AUTHORITY TO REQUIRE A FINANCIAL ASSURANCE

The commission or board may also require a bond, escrow account, or other surety or financial security arrangement to secure compliance with any modifications, conditions and other terms stated in its approval of a coastal site plan [CGS Section 22a-107].

LACK OF TIMELY DECISION

If the commission or board fails to render a decision within the time period provided for by the General Statutes (or by any special act for such decision), the coastal site plan is deemed rejected [CGS Section 22a-105(f)].

VIOLATIONS

Any activity within the coastal boundary that is not exempt from coastal site plan review that occurs without receiving a lawful approval from a municipal board or commission or that violates the terms or conditions of such approval is a public nuisance [CGS Section 22a-108].

Municipalities have the authority to exercise all enforcement remedies legally available to them for the abatement of such nuisances. The Commissioner of Energy and Environmental Protection may also order that such a public nuisance be halted, abated, removed, or modified

and that the site of the violation be restored as nearly as reasonably possible to its condition prior to the violation [CGS Section 22a-108].

Upon receipt of a petition signed by at least twenty-five residents of the municipality in which an activity is located, the commissioner of environmental protection shall investigate to determine whether or not an activity described in the petition constitutes a public nuisance [CGS Section 22a-108].

Does the DEEP have authority over coastal site plan reviews?

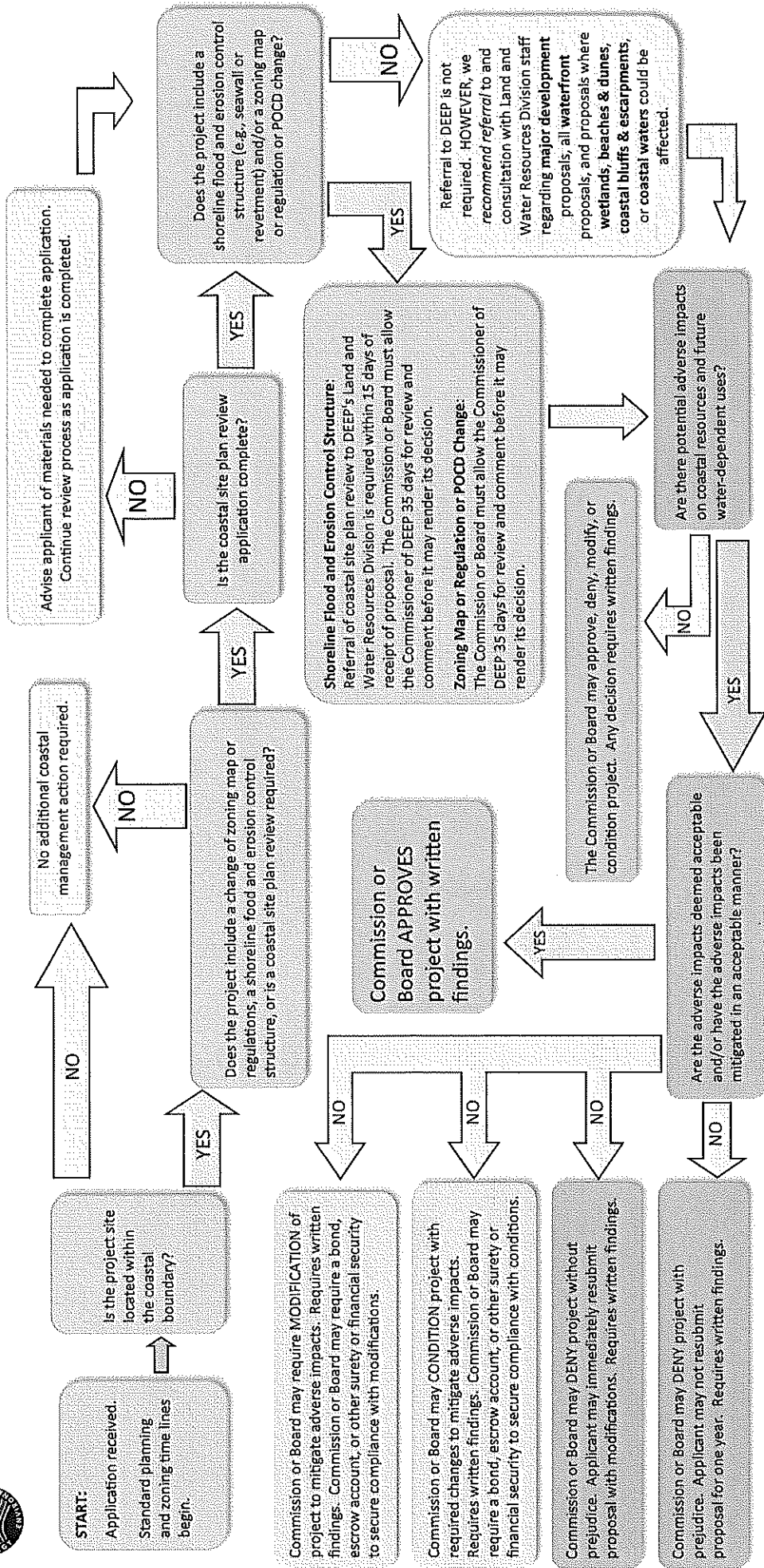
Not directly. The authority for coastal site plan review lies with the municipal board or commission responsible for the decision on the underlying application. However, the DEEP exercises an oversight role in municipal coastal management activities and, in accordance with CGS Section 22a-110, has “party status” in all coastal site plan reviews and can appeal a municipal decision.

¹ The mean high water mark is the average of all high tide elevations based on 19-year series of tide observations by the National Ocean Survey. The mean high water mark delineates the seaward extent of private ownership of upland property as well as the limits of municipal jurisdiction for regulating upland development projects; the State of Connecticut holds title as trustee to the lands waterward of mean high water.



Connecticut Coastal Management Program

Municipal Coastal Management Review Process Flowchart



- NOTES:**
- 1) The Commissioner of the Department of Energy and Environmental Protection is automatically a party to every municipal coastal site plan review and has the right to appeal a municipal decision.
 - 2) If the Board or Commission does not render a decision within a statutorily allowed time frame (at least 65 days), the coastal site plan is deemed rejected.
 - 3) A copy of any coastal site plan review decision must be sent to the applicant by certified mail, and must be published in the newspaper within 15 days of the decision. If the proposal includes a shoreline flood and erosion control structure the decision must also be sent to DEEP's Land and Water Resources Division.