

Liability Relief & the CT BRRP Program

Moderator

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Panelists

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Office of Constituent Affairs and Land Management

Mark Nickerson, 1st Selectman

Town of East Lyme

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Bridgeport Landing Development

Who's a potentially liable party?

- Typical potentially responsible parties (“PRPs”):
 - Property owners (including “de facto” owners)
 - Operators (causing/responsible for a release)
- Statutory and common law liability
 - Federal
 - State
 - Multi-media enforcement vehicles
 - Third-party liability

Why does it matter?

- Cost implications
- Development implications
- Timing implications
- Availability and cost of financing
- Availability and cost of insurance
- Structuring of the deal
- Community engagement/support

CT Response to Liability Concerns - Examples

- Brownfield Remediation and Revitalization Program (“BRRP”) (Sec. 32-769)
- Municipal Liability Relief Program (Sec. 22a-133ii)
- Abandoned Brownfield Cleanup Program (Sec. 32-768)

Municipality Liability Relief Program

- Municipal and economic development entities eligible if not responsible party
- Application required
- Before acquiring eligible property
- Must be good steward; reporting, minimizing risk
- No obligation to fully investigate and remediate prior releases; provide plan to facilitate reuse and minimize risk
- Exempt from CT Transfer Act
- Relief from state and third-party liability under state law

Abandoned Brownfield Liability Relief Program

- DECD/DEEP decide eligibility of property and party
- Property underutilized for 5 years
- Responsible parties unable to perform
- Redevelopment purpose and benefit demonstrated
- Pre-acquisition application required – no fee
- Enter DEEP voluntary remediation program
- Investigate and remediate on-site, cease off-site
- Exempt from CT Transfer Act
- State and third-party liability relief under state law
- Eligible for Covenant Not to Sue following remediation

Brownfield Revitalization and Remediation Program Background

- Passed in 2013; amended since, including in 2016
- Response to significant barriers, including liability, particularly as to off-site and cost
- Also addresses concerns about length and unpredictability of timing

Brownfield Revitalization and Remediation Program Eligibility

- Up to 32 properties a year
- Eligible party if:
 - Bona fide prospective purchaser; or
 - Innocent landowner; or
 - Contiguous property owner
- Eligible property if:
 - Site of release of regulated substance
 - Not subject of enforcement or consent order
 - Not RCRA, NPL or State Superfund site; and
 - Municipal, land bank or development agency nominee

Brownfield Revitalization and Remediation Program Application

- Forms provided by DECD
- Title search
- Phase I Environmental Site Assessment
- Documentation of eligibility
- Supportive of statewide portfolio factors

Brownfield Revitalization and Remediation Program Fees/Incentives

- Fee – 5% of assessed value of land only
- Two installments – each 50% of total fee
- First installment – 180 days from later of acceptance and acquisition; less 10%, if investigation complete
- Second installment – 4 years from acceptance; eliminated if have interim or final verification; less 2X cost of completing off-site remediation at eligible party's option
- No fee for municipality, land bank or development entity
- DECD can waive fee

Brownfield Revitalization and Remediation Program

Benefits

- Upon acceptance into BRRP, State and third-party liability relief under state law for eligible party and lender
- Obligation to investigate and remediate on-site only
- Provides permit ombudsman to assist with permit applications
- 60 days for DEEP to advise whether RAR will be audited; 180 days to conduct audit; approve or disapprove within 14 days of audit; accepted in 180 days if no election to audit
- Liability relief transferable to eligible party with payment of the greater of \$10,000 and any unpaid fee installment
- Relief for on-site can extend to immediate prior owner
- No obligation to comply with CT Transfer Act or enter voluntary remediation program

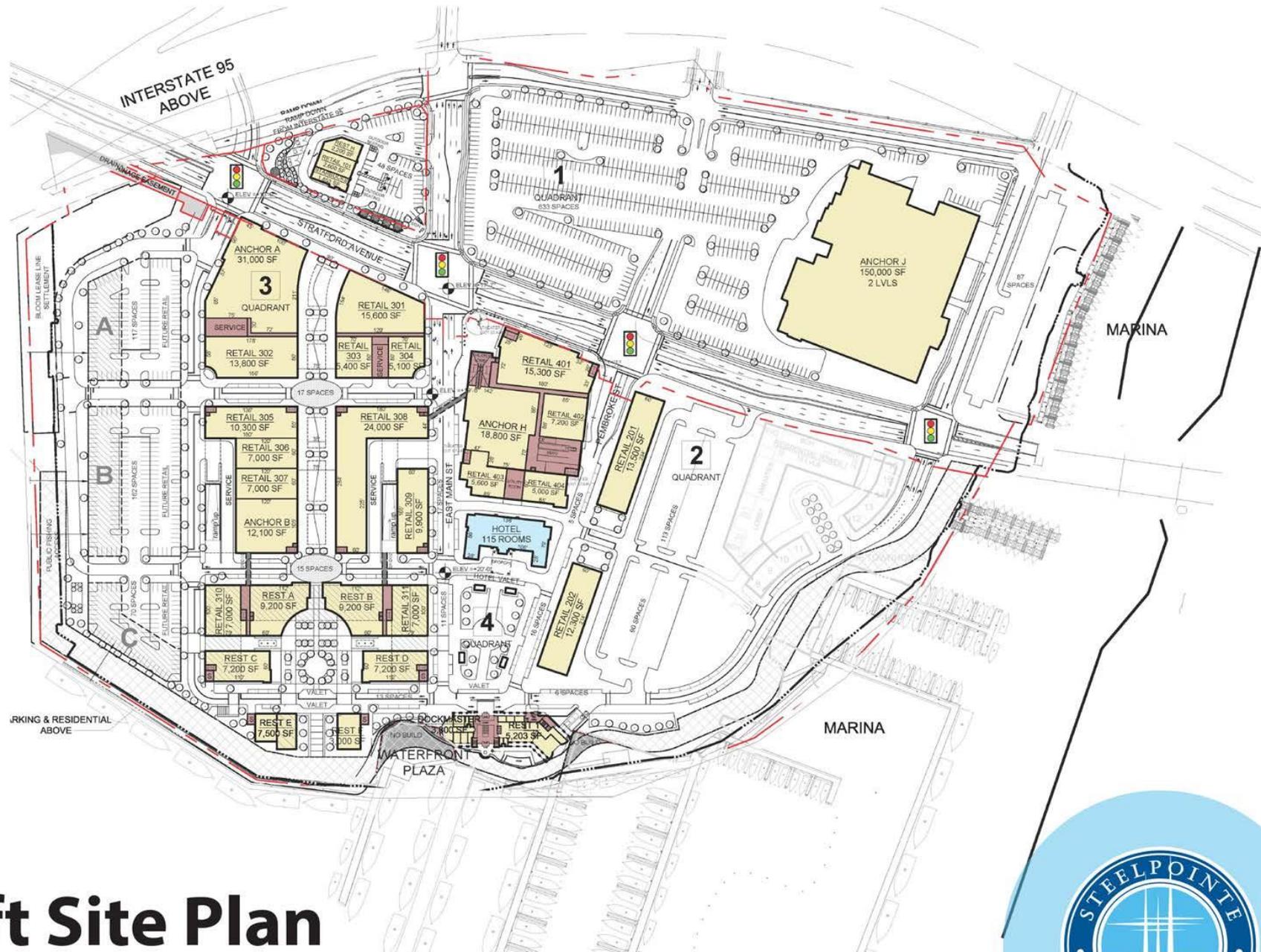


Stay Tuned
More to Come!

Steelpointe Harbor 1937







Draft Site Plan





EAST MAIN ST

PEMBROKE ST

INTERSTATE 95

STRATFORD AVE

SEAVIEW

CONNECTICUT AVE

INTERSTATE I-95

STRATFORD AVE

YELLOW MILL CHANNEL

BEARDSLEY

SEAVIEW AVE



3

2

1

2



DRIVE THRU >>

T-Mobile



CHIPOTLE

STARBUCKS
COFFEE

T-Mobile

CHIPOTLE











STEELPOINTE HARBOR

A New Connecticut Lifestyle



Town of East Lyme – Brownfield Assessment Grant

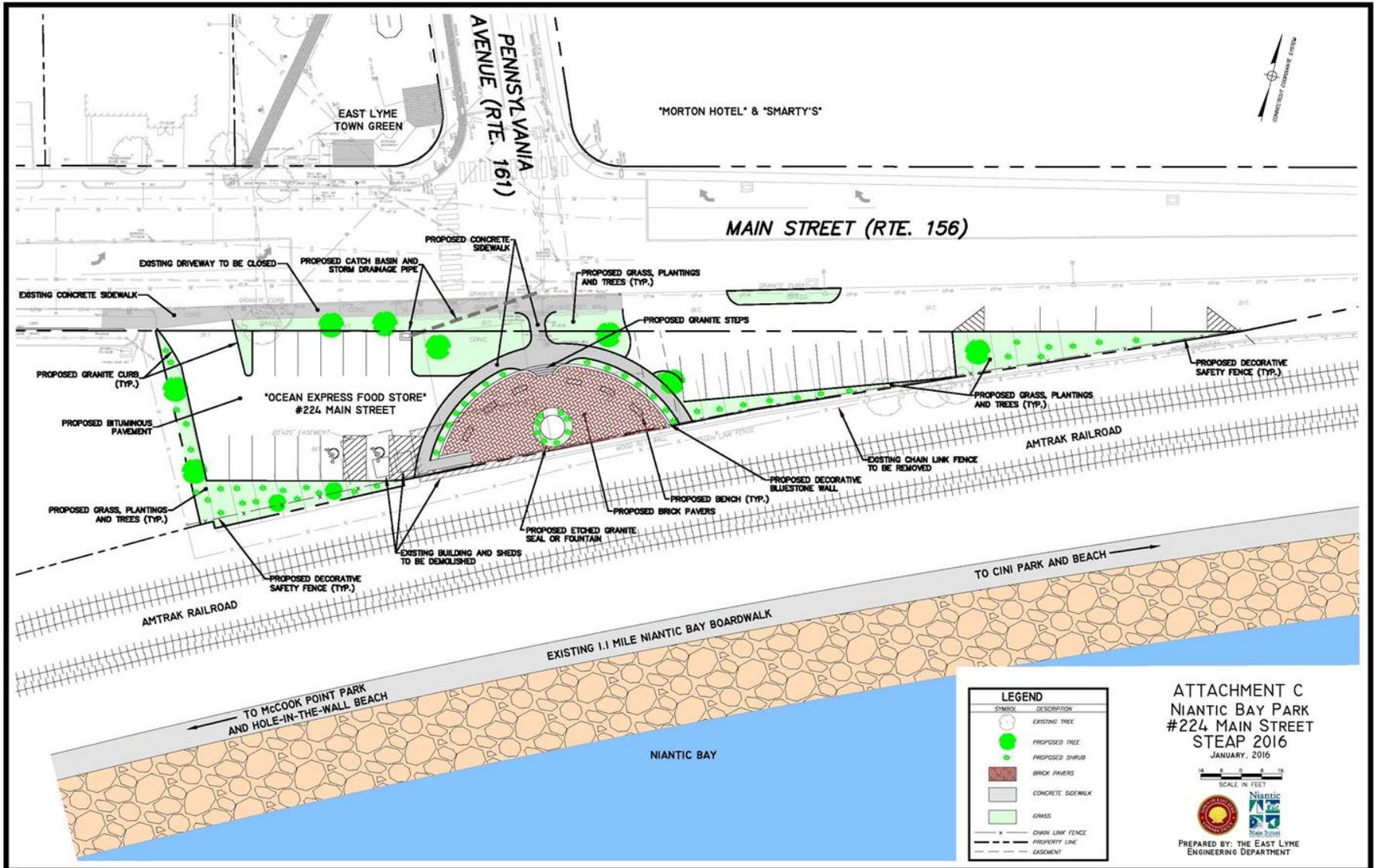


ATTACHMENT B
NIANTIC BAY PARK
#224 MAIN STREET
STEAP 2016
JANUARY, 2016



PREPARED BY: THE EAST LYME
ENGINEERING DEPARTMENT

Town of East Lyme – Brownfield Assessment Grant



LEGEND	
SYMBOL	DESCRIPTION
	EXISTING TREE
	PROPOSED TREE
	PROPOSED SHRUB
	BRICK PAVERS
	CONCRETE SIDEWALK
	GRASS
	CHAIN LINK FENCE
	PROPERTY LINE
	EASEMENT

ATTACHMENT C
 Niantic Bay Park
 #224 MAIN STREET
 STEAP 2016
 JANUARY, 2016

SCALE IN FEET
 0 5 10 15

Niantic Bay
 State Street
 06025

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 ENGINEERING DEPARTMENT

Town of East Lyme – Brownfield Assessment Grant



VIEW LOOKING SOUTH (BEFORE)



VIEW LOOKING SOUTH (AFTER)

ATTACHMENT D
NIANTIC BAY PARK
#224 MAIN STREET
STEAP 2016
JANUARY, 2016



PREPARED BY: THE EAST LYME
ENGINEERING DEPARTMENT

Approved Applications

- 21 Brownfield Remediation and Revitalization Program
(BRRP) CGS§32-769
- 6 Abandoned Brownfield Cleanup Program
(ABCP) CGS§32-768
- 8 Municipal Liability Relief Program
(MLRP) CGS§22a-133ii
- 2 Withdrawn
- 1 Stalled



American Woolen Mills, Stafford



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