

**Planning Commission Meeting Minutes**  
**Tuesday August 7, 2018**

Present: Peter Lynch  
 Thomas W. Fitting Jr.  
 Lawrence Fitzgerald  
 Kirk Scott  
 Don Phimister  
 Michelle Williams

**FILED**

Aug 9 2018 AT 8:15 AM/PM  
  
 EAST LYME TOWN CLERK

Also Present: Gary Goeschel, Planning Director  
 Attorney Mark Zamarka, Town Council

Absent: Kathryn Johnson, Alternate  
 Marc Salerno, Ex-Officio

Mr. Scott called the Planning Commission to order at 7:00 p.m.

**I. Pledge and Roll Call**

Mr. Scott led the Pledge. The Commission Members identified themselves for the audience.

**II. Reports**

**A. Communications-**

Mr. Goeschel had no communications to report.

**B. Zoning Representative**

Mr. Fitzgerald detailed the August 2nd, 2018 Zoning Meeting.

- The Zoning Referral the Commission ruled as consistent with the POCD at the last meeting, for a text amendment to the R-10 Zone for a Day Spa, was approved.
- The Gateway/Costco request for a site plan modification and waiver for a right-of-way ownership were the big applications for the night. The site modification was approved 3-2-1.

**C. Ex-Officio: Marc Salerno**

Mr. Salerno was not in attendance.

Mr. Goeschel said there is still another alternate vacancy.

**D. Planning Director: Gary Goeschel**

Mr. Goeschel had no report.

**E. Sub-Committees**

- 1. Walkability**
- 2. Sustainability and Climate Adaptation**

The Subcommittees have not met yet but Mr. Goeschel said we would get moving on this.

Mr. Goeschel suggested shuffling the agenda and moving item A. under Subdivisions and Re-subdivisions to the front so Attorney Zamarka could comment on it if necessary.

**MOTION (1)**

**Mr. Lynch moved to shuffle the agenda and bring Subdivision item A. Application of James Bernardo, LS, Agent, for Edward J. Watson, Applicant/Owner; Application for a 2-Lot Re-subdivision of approximately 11.11- acres Zoned RU-40 at 31 Walnut Hill Road, East Lyme Assessor's Map # 48.0 Lot #63 to the front of the agenda.**

**Mr. Phimister seconded the motion.**

**Vote: 6-0-0, Motion passed.**

**F. Chairman**

Mr. Scott discussed with the membership the opportunity for them to recuse themselves if necessary. He asked that all communication by members being directed to Mr. Goeschel and/or Ms. Lindo-Dashnow.

Mr. Scott reminded the audience about the ground rules for public comment that were read into the record at the last meeting and that still apply.

**III. Subdivisions + Re-Subdivisions**

- A. Application of James Bernardo, LS, Agent, for Edward J. Watson, Applicant/Owner; Application for a 2-Lot Re-subdivision of approximately 11.11- acres Zoned RU-40 at 31 Walnut Hill Road, East Lyme Assessor's Map # 48.0 Lot #63.**

Mr. Goeschel reminded the Commission that this public hearing was closed at the last meeting. He pointed out his July 17th, 2018 memorandum and draft resolution in the Member Packet.

Mr. Goeschel explained when the Applicant applied they asked for a conventional subdivision design as opposed to conservation by design development; according to Section 7-2-1 of the Subdivision Regulations the site must be less than 4 lots or less than 10 acres. The application therefore qualifies for a conventional subdivision design per discussion/confirmation from Attorney Zamarka.

Mr. Goeschel briefly reviewed the findings of his memorandum for the Commission and read his proposed conditions into the record:

- 1. Pursuant to Section 4-4-10 of the Subdivision Regulations any revisions of the approved construction must be approved by the Town Engineer. Such revisions shall be incorporated on an as-built construction plan.**
- 2. An Erosion & Sedimentation Control bond in the amount of \$5,000 dollars shall be posted with the Town in a form acceptable to the Town of East Lyme and satisfactory to the Director of Planning and the Town Engineer prior to the start of any site work including but not limited to clearing, grubbing, filling and grading.**
- 3. The deeds, drainage, and conservations easements as applicable shall be submitted to the Director of Planning for approval prior filing the Mylars on the land records.**
- 4. Adequate or suitable sightlines at the existing and proposed driveway cuts must be demonstrated and physically established to the satisfaction of the Town Engineer prior to the start of any construction.**

5. **Contact the Planning Director to inspect the installation of erosion and sedimentation controls within 2-days prior to the start of any construction.**
6. **The above items shall be accomplished prior to the filing of the subdivision on the land records, or other documentation of planning approval and no site work shall commence until all applicable conditions are satisfied.**

**MOTION (2)**

**Mr. Phimister moved to approve the Application of James Bernardo, LS, Agent, for Edward J. Watson, Applicant/Owner; Application for a 2-Lot Re-subdivision of approximately 11.11- acres Zoned RU-40 at 31 Walnut Hill Road, East Lyme Assessor's Map # 48.0 Lot #63.**

**Ms. Williams seconded the motion.**

Mr. Goeschel recommended including the conditions as outlined in his memorandum.

**MOTION (3)**

**Mr. Phimister amended his motion to include conditions 1-6 as outlined in Mr. Goeschel's memorandum dated July 17th, 2018.**

**Ms. Williams amended her second.**

**Motion passed, 5-1-0.**

**Mr. Lynch voted against the motion.**

**IV. Public Hearing**

**A. Continuation of the Application of Robert Fusari, Real Estate Service of Connecticut, Inc, Applicant/Owner; Application for a 23-Lot Re-subdivision of approximately 97.3+ acres, Zoned RU-40 at Spring Rock Road and Green Valley Lakes Road, East Lyme, Assessor's Map # 14.0 Lot #45, together with a waiver request from Section 6-10-11 Of the East Lyme Subdivision Regulations.**

Exhibit A- Application of Real Estate Service of Conn, Inc for a 23 lot re-subdivision of land located on Spring Rock Road and Green Valley Lakes, East Lyme Assessor's Map 14, Lot 45.

Exhibit B- Abutters List of May 1, 2018.

Exhibit C- Planning referral to Wetlands dated May 7, 2018.

Exhibit D- Notice of Public Hearing to Applicant sent dated May 29, 2018.

Exhibit E- Legal Notice Recorded with Town Clerk June 11, 2018.

Exhibit F- Legal Notice Published in the Day June 11, 2018.

Exhibit G- Letter to Director of Planning from Victor Benni, Town Engineer, dated April 13, 2018.

Exhibit H- Review and Comment of Chris Taylor, East Lyme Fire Marshal dated May 11, 2018.

Exhibit I- Referral Response of Lower Conn River Valley COG May 11, 2018.

Exhibit J- Referral Response of COG May 10, 2018.

Exhibit K- Letter to Director of Planning from Victor Benni, Town Engineer, dated June 5, 2018.

Exhibit L- Letter from LLHD recommending Site Suitability June 19, 2018.

Exhibit M- Letters of opposition from neighbors.

Exhibit N- Copy of Site Sign.

Exhibit O- Certificate of Mailings.

Exhibit P- Copy Section 3 Site Plan 1975.

Exhibit Q- Portion 1982 Approval Plan.

Exhibit R- Portion Section 3 of 1995 Reapproval Plan.

Exhibit S- 1984 Judgment from the Superior Court dated November 13, 1984.  
Exhibit T- 1986 Letter from Attorney Marrion to Planning dated January 31, 1986.  
Exhibit U- Previous Exhibits from the past 25 lot application from last year be included for informational purposes.  
Exhibit V- Conventional Layout Plan  
Exhibit W- Nitrogen Analysis on Lots 11, 12 and 13 dated March 7, 2018.  
Exhibit X- Petition for Intervention for Brian Lepkowski  
Exhibit Y- Letter to Wetlands and Planning from Steven Trinkaus dated June 24, 2018.  
Exhibit Z- Resume of Steven Trinkaus  
Exhibit AA- Request for Extension of Time to Continue Public Hearing  
Exhibit BB- Letter from Harvey Beeman dated August 1, 2018 to Kirk Scott  
Exhibit CC- David G. Sullivan P.E. Associate Milone & Macbroom Traffic Evaluation dated August 3 2018  
Exhibit EE- Environmental Comments of Steven Danzer, PHD & Associates LLC dated June 24, 2018  
Exhibit FF- Assessor's Map 62, showing Green Valley Lakes Sections  
Exhibit GG- Foreclosure Deed to Liberty Bank, January 26, 1981  
Exhibit HH- Stipulation of Fact Rajko Maric Et Al v Town of East Lyme dated September 21, 1984  
Exhibit II- Brief of the Plaintiff Rajko Maric, Summary of Facts Rajko Maric Et Al v Town of East Lyme dated October 22, 1984  
Exhibit JJ- Brief of Defendant Town of East Lyme Rajko Maric Et Al v Town of East Lyme dated October 22, 1984  
Exhibit KK- Memo from East Lyme Fire Marshal dated July 18, 2017  
Exhibit LL- Memo from East Lyme Director of Public Works to Planning Commission dated July 24, 2017  
Exhibit MM- Planning Commission Regular and Public Hearing Minutes August 1, 2018  
Exhibit NN- CV of David L. Spear, P.E.  
Exhibit OO- Map of Green Valley Lakes Road  
Exhibit PP- Map of Intersection Sightline Plan and Profile dated March 31, 2017 with blue and red pencil drawings of road changes  
Exhibit QQ- Traffic Engineer Review Comments from DLS Traffic Engineering LLC, David L. Spear dated June 25, 2018  
Exhibit RR- Traffic Plan and Aerial from Intervener's Traffic Engineer  
Exhibit SS- Letter from Trinkaus Engineering LLC to Planning and Wetlands dated June 24, 2018  
Exhibit TT- Letter from Trinkaus Engineering LLC to Planning in response to comments dated August 6, 2018  
Exhibit UU- Overall Site Development Plan Sheet 14 of 41 dated March 31, 2017  
Exhibit VV- Letter of Kristen Chantrell, 13 Green Valley Lakes Road dated August 2018  
Exhibit WW- Letter of Alisa Sheriff, 3 Frog hollow Road dated August 7, 2018

**\*The entire file is available for review in the East Lyme Planning office.\***

Attorney Zamarka, Town Council, came forward to comment on the Intervener's status. Statute 22A-19 allows any person to intervene based on environmental issues. Mr. Zamarka has reviewed the Petition and finds that it does meet the Statute requirements.

It is the opinion of his office that a motion should be made to accept the Intervener Petition as evidence; this will give Mr. Lepowski the right to present evidence and testimony. He explained that ultimately the Commission will have to find if the application is unreasonable and if so, are there reasonable alternatives. Mr. Zamarka said we will review these standards in detail at a later time.

**MOTION (4)**

**Mr. Fitzgerald moved to allow Brian Lepkowski's Intervener-ship Status.**

**Mr. Lynch seconded the motion.**

**Motion passed, 6-0-0.**

Attorney Ted Harris of 351 Main Street came forward representing the Applicant. He said Greg Walwer of ACS is in attendance to detail his archeological assessment survey as is David Sullivan P.E, who is here to present his traffic study.

Greg Walwer came forward and detailed how they go about completing their assessment survey. He spoke of Champion Cemetery near the site but significantly outside the project impact area, and the presence of stone walls; the number of stone walls give us an idea of prior lot sizes and changes in agriculture.

Mr. Walwer also detailed the statistical landscape sensitivity model they utilize to determine prehistoric sites of the region. He noted that the phase of the study he is presenting tonight is Phase 1B; the occurrence of the next phase is contingent on the progress of the subdivision application.

Mr. Walwer said Lots 12 & 13 contained positive hits for potential prehistoric interest but not much can be learned at this stage of survey work. Mr. Fitzgerald asked what prehistoric encompasses and Mr. Walwer explained that prehistoric is what happened before recorded history. He added that at this point there are multi courses of action and they recommend either conservation or moving on to Phase 2.

Ms. Williams asked how typical his findings were on this property and Mr. Walwer said exactly as expected. He said if he had to classify the land it would be more of an occasional campsite use as opposed to a village setting.

Mr. Goeschel asked if he had written confirmation from the State Historic Preservation Office per Regulation 5-8 and Mr. Walwer no written confirmation is given until the survey is completed. Mr. Goeschel noted the letter from Mr. Beeman dated August 1st, 2018 (Exhibit BB) about this very issue. He said pursuant to the Regulations it will require a Phase 2 intensive survey. The Commission agreed that the survey is needed to make their decision.

David Sullivan P.E. came forward to speak about the traffic aspect of the application and presented a copy of his report (Exhibit CC) to the Commission. He said he looked at the existing data including the previous traffic study that was done as well as a field reconnaissance of the site.

Mr. Sullivan shared the following:

- Sight lines were evaluated from the proposed driveway based on current DOT guidelines.
- Guidelines are based on the 85th percentile speed of vehicles approaching a driveway.

- The previous study outlined a recommended sight line distance of 390 feet; this can be achieved through maintaining vegetation along the site frontage.
- 280 feet is recommended by the DOT which can be achieved from the proposed driveway location.
- Sight distances meet DOT standards.
- The road is primarily used for passenger vehicles so the 24 foot width is more than adequate given the low volume of traffic.
- *The American Association of State Highway and Transportation Officials, and Guidelines for the Geometric Design of Very Low-Volume Local Roads* are publications that support his assessment.
- The publication *Residential Streets* by the American Society of Civil Engineers, the National Association of Home Builders, and the Urban Land Institute recommend a width of 22 to 24 feet for an access road.
- No safety concerns were identified; found only one accident in the last three years and it was nowhere near the site.

Mr. Goeschel mentioned the concern Mr. Lynch expressed at the previous meeting regarding the original traffic engineer's preference for 30 foot width road. Mr. Sullivan explained that would be more appropriate if the road handled heavy volume, large trucks, and had parking on each side of the street. The 30 foot with preference is an outdated standard.

Mr. Sullivan added that there are environmental benefits to the 24 foot width; the foot print is smaller- a wider road collects salt and is only good for the occasional graduation party. He said visibility is not a concern and Fire Trucks and plows are able to maneuver the 24 foot width road. He added that the volume of traffic is 250 vehicles a day; the general rule of thumb is 10 vehicles per household.

Mr. Scott asked how much more volume would be added "downstream so to speak" with the addition of this subdivision. Mr. Sullivan said  $\frac{2}{3}$  of the 250, so around 150 would be added to the 700 vehicles a day. He noted this is considered a low volume road.

Joe Wren P.E. of Indigo Design, 40 Elm Street, Old Saybrook came forward and displayed a detail of the road for the Commission. He said cars can't be parked on each side of the road, and the cape cod curbing acts like a driveway lip from the road; in addition the Town requires hard shoulders which provide a hard surface and additional width if needed.

Mr. Wren explained the road is two 12 foot lanes which is equivalent to two highway lanes. He said page 141 of your POCD recommends 24 foot width roads for your subdivisions.

Ms. Williams asked about the center island/cul-de-sac concerns the members of the Public brought up. Mr. Wren responded that Public Works don't like center islands but the Subdivision Regulations actually require them. Mr. Wren discussed the turn analysis and said a waiver would have to be granted to not have the center island; the center island is in the Plan because it's in your regulations.

Mr. Harris supplied Mr. Goeschel with a letter of extension (Exhibit AA) and reserved the right for rebuttal through the next Planning meeting.

At 8:23 p.m. the Commission took a comfort break.

The Commission reconvened at 8:30 p.m.

While the Intervener prepared their presentation, Chairman Scott called for public Comment.

Gary Barwikowski of 22 Green Valley Lakes Road came forward to speak on behalf of Harvey Beeman and read the three main concerns of Mr. Beeman's letter dated August 1<sup>st</sup>, 2018 into the record;

1. Concern 1- The land to be dedicated as Open Space consists of greater than 50% wetlands, watercourses and steep slopes in contradiction with zoning Regulation 23.1C.
2. The required environmental reviews have not been completed- Environmental Review Team (ERT) Evaluation.
3. The required Archaeological reviews have not been completed.

Mr. Barwikowski said Mr. Goeschel and Mr. Walwer touched on concern #3 at the beginning of the hearing. He said in terms of himself, he is concerned with the site line from the street. He pointed out his property on the map and said it doesn't give you a clear picture of looking down the hill.

Mr. Barwikowski discussed the speed traveled on the road and said the most dangerous part of the road is the intersection. He explained that the road slopes down, there is no stop sign, and the speed traveled is significant for a road probably rated 25 miles per hour.

Mr. Barwikowski said at the lowest point where the bridge is, the road bends to the left, and you don't see the radius. He asked who is going to clear and maintain the shrubs that would be required to be removed, in order to see. He said there are many things that are required in Town, that don't get done.

Attorney Berger came forward representing the Intervener, Brian Lepkowski. He said they have a Traffic Engineer and Civil Engineer here to speak tonight. He said that archeological and historical resources are protected under SEPA; therefore a complete study will be required for the Commission's decision. Mr. Berger supplied Mr. Goeschel with Exhibits EE-MM.

David Spier P.E. of DLS, Windsor, CT came forward to present his traffic report. He submitted his resume for the record (Exhibit NN), which he detailed for the Commission. He also provided the Commission with a plan showing the study area (Exhibit OO) and a Site Line Plan (Exhibit PP.)

Mr. Spier gave a brief history of site line requirements and how they have shaped today's standards.

Mr. Spier detailed the idea of a site triangle which he said is not clear in the Applicant's Plan, and he explained the calculation of speed percentile. He observed that speed is not an issue as much as the site line is; from the guardrail you can't see the site line so you're not safe with the site line provided. He calculated that the application is 110 feet short because you are seeing the guardrail but not the road. Simply put, when looking left, you don't have a clear line of sight through the triangle.

Mr. Spier had the said if you look right there is a vertical turn coming off of Spring Rock Road which dips down to the low point, and also results in a site line issue.

Mr. Scott asked about adding a three-way stop on Green Valley Lake Road and Mr. Spier responded that a stop sign won't significantly help with speed, people will merely run it.

Mr. Spier supplied the Commission with the Intervener Traffic Report (Exhibit QQ.)

Mr. Spier offered the following comments:

- They agree with the Applicant that this is not a capacity issue, although it's clear a road was intended, it's a safety issue.
- Two accesses are needed for emergency vehicles, one is not sufficient.
- The Applicant's design has 2,100 feet of a dead end road when the maximum is 1,000 feet in the subdivision regulations.
- The low volume of this road will result in high pedestrian, bicycle, and stroller traffic.
- No sidewalks are proposed for the non vehicular traffic.

Mr. Scott observed that illegal driving practices such as speeding and running a stop sign are a policing issue and different from what we're determining here. Mr. Spier responded that for design purposes you have to go with reality.

Mr. Trinkaus came forward and briefly reviewed his civil engineer resume and background (Exhibit SS.)

Mr. Trinkaus provided the Commission with his letter (Exhibit TT) and an alternate plan (Exhibit UU.) He offered the following comments:

- Of the 30% of your open space, no more than 50% can be wetlands per your regulations. We have not been given evidence to show this has been met.
- Conservation easements are nice in theory but virtually impossible to enforce.
- Much of his concern is in regards to stormwater conditions; basins are not in compliance with the manual.
- Fire access is a concern given that the majority of the road is without secondary access.
- The erosion control plan is only for the road and would therefore require a permit from DEEEP; they're not in compliance.
- There are a series of rain gardens which must be 50 feet away from the leeching systems; the Applicant's Plan has them 10 to 20 feet away. Ledge Light needs to focus on this code and unfortunately, many health districts are not up to speed.
- The biggest issue is the location of the road.
- I don't believe the open space is in compliance; it has not been verified by soil scientists.

Mr. Goeschel said that the inland Wetlands Agency has not yet ruled on this application and that Ledge Light Health District indicated these lots are suitable for construction.

Mr. Goeschel clarified for the record that the regulations apply to all roads as a whole and he reviewed Section 6-10-6 thru 6-10-11 with the Commission.

Mr. Goeschel said the application has Spring Rock Road as a secondary access and discussed how the Town Attorney determined a road is not a building lot and therefore requires no buffer.

Mr. Trinkaus said it's the Applicant's burden to prove that his regulated activity does not have adverse impact and he respectfully disagrees that the road negates the need for a buffer.



Mr. Berger said they would like to address the entire application at the next meeting, so they may also address any new information provided by the Applicant.

Mr. Goeschel suggested calling for Public Comment.

Mr. Harris clarified for the record that the length of the cul-de-sac is 1,900 square feet and mentioned the waiver requested.

Kristen Chantrell of 13 Green Valley Lakes Road came forward and shared the following concerns:

- Is the open space usable? She questions the amount of usable open space as well as the actual access to it.
- She would like to see more exact boundary lines for calculation purposes.
- Open space should not include wetlands and steep slopes.
- Even if a road was designated in the 1970s it doesn't mean it should be one today. The safest place for access would be at the end of the road.
- She is concerned about the stormwater basins.

Alisa Sheriff of 3 Frog Hollow Road came forward and shared the following:

- She is concerned about the road; it's too narrow and not in harmony with the neighborhood.
- The proposed driveways are too short and not in harmony.
- There are no sidewalks.
- Will the school bus be able to get down the road or will children have to walk half a mile to the bus stop?
- In regards to the island at the end of the road, where do plows put the snow?
- Children will be drawn to frogs and like species in the basins and could fall in.
- There is a total blind curve where Green Valley Road meets Spring Rock Road.
- She hopes this plan can be revised to include less than 20 homes.

Mr. Goeschel said Public Comment will continue at the next meeting for anyone who did not have the opportunity to speak.

The next Planning Commission meeting is September 4<sup>th</sup>, 2018.

## **V. Approval of Minutes**

### **A. Minutes of July 17th, 2018 Special Meeting Minutes**

There were no corrections.

#### **MOTION (4)**

**Mr. Lynch moved to approve the Special Meeting Minutes of July 17th, 2018 as presented.**

**Mr. Fitzgerald seconded the motion.**

**Vote: 6-0-0, Motion passed.**

## **Adjournment**

**MOTION (5)**

**Mr. Phimister moved to adjourn the Planning Commission Meeting at 10:28 p.m.**

**Mr. Lynch seconded the motion.**

**Vote: 6-0-0, Motion passed.**

Respectfully Submitted,

Brooke Stevens,  
Recording Secretary