

East Lyme Planning Commission Regular Meeting Minutes
January 10th, 2017

Present: Brian Schuch, Chairman
Rita Palazzo, Secretary
Peter Lynch
Brenda Henderson
Joan Bengtson
Kirk Scott
Sami Yousuf, Alternate (*Sat as Regular Member for Item VI, A.)
Michael Hess, Alternate (*Sat for Item X and on.)
Don Phimister, Alternate (*Sat as Regular Member for Item IX, A and on.)

Also Present: Marc Salerno, Ex-Officio
Terry Donovan, Zoning
Attorney Ted Harris
Art Carlson
John Bialowans, Jr.

Mr. Schuch called the East Lyme Planning Commission Public Hearing to order at 7:02 p.m.

I. Pledge

Mr. Schuch led the Pledge.

II. Call for Additions to the Agenda

There were none.

III. Call for Public Delegations

There were none.

IV. Reports

The Commission opted to move Mr. Carlson's presentation to after the Municipal Referral.

A. Zoning Representative

Mr. Schuch noted a Public Hearing for Farm Events was held at the last Zoning Meeting; this is the same referral that will be discussed tonight and consists of a text amendment which would allow Farm Events to occur on 5 acres as opposed to the now 50 acre lots.

B. Ex-Officio: Marc Salerno

Mr. Salerno detailed the last Board of Selectmen Meeting.

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Jan 17 20 17 AT 12:00 AM/PM
Kevin Mulvey ATC
EAST LYME TOWN CLERK

He explained that Holly Cheeseman has resigned in order to pursue her new representative duties in Hartford; Paul Dagle has been appointed to take her place.

Mr. Salerno explained the 40 year old tax abatement for Twin Haven, which was renewed as well as some other housekeeping items that were discussed.

Mr. Salerno said a joint meeting will be held tomorrow night by the Board of Selectmen and Board of Finance to discuss the school project.

C. Planning Director: Gary A. Goeschel

Mr. Goeschel explained that he has been out sick but is now back full time.

D. Sub-Committees

1. Walkability

Mr. Schuch said the sub-committee has not met.

2. Sustainability and Climate Adaptation

Mr. Schuch said the sub-committee has not met.

E. Chairman: Brian Schuch

Mr. Schuch had nothing to report.

V. Approval of Minutes

A. December 6, 2016 Public Hearing Minutes

MOTION (1)

Ms. Palazzo moved approve the Public Hearing Minutes of December 6, 2016.

Ms. Bengtson seconded the Motion.

Vote: 6-0-0. Motion carried.

B. December 6, 2016 Regular Meeting Minutes

MOTION (2)

Ms. Bengtson moved approve the Regular Meeting Minutes of December 6, 2016.

Ms. Palazzo seconded the Motion.

Vote: 6-0-0. Motion carried.

VI. Subdivisions & Resubdivisions

A. Re-Subdivision 24 Darrows Ridge Road, East Lyme; Jason Pazzaglia, Applicant; Pazz and Construction LLC, Owner: Application and Waver Request from Section 23.5 B of the East Lyme Zoning Regulations for a 1-Lot Re-subdivision of 5.29 acres of land within the R-40 Zoning District located at 24 Darrows Ridge Road East Lyme, Connecticut.

Ms. Palazzo recused herself from this item and Mr. Schuch sat Mr. Yousuf in her place.

Mr. Lynch said he wanted to bring up the prior discussions they had regarding the historic value of the land.

Mr. Lynch briefly discussed the information he obtained from the Post Road Review and Olive Tubbs' book; both addressed the mills previously located on this property.

Mr. Goeschel provided the Commission with an updated memorandum regarding his findings (attached.)

Mr. Goeschel clarified that the Applicant is asking for a waiver so they don't have to supplement the existing vegetation.

The Commission discussed the detention basins.

Mr. Goeschel said a deed restriction will be done to make sure the basins are maintained; both lot owners will be responsible.

Mr. Schuch asked if Planning has a record of the rain gardens in Town. Only five rain gardens have been constructed since the adoption of our storm water regulations and asked Mr. Goeschel to complete the map, which can be used for future reference. He added that it is helpful to consult such a map before storm events.

Mr. Lynch asked about the driveway.

The Commission discussed the Application.

Ms. Bengtson said she is concerned about the closeness to the watercourse. She added that a storm event can cause a lot of damage to waterways.

Mr. Goeschel responded that the basin is designed to redirect the water to the basin and water will not be added to the wetland and Darrow Pond.

Mr. Schuch noted that it is fair for Commission Members to have concerns but the Commission is given guidelines to follow, and he believes we are required to accept this.

Mr. Lynch said his only concern is that he hasn't seen anything in writing regarding the maintenance of the detention basins.

MOTION (2)

Mr. Kirk moved to grant the waiver request from Section 23.5 B associated with the Application submitted as Application of Jason Pazzaglia, Applicant; Pazz and Construction LLC, Owner: Application and waiver request from Section 23.5 B of the East Lyme Zoning Regulations for a 1-Lot Re-subdivision of 5.29 acres of land within the R-40 Zoning District located at 24 Darrow's Ridge Road, East Lyme, Connecticut based on the above findings indicated in the Memorandum from Gary A. Goeschell II, Director of Planning, dated November 14th 2016.

Mr. Yousuf seconded the Motion.

Vote: 4-0-2. Motion carried.

Mr. Lynch and Ms. Bengtson abstained from the Vote.

John Bialowans Jr. Of 61 Walnut Hill Road came forward and said he has a point of order of the business tonight. Mr. Goeschel explained that the Public Hearing is closed and his concerns should have been voiced at that time.

Mr. Bialowans said it's sad to see how corrupt the Town has become. He said an act of Congress is needed to accomplish anything.

Mr. Scott clarified that we have an Agenda which we must follow.

Mr. Bialowans said that before he goes he will make a lot of trouble here. He said he is going to go after Mr. Goeschel and Mr. Formica.

MOTION (3)

Mr. Yousuf said that based on the above findings indicated in the Memorandum from Gary A. Goeschel II, Director of Planning, dated November 10th, 2016, I hereby approve the application known as 24 Darrow's Ridge Road, East Lyme; Jason Pazzaglia, Applicant; Pazz and Construction LLC, Owner: Application and waiver request from Section 23.5 B of the East Lyme Zoning Regulations for a 1-Lot Re-subdivision of 5.29 acres of land within the R-40 Zoning District located at 24 Darrow's Ridge Road East Lyme, Connecticut and plans entitled "Darrow's Point, Conservation Design Development, 24 Darrows Ridge Road, East Lyme, CT dated August 23, 2016 revised through October 4, 2016," prepared by J. Robert Pfanner, P.E., L.S. of J. Robert Pfanner & Associates, P.C., 37 Grand Street, Niantic, Connecticut which, is further subject to the following administrative requirements and required modifications to the site plan and/or other materials submitted in support of this application:

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 \$8,000 dollars (\$4,000/lot) shall be posted with the Town in a form acceptable to the Commission and satisfactory to the Town Attorney or Planning Director prior to the start of any site work including but not limited to clearing, grubbing, filling and grading.
3. A conservation easement shall be extended to include the existing natural wooded buffers along both side yard property boundaries.
4. The suitable easements and deeds as applicable, shall be submitted to the Director of Planning for approval.

Mr. Schuch said he would ask to amend the motion to omit item 2 and include a deed restriction to maintain the basins.

MOTION (4)

Mr. Yousuf said that based on the above findings indicated in the Memorandum from Gary A. Goeschel II, Director of Planning, dated November 10th, 2016, I hereby approve the application known as 24 Darrow's Ridge Road, East Lyme; Jason Pazzaglia, Applicant; Pazz and Construction LLC, Owner: Application and waiver request from Section 23.5 B of the East Lyme Zoning Regulations for a 1-Lot Re-subdivision of 5.29 acres of land within the R-40 Zoning District located at 24 Darrow's Ridge Road East Lyme, Connecticut and plans entitled "Darrow's Point, Conservation Design Development, 24 Darrows Ridge Road, East Lyme, CT dated August 23, 2016 revised through October 4, 2016," prepared by J. Robert Pfanner, P.E., L.S. of J. Robert Pfanner & Associates, P.C., 37 Grand Street, Niantic, Connecticut which, is further subject to the following administrative requirements and required modifications to the site plan and/or other materials submitted in support of this application:

- 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.

PlanDirector prior to the start of any site work including but not limited to clearing, grubbing, filling and grading.

- 2) A conservation easement shall be extended to include the existing natural wooded buffers along both side yard property boundaries.
- 3) The suitable easements and deeds as applicable, shall be submitted to the Director of Planning for approval.
- 4) A deed restriction will be included to designate the maintenance of the retention basins.

Ms. Bengtson seconded the Motion.

Vote: 5-0-1. Motion carried.

Mr. Lynch abstained from the Vote.

Mr. Yousuf stepped down and Ms. Palazzo returned to sit at 7:55p.m.

VII. Zoning Referrals

- A. **Application of the Town of East Lyme Zoning Commission:** Text Amendment to delete from the East Lyme Zoning Regulations Section 11.2.7 Convalescent Homes from Section 11 "Light Industrial District."

The Zoning Commission has already approved this item, so this item is moot.

- B. **Application of Robert S. Foster (Old Orchard Farm):** Text Amendment to amend Section 25 of the East Lyme Zoning Regulations to permit 5+ acres to obtain a Special Permit in order to conduct Farm Events and Agritourism Events (activities accessory to farm/agriculture use of the property.)

Mr. Schuch thanked Mr. Goeschel for the custom map he put together. The map represents how the text amendment would change more than just the parcel of Robert S. Foster.

Mr. Schuch said the text amendment would allow small farms to complete with larger ones.

Ms. Palazzo said she would think there would have to be a definition of what is allowed on 5 acre farms as opposed to 50 acre farms.

Mr. Salerno pointed out the regulation in question is in the Member's Packet if they want to take a look at it.

The Commission discussed the Application.

Mr. Schuch said he would like to include the map along with the report that is forwarded to Zoning.

Mr. Goeschel read the definition of "farm" and "farm event" from the Zoning Regulations.

Mr. Goeschel said a public hearing is scheduled for January 19th, 2017.

Mr. Salerno reminded the Commission that no vote is considered an approval.

Mr. Scott said we haven't fully qualified what this is going to mean, or be.

Mr. Scott added that the number of people allowed/limits are confusing and unclear.

Mr. Goeschel asked at what point community character is changed; with so many variables it would be considered inconsistent with objective 1.1 of the POCD.

MOTION (5)

Mr. Scott moved to find Application of Robert S. Foster (Old Orchard Farm): Text Amendment to amend Section 25 of the East Lyme Zoning Regulations to permit 5+ acres to obtain a Special Permit in order to conduct Farm Events and Agritourism Events (activities accessory to farm/agriculture use of the property) as inconsistent with Objective 1.1 of the POCD entitled enhancing community character, as evinced in the attached map, which illustrates 283 parcels.

MOTION (6)

Mr. Scott amended his motion to include Objective 7.1- to provide for the safe, convenient, and efficient movement of people and goods through and within the Town by developing a planned transportation system, which serves local traffic, through traffic, and pedestrian movement while ensuring the preservation of community character.

Mr. Lynch said we would not have enough police to monitor a farm day and that public safety would be an issue.

MOTION (7)

Mr. Scott amended his motion to include the comment "based on the scale shown on the RU-80 map, public safety resources may be stretched thin and compromised."

MOTION READS:

Mr. Scott moved to find Application of Robert S. Foster (Old Orchard Farm): Text Amendment to amend Section 25 of the East Lyme Zoning Regulations to permit 5+ acres to obtain a Special Permit in order to conduct Farm Events and Agritourism Events (activities accessory to farm/agriculture use of the property) as inconsistent with

- 1. Objective 1.1 of the POCD- "to maintain the traditional New England character of the community and enhance the village identities of East Lyme" as evinced in the attached map, which illustrates 283 parcels.**
- 2. Objective 7.1-" to provide for the safe, convenient, and efficient movement of people and goods through and within the Town by developing a planned transportation system, which serves local traffic, through traffic, and pedestrian movement while ensuring the preservation of community character." Based on the scale shown on the RU-80 map, public safety resources may be stretched thin and compromised.**

Ms. Palazzo seconded the motion.

Vote: 6-0-0. Motion passed.

- C. Application of the Town of East Lyme Zoning Commission: Text Amendment to add to the East Lyme Zoning Regulations Section 9, CB Commercial Districts, Section 9.1.0 Single Family**

Dwelling, and to Section 9.3.1 All lots used for residential purposes shall have a minimum of 10,000 square feet of area.

Mr. Goeschel provided the Commission with a map.

Mr. Lynch asked if he bought a duplex, could it be converted to a single family home. Mr. Goeschel said currently, you can't but if this item is approved you could.

MOTION (8)

Mr. Scott moved that the Application of the Town of East Lyme Zoning Commission: Text Amendment to add to the East Lyme Zoning Regulations Section 9, CB Commercial Districts, Section 9.1.0 Single Family Dwelling, and to Section 9.3.1 All lots used for residential purposes shall have a minimum of 10,000 square feet of area.

Ms. Bengtson seconded the motion.

The Commission discussed the Application.

Mr. Scott Withdrew his motion and Ms. Bengtson withdrew her second.

MOTION (9)

Mr. Scott moved that absent any unidentifiable issues, the Application of the Town of East Lyme Zoning Commission: Text Amendment to add to the East Lyme Zoning Regulations Section 9, CB Commercial Districts, Section 9.1.0 Single Family Dwelling, and to Section 9.3.1 All lots used for residential purposes shall have a minimum of 10,000 square feet of area is consistent with the POCD. The potentially affected parcels in the CB Zone are depicted on the map.

Ms. Bengtson seconded the motion.

Vote: 6-0-0. Motion passed.

VIII. Municipal Referrals

- A. Town of East Lyme CGS 8-24 Referral; Town of East Lyme transfer of 0.0.49 acres of land owned by the State of Connecticut to the Town of East Lyme on Walnut Hill Road.**

Mr. Goeschel provided the Commission with a memorandum from Deputy Public Works Director Bill Scheer (attached.)

Mr. Goeschel briefly reviewed the Referral with the Commission.

The State has agreed to transfer the land, part of which is located in the Nehantic State Forest.

The Transfer will allow the Town to repair the road; the road itself will not be widened and the extra room is merely needed for the construction equipment.

MOTION (10)

Mr. Schuch moved that the transfer of 0.0.49 acres of land owned by the State of Connecticut to the Town of East Lyme on Walnut Hill Road, is satisfactory to the Planning Commission.

Ms. Bengtson seconded the motion.

Vote: 6-0-0. Motion passed.

The Planning Commission took a comfort break at 8:55 p.m.

The Meeting resumed at 9:06 p.m. and Attorney Harris' final item was moved up on the Agenda.

IX. New Business

A. Walnut Hill Chase Subdivision Expiration/Extension

Ms. Bengtson recused herself from this item.
Mr. Schuch sat Mr. Phimister in her place.

Mr. Harris explained that Phase 1 of this project was bonded. The Subdivision expires in March and they are requesting a 2 year extension to allow the street to be repaired. If the Subdivision expires in March, the Town would be responsible for the road repair.

Mr. Harris said they are only asking for two years when State Statute allows for 5 years. The cul-de-sac will serve 8 homes and this request is to construct phase 1; there will be no further phases.

Mr. Harris said they hope to be done with this project by early summer, but just in case, are asking for two years. The public improvements remain bonded and one lot home has been sold.

Mr. Goeschel said there is ample money in the bond to cover the improvements.

MOTION (11)

Ms. Palazzo moved to approve the phase 1 extension for Walnut Hill to March 3rd, 2019, as mentioned in the letter from Attorney Harris.

Mr. Lynch seconded the motion.

Vote: 6-0-0. Motion passed.

Ms. Bengtson left the meeting and Mr. Phimister sat for the remainder of the meeting.

Mr. Lynch left the meeting and Mr. Hess was sat for the remainder of the meeting.

X. Communications- continued

A. Presentation from Art Carlson, Chairman of Conservation of Natural Resources

Mr. Carlson came forward to impart what the Conservation of Natural Resources has been working on.

- The Open Space Plan has been updated.
- Concerned with the long term ways we can enhance the protection of our drinking water.
- "Open Space" is land that the Public has control over and can walk over; this definition was utilized to remap the open space in Town.
- 17% of the Town is Open Space.
- Town does not have history of preserving land- large amount of the 17% is Rocky Neck, Stone's Ranch and Camp Niantic.
- There is a direct connection between Open Space and the quality of drinking water.

Mr. Carlson presented a map which plots out the major watersheds and aquifers in Town.

- An aquifer is an underground deposit of sand and gravel that acts like a sponge- very useful

- If contaminated, contaminated for years.
- Forests, woodlands and fields deliver the cleanest water.

Mr. Carlson detailed how the CNR came to rank the attributes of Open Space, by importance:

1. Clean drinking water
2. Access to streams, lakes and the Sound
3. Agricultural lands-ideal to grow rather than import
4. Active/Passive activity- places to walk and play ball
5. Forests block/greenway
6. Aesthetics and beauty
7. Cultural and historic preservation
8. Biodiversity

Mr. Carlson explained how runoff and the increase of impervious surfaces can impact water so it's no longer clean. He said that the existing so-called aquifer protection zones in Town do not protect all of the water in the watershed; only various parts of the aquifer are protected.

Mr. Carlson added that our water sampling shows a high level of sodium. The presence of sodium is alarming because it illustrates that everything we put on our roads (i.e. we put salt on our roads during winter months), ends up in our water.

Mr. Carlson discussed the creation of artificial wetlands to help this problem.

He said that in terms of Open Space:

- Every time a piece of open space disappears the quality of the water becomes worse
- Economically it is the smartest thing to do as well as the healthiest
- Increase property value.

The Commission thanked Mr. Carlson for his presentation.

B. Zoning Representative Schedule

The Commission reviewed the Zoning Representative Schedule for 2017.

MOTION (12)

Mr. Hess moved to adjourn the Planning Commission meeting at 9:53 p.m.

Mr. Phimister seconded the motion.

Vote: 6-0-0. Motion passed.

Respectfully Submitted,

Brooke Stevens
Recording Secretary

Town of



East Lyme

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

P.O. Drawer 519

Department of Planning &
Inland Wetlands

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

MEMORANDUM

To: East Lyme Planning Commission

From: Gary A. Goeschel II, Director of Planning

Date: January 10, 2017

RE: Re-Subdivision 24 Darrow's Ridge Road, East Lyme; Jason Pazzaglia, Applicant; Pazz and Construction LLC, Owner: Application and Waiver Request from Section 23.5 B of the East Lyme Zoning Regulations for a 1-Lot Re-subdivision of 5.29 acres of land within the R-40 Zoning District located at 24 Darrow's Ridge Road East Lyme, Connecticut (Date of Receipt: Sept. 6, 2016. Public Hearing Opened: October 4, 2016).

The Commission received the above referenced Subdivision Application on September 6, 2016 and commenced a Public Hearing on October 4, 2016, continued the public hearing to November 15, 2016, and again to December 6, 2016. The Public Hearing for said application was closed at the Commission's December 6, 2016 meeting. The Commission received testimony from the applicant and the public. Town staff also provided the Commission with comment concerning this applications compliance with local requirements and regulations.

At the November 15, 2016 Public Hearing Mr. Robert Pfanner Jr. presented the application on behalf of the applicant indicating the application proposes resubdividing an existing building lot to create one (1) additional building lot in an existing subdivision off an existing shared driveway. The proposed resubdivision utilizes the Conservation Development by Design zoning regulations as the proposed new lot will not have any frontage on an existing street. However, it will have legal access via an easement across the existing shared driveway. Mr. Pfanner also indicated that the plan proposes two (2) retention basins to control stormwater runoff and a deed restriction will used to ensure the basins will be maintained. In addition, Mr. Pfanner indicated both the existing building lot and the proposed new lot will have independent subsurface sewage disposal systems. Mr. Pfanner also noted the East Lyme Inland Wetlands Agency issued a wetlands permit in October 2016, to conduct the proposed regulated activities. Mr. Pfanner pointed out the grade of proposed driveways to each house would be paved due as zoning requires driveways over 10% to be paved. He indicated the existing slope is too steep to try and terrace it, which would require an additional 40 feet of fill and would likely result in greater erosion. He explained taking advantage of the natural terracing on the site with the location of the proposed houses minimizes disturbance and potential erosion.

At the December 6, 2016 Public Hearing, Mr. Pfanner and Mr. Harris presented Exhibit V (Connecticut Testing Laboratories Results and Exhibit W (Site Plan sheets SD3 & SD6 revised through 12/1/16, in addition to the previous Site Plan), for the record. Exhibit V indicates that two soil samples from the site

were tested and that none of the parameters that were tested for were detected in the samples. They also provided Exhibits V, V1 and Z for the record; aerial shots of the site from 1934, 1951 and 1970. Attorney Harris also explained a driveway permit was not required because the proposed lot uses an existing private driveway, that this application has received a wetlands permit and Ledge Light septic approval. He further stated the archaeological study is not necessary because there was nothing of archeological significance found ten years ago and it is not believed that anything new will be found now.

In addition, Chairman Schuch noted that I had provided a draft motion (attached) if the Commission chooses to use it. As the public hearing was continued to and closed December 6, 2016, the Commission was granted a total of 63 days of extension time. The Commission has 65 days from the close of the public hearing to render a decision. As such, a decision must be rendered by February 9, 2017.

As the Public Hearing is closed, please note that no further testimony or new information may be received by the Commission for consideration in its deliberations to render a decision.

Town of



East Lyme

P.O. Drawer 519

Department of Planning &
Inland Wetlands

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

108 Pennsylvania Ave
Niantic, Connecticut 06357

Phone: (860) 691-4114

Fax: (860) 860-691-0351

MEMORANDUM

To: East Lyme Planning Commission

From: Gary A. Goeschel II, Director of Planning

Date: November 14, 2016

RE: Re-Subdivision 24 Darrow's Ridge Road, East Lyme; Jason Pazzaglia, Applicant; Pazz and Construction LLC, Owner: Application and Waiver Request from Section 23.5 B of the East Lyme Zoning Regulations for a 1-Lot Re-subdivision of 5.29 acres of land within the R-40 Zoning District located at 24 Darrow's Ridge Road East Lyme, Connecticut (Date of Receipt: Sept. 6, 2016. Public Hearing Opened: October 4, 2016).

Upon review of the above referenced application, supporting documentation, and proposed subdivision plans entitled "Darrow's Point, Conservation Design Development, 24 Darrow's Ridge Road, East Lyme, CT dated August 23, 2016 revised through October 4, 2016," prepared by J. Robert Pfanner, P.E., L.S. of J. Robert Pfanner & Associates, P.C., 37 Grand Street, Niantic, Connecticut, below are my findings:

WAIVER REQUEST

In regard to evaluating the Waiver Request from Section: 23.5 B of the Zoning Regulations against the Waiver criteria in Section 4-12 of the Subdivision Regulations, I found the following:

FINDINGS

Whereas: Pursuant to Section 23.5 B (1) of the Zoning Regulations states, "Where variations in topography, natural features, or compatible land uses obviate the need for such a buffer, the Planning Commission may waive or reduce these requirements if it can be shown that such a modification will further the purposes of the Conservation by Design Development."

Whereas: Pursuant to Section 4-12 of the East Lyme Subdivision Regulations, only as specifically authorized within the Regulations may the Commission waive certain requirements by a three-quarters vote of all members, when it is demonstrated that strict compliance will cause an exceptional difficulty or undue hardship. Also, the applicant must submit a waiver request in writing at the time of application and the Commission must require a public hearing.

Whereas: At the time of application, the applicant provided a waiver request in writing from Section 23.5 B of the Zoning Regulations.

Whereas: The Commission commenced a Public Hearing on October 4, 2016 and continued the hearing to November 15, 2016. The Public Hearing for said application was closed at the Commission's _____ meeting. The Commission has reviewed the application and received testimony from the applicant and the public. Town staff also provided the Commission with comment concerning this application's compliance with local requirements and regulations.

Further, the Commission shall not grant a waiver unless it finds the following conditions are met:

- (1) The waiver has been requested in writing by the applicant in the application submission;
 - As previously stated, at the time of application the applicant provided a waiver request in writing.
- (2) The property for which the waiver is sought is affected by conditions which affect the property and are not generally applicable to other land in the area;
 - The subject property is an existing subdivision lot created as part of a previously approved 30-lot open space/cluster subdivision located in a Rural Residential (R-40) zone. The existing lot is currently vacant and approved for the construction of single family dwelling. The existing lot as well as the proposed lot will have a well and septic. As depicted on the Natural and Cultural Resources Plan in Exhibit "J", the parcel contains an area of wooded wetlands along the north east property boundary that runs south to the rear of the lot ultimately terminating at a watercourse known as Darrow Pond which swath is approximately 100-160-feet wide. Along the southwest property boundary is an existing wooded swath of vegetation approximately 200-240-feet wide. Further, the lot is encumbered by an existing 100-ft wide conservation easement which runs along the rear property boundary adjacent to Darrow Pond.
 - As demonstrated by Exhibit "C", Written Waiver Request, these naturally occurring conditions that exist to the northeast and southwest sides of the property obviate the need for a wooded or otherwise landscaped buffer along the perimeter of the Conservation Design Development to screen development on the proposed lots from existing contiguous lots.
- (3) Physical features of the property or its location causes exceptional difficulty or unusual hardship in meeting the requirements of these Regulations;
- (4) The parcel contains an area of wooded wetlands along the north east property boundary that runs south to the rear of the lot ultimately terminating at a watercourse known as Darrow Pond which swath is approximately 100-160-feet wide. Along the southwest property boundary is an existing wooded swath of vegetation approximately 200-240-feet wide. Further, the lot is encumbered by an existing 100-ft wide conservation easement which runs along the rear property boundary adjacent to Darrow Pond. It does not appear that the watercourse to the rear and wetlands to the north east of the property create an exceptional difficulty or unusual hardship. However, as the subject parcel has already been part a previous open space/cluster subdivision and as evidenced by Exhibits "J" and "C", the existing natural features on the property obviate the need for a wooded or otherwise landscaped buffer along the perimeter to screen development on the proposed lots from existing contiguous lots.
- (5) The granting of a waiver will not have a significantly adverse effect upon adjacent property, the environment, or the public health and safety;
 - The granting of this waiver would not have a significantly adverse effect upon adjacent property, the environment, or the public health and safety as evidenced by Exhibit "J" which proposes to leave the existing wooded vegetation along both side property boundaries and the area encumbered by the existing Conservation Easement is also a 100-ft wood swath along Darrow Pond. In addition, the East Lyme Inland Wetlands Agency issued Permit#16-23, which permits the construction of two, single family dwellings, the installation of subsurface sewage disposal systems (aka septic systems) associated with the proposed resubdivision, and more specifically regulates the construction of a residential driveway within the upland review area.

- As evidenced by Exhibit "I", Memo from LLHD both lots are recommended suitable for a subsurface sewage disposal system.
- (6) The granting of the waiver will not be in conflict with the Plan of Conservation and Development;
- The proposed plan proposes the construction on the portions of the parcel best suited for development, minimizes grading and excavation, it protects environmentally sensitive areas such as wetlands by implementing best management practice such as erosion and sedimentation controls. Further, it will not increase the density any more than is allowed under the existing Zone of RU-40 as each lot will meet the 40,000 square foot minimum as required by the Zoning Regulations. Therefore, the proposed plan would be consistent with POCD Chapter 3, Section 3.1.1 Single-Family Housing. In addition, the proposed modification furthers the purposes of the Conservation by Design Development by minimizing disturbance and utilizing the existing natural features of the site. As such, the granting of the waiver will not be in conflict with the Plan of Conservation and Development.
- (7) Where it is proposed to vary any engineering standard contained in these Regulations, a report from the Town Engineer has been requested and considered by the Commission;
- The requested waiver does not propose to vary any engineering standards.
- (8) The requested waiver is the minimum deviation from the requirements of these Regulations necessary to permit subdivision of subject land.
- The applicant is requesting to waive the Buffer Requirements of Section 23.5 B of the Zoning Regulations. In my opinion, as this is the only waiver being sought and as evidence by Exhibits "J", "C", "I", "P" and the above findings, it is the minimum deviation from the requirements of the Subdivision Regulations necessary to permit the subdivision of the subject land.

In granting a waiver, the Commission must state upon its record, the reasons for granting any waiver. Also, the granting or denial of a Waiver is a separate action of the Commission which, in my opinion, requires a separate motion and must occur prior to the approval or denial of a subdivision application. As such, I offer the following language for such a motion:

MOTION FOR THE WAIVER REQUEST:

I hereby move to GRANT the Waiver request from Section 23.5 B associated with the Application submitted as Application of Jason Pazzaglia, Applicant; Pazz and Construction LLC, Owner: Application and Waiver Request from Section 23.5 B of the East Lyme Zoning Regulations for a 1-Lot Re-subdivision of 5.29 acres of land within the R-40 Zoning District located at 24 Darrow's Ridge Road, East Lyme, Connecticut based on the above Findings indicated in the Memorandum from Gary A. Goeschel II, Director of Planning, dated November 14, 2016 and the following additional reasons: (if any, list them here)

- (1)
- (2) , etc....

RESUBDIVISION APPLICATION

In regards to my review of the above referenced application, supporting documentation, and proposed subdivision plans entitled "Darrow's Point, Conservation Design Development, 24 Darrow's Ridge Road, East Lyme, CT dated August 23, 2016 revised through October 4, 2016," prepared by J. Robert Pfanner, P.E.,L.S. of J. Robert Pfanner & Associates, P.C., 37 Grand Street, Niantic, Connecticut, below are my findings:

FINDINGS

The East Lyme Planning Commission based on the record before it with respect to this application, finds this application to be in conformance with the Subdivision Regulations of the Town of East Lyme as based on the following:

Whereas: The Commission received a Subdivision Application on September 6, 2016 and commenced a Public Hearing on October 4, 2016 and continued the hearing to November 15, 2016. The Public Hearing for said application was closed at the Commission's _____ meeting. The Commission has reviewed the application and received testimony from the applicant and the public. Town staff also provided the Commission with comment concerning this applications compliance with local requirements and regulations.

Whereas: The parcel of land constituting the property subject to this application is zoned Rural Residential (RU-40). The properties abutting the site to the south are zoned RU-40 and the properties to the west, north, and east are zoned RU-40.

Whereas: The proposed Subdivision is found to meet the requirements of the East Lyme Subdivision Regulations as demonstrated by the following:

Section 3-4 Plan of Development: As the proposed Subdivision is located within a RU-40 zoning district adjacent to existing lots previously approved as part of an open space/cluster subdivision, the proposed subdivision conforms to the comprehensive Plan of Development for the Town of East Lyme (POCD) as adopted by the East Lyme Planning Commission. The proposed subdivision continues following the pattern of development characteristic of the existing residential development.

Section 5-4 Sanitation Report: As indicated in Exhibit "I" correspondence from Ryan McCammon, Sanitarian to J. Robert Pfanner, PE and Robert Pfanner dated September 27, 2016, both lots are suitable in their current condition to support a septic system.

Section 5-5 Water Supply Report: As indicated in Exhibit "I" correspondence from Ryan McCammon, Sanitarian to J. Robert Pfanner, PE and Robert Pfanner dated September 27, 2016, both lots are suitable in their current condition to support a well.

Section 5-2-2(E) and 6-8 Stormwater Management Plan: As indicated in Exhibit "K", Memo from Victor Benni, P.E., Town Engineer, dated October 4, 2016, indicates the proposed design meets the intent of the stormwater regulations and all of the exemption requirements as stated in Section 6-8-7. The Engineering Department does recommend an Erosion & Sedimentation bond in the amount of \$8000.00 dollars (\$4,000.00/lot) be posted to secure the site. As evidenced in Exhibit "P", letter from G. Goeschel II, Director of Planning to Jason Pazzaglia, dated October 24, 2016, Re: Inland Wetland Application-24 Darrows Ridge Road and Inland Wetlands Permit#16-23 Approved: October 24, 2016 and Expires: October 24, 2021, requires as a condition of approval an erosion and sedimentation control bond in the amount of \$8,000.00 dollars (\$4,000.00/lot) be posted with the Town of East Lyme.

Section 5-2-2(G) Erosion and Sedimentation Control Plan: The proposed Stormwater Management, Grading and Erosion & Sedimentation Plan as indicated by Exhibit "J", Re-Subdivision Plan entitled "Darrows Point, Conservation Design Development, 24 Darrows Ridge Road, East Lyme, CT dated August 23, 2016 revised through October 4, 2016", contains proper provisions to adequately control accelerated erosion and sedimentation and reduce the danger from storm water runoff on the proposed site as evidenced by Exhibit "K" previously noted above. As such, the Planning Commission

may hereby certify that the Soil Erosion and Sediment Control Plan complies with the requirements and objectives of this Subdivision Regulation.

Section 5-6 Pesticide Report: There are no known regular applications of pesticides on the subject site. In addition, based on the supporting documentation within the application as evidenced by Exhibit "B" the subject site was not known to be classified as farm land in accordance with Section 12-107c of the Connecticut General Statutes.

Section 5-7 CAM Coastal Site Plan Review Required: The subject site is not within the Coastal Management Review Area

Section 5-8 Archeological Survey: As Evidence by Exhibit "E" Archeological Report from Frank J. Dirrigl, Jr., PhD, supporting documentation from State Archeologist Nicholas Bellantoni, and as shown in Exhibit "J" sheet SD 4, indicates there is no need to for an archeological survey of the site as the archeological sensitive areas are off site.

Section 6-2 Lot Design Specifications: The proposed subdivision complies with all applicable Zoning Regulations for the purposes of the subdivision of land as evidenced by Exhibit "O" correspondence from William Mulholland, Zoning Official received November 9, 2016.

Section 6-7 Open Spaces: As demonstrated by Exhibit "J" sheet SD1, Note #11, between the open space provided in Phase 1-5 (56.84AC) and the additional open space being proposed (0.51AC) there is 20.5AC or 16.7% extra open space being provided. As such, the maximum number of additional lots allowed based on the extra open space provided is 2.5. Therefore, the proposed subdivision meets the requirements of Section 6-1-3 (B) Potential Density Increase and Section 7 Open Space and Easements as there only 1-lot proposed and there has been 20AC of open space over the minimum of 36.83 provided.

Section 6-9 Requirements Regarding Flooding: As demonstrated by Exhibit "K", Memo from Victor Benni, P.E., Town Engineer, dated October 4, 2016, the proposed design meets the intent of the stormwater regulations.

Pursuant to Section 4-5-4 of the Subdivision Regulations the Commission, after the public hearing, if any, shall give approval to the application if it finds that the application, plans and documents conform to the requirement of these Regulations. Such approval shall be conditioned upon presentation of suitable easement and deeds as applicable, as specified in Section 10, and shall be conditioned upon completion of all required subdivision improvements. In granting approval, the Commission may attach such conditions that it deems necessary to modify the subdivision map, plans, or documents, and to preserve the purpose and intent of these Regulations. As such, I offer the following language for such a motion:

MOTION FOR THE RESUBDIVISION APPROVAL:

Based on the above Findings indicated in the Memorandum from Gary A. Goeschel II, Director of Planning, dated November 10, 2016, I hereby Move to APPROVE the application known as 24 Darrow's Ridge Road, East Lyme; Jason Pazzaglia, Applicant; Pazz and Construction LLC, Owner: Application and Waiver Request from Section 23.5 B of the East Lyme Zoning Regulations for a 1-Lot Re-subdivision of 5.29 acres of land within the R-40 Zoning District located at 24 Darrow's Ridge Road East Lyme, Connecticut and plans entitled "Darrow's Point, Conservation Design Development, 24 Darrows Ridge Road, East Lyme, CT dated August 23, 2016 revised through October 4, 2016," prepared by J. Robert Pfanner, P.E.,L.S. of J. Robert Pfanner & Associates, P.C., 37 Grand Street, Niantic, Connecticut which, is further subject to the following

administrative requirements and required modifications to the site plan and/or other materials submitted in support of this application:

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 \$8,000.00 dollars (\$4000.00/lot) shall be posted with the Town in a form acceptable to the Commission and satisfactory to the Town Attorney or Planning Director prior to the start of any site work including but not limited to clearing, grubbing, filling and grading.
3. A conservation easement shall be extend to include the existing natural wooded buffers along both side yard property boundaries.
4. The suitable easements and deeds as applicable, shall be submitted to the Director of Planning for approval.

The above items shall be accomplished prior to the filling 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.

This approval is specific to the subdivision plan submitted as the application known as 24 Darrow's Ridge Road, East Lyme; Jason Pazzaglia, Applicant; Pazz and Construction LLC, Owner: Application and Waiver Request from Section 23.5 B of the East Lyme Zoning Regulations for a 1-Lot Re-subdivision of 5.29 acres of land within the R-40 Zoning District located at 24 Darrow's Ridge Road East Lyme, Connecticut and plans entitled "Darrows Point, Conservation Design Development, 24 Darrows Ridge Road, East Lyme, CT dated August 23, 2016 revised through October 4, 2016," prepared by J. Robert Pfanner, P.E.,L.S. of J. Robert Pfanner & Associates, P.C., 37 Grand Street, Niantic, Connecticut. Any changes in the resubdivision plan shall require prior approval from the Commission and/or the Director of Planning. Any change in the development plan layout other than those identified herein shall constitute a new application.

The owner/applicant shall be bound by the provisions of this Application and Approval.