

# EAST LYME PLANNING COMMISSION

Special Meeting, October 27, 2020. 7:00 PM

Remote Participation by ZOOM due to COVID 19

CHAIRMAN: Kirk Scott

PLANNING DIRECTOR: Gary Goeschel II

SECRETARY: Michelle Williams

RECORDING SECRETARY: Sue Spang

## I. CALL TO ORDER 7:00

## II. ROLL CALL

**Present:** Kirk Scott, Michelle Williams, Nichole Davison, Richard Gordon, Thomas Fitting, Mary Salvatore, Elizabeth Allen, Alt.

FILED

**Absent:** Brian Bohmbach, Alt., Vacancy, Alt.

**Also Present:** G. Goeschel, J. Lindo, B. Mulholland

Oct 28 2020 AT 6:10 AM/PM

*[Signature]*  
EAST LYME TOWN CLERK

## III. PUBLIC HEARINGS:

**A. Continuation of Application of Kristen T. Clarke, P.E., for English Harbour Asset Management LLC, Owner; Application for a 4-lot re-subdivision of approximately 3.8 acres of land zoned RU-40, located at 22 and 2 Upper Kensington Dr., East Lyme, Assessor's Map 40.0, Lot 22 and 23.**

The following exhibits have been entered into the record as of October 27, 2020:

Item #	Description	Date
A	Application 4-Lot Re-Subdivision	3/2/20
B	Conservation Design Development Nottingham Hills Subdivision 4-Lot Re-subdivision of Lots 19 & 21	3/3/20
C	Conservation Design Development Nottingham Hills Subdivision 4-Lot Re-subdivision of Lots 19 & 21 revised to June 25 2020	6/25/20
D	Easements and Covenants	7/6/20
E	Memorandum of Applicant in response to Engineering Comments	7/7/20
F	Wetlands Determination No Permit Necessary	7/22/20
G	Legal Ads for the Public Hearing of July 27 2020	7/22/20
H	Conservation Design Development Nottingham Hills Subdivision 3-Lot Re-subdivision of Lots 19 & 21 revision of July 27 2020	7/27/20
I	Memorandum of Applicant with Exhibits of July 24 2020	7/26/20
J	Letter of Christine Stahl - Neighbor	7/24/20
K	Memorandum of Applicant with Exhibits of July 25 2020	7/27/20
L	Request of Attorney Geraghty for Conditional Approval	8/3/20
M	Memorandum of Applicant with Exhibits of August 4 2020	8/4/20
N	Request for Continuance to September Regular Meeting of Attorney Geraghty August 10 2020	8/10/20

O	Letter from English Harbour Asset Mangement LLC to Director of Planning of August 10 2020	8/10/20
P	Request for Continunace to September 9 2020 from Attorney Geraghty of August 10 2020	8/10/20
Q	Town Engineer Staff Review Comments of August 12 2020	8/12/20
R	Email from Danielle Holmes, LLHD regarding Recent Field Work	8/19/20
S	Request to Continue to September 8 2020 of Attorney Geraghty	8/21/20
T	Email from G Goeschel to Applicant with Zoning Comments	8/25/20
U	Letter from Attorney Geraghty of August 26 2020	8/26/20
V	Letter from Attorney Geraghty of August 28 2020	8/28/20
V	Exhibits for Letter of Attorney Geraghty of August 28 2020	8/28/20
W	Email from B Bohmbach of September 1 2020	10/6/20
X	Letter to Chairman Scott of October 5 2020	10/6/20
Y	Email from Attorney Geraghty of October 6 2020 and Revised Plans of September 23, 2020	10/6/20
Z	Final Revised Plans of October 19 2020 Nottingham Hills Subdivision Lot Line Revision of Existing Lots 19 & 21 and Conservation Design Development 1 Lot Re-subdivision of Portions of Lot 19 & 21	10/22/20
AA	Letter dated October 21, 2020 from Applicant to Ledge Light Health District with electronic copy of revised plans dated October 19, 2020	10/23/20
BB	Memo of V. Benni, Town Engineer for review of Final Revised Plan of October 19 2020	10/23/20
CC	Staff Review of W. Mulholland, Zoning Official for review of Final Revised Plan of October 19, 2020	10/23/20
DD	Applicants Substantive Changes Response	10/26/20
EE	Applicants response to Commissioner Bombach	10/26/20
FF	Memo from Applicant re Open Space	10/26/20
GG	Applicants response to staff comments V Benni/B Mulholland	10/26/20
HH	Applicants response to Email of Christine Stahl, et al	10/26/20
II	Applicants response to Timeliness of Submission	10/26/20
JJ	Applicants response to Engineering Comments of October 25 2020	10/27/20
KK	Applicants plan of August 31 2020	10/27/20
LL	Applicants Rights to cross examine participants of Planning Commission	10/27/20
MM	Nottingham Hills Subdivision Lot Line Revisions of Existing Lots 19 & 21 & Conservation Design Development 1 Lot Re-Subdivision of Portions of Lots 19 & 21 dated 10/19/2020	10/27/20
NN	Conventional Plan Nottingham Hills Subdivision 4 Lot Resubdivision of Lots 19 & 21 dated 1/29/2020	10/27/20
OO	Nottingham Hills Subdivision Lot Line Revisions of Existing Lots 19 & 21 & Conservation Design Development 1 Lot Re-Subdivison of Portions of Lots 19 & 21 dated 10/19/2020	10/27/20

G. Goeschel said a number of documents have come in to the office in the last couple of days. He read a list of exhibits submitted since the commission last discussed the application. Exhibits, Y through PP are new.

G. Goeschel read a letter (Exhibit PP) from Barbara Johnston, 35 Sea Crest Ave. stating the proposed development is on property owned by East Lyme Land Trust and she is opposed to the application.

Attorney Paul Geraghty informed the commission the septic plans have been submitted to Ledge Light Health District for review but they have not received a response yet.

Attorney Paul Geraghty, representing the applicant reviewed past background and some of the new exhibits:

He reminded the members there is actually one lot requesting approval and the two remaining lots, involve lot line adjustments.

In response to B. Johnston's letter he states she is mistaken and is confusing another lot which will be donated to the East Lyme Land Trust by the end of the year and is not part of the proposal being discussed in this public hearing tonight.

Ledge Light has not commented or approved the septic system plan for the three systems.

G. Goeschel discussed the time line for public hearings. Due to the Governors directive the commission has an additional 90 days to make a decision on the application. The application was submitted on March 3, 2020, the public hearing was opened on July 27, 2020, September 30th would have been the 65 day limit to make a decision but with the 90 day extension the commission can now go to December 4, 2020.

G. Goeschel informed the members of rules allowing the commission to receive information once the public hearing is closed. He suggested that if the commission wanted to close the public hearing, as they are only waiting on the health department report they could close and still receive the report as it could be considered staff reports, much like when the town had a sanitarian before the health district.

P. Geraghty stated he had no objection to continuing the public hearing as the plans have been submitted and a report should be received soon. K. Scott stated he would like to have the report before closing the hearing.

P. Geraghty summarized some of the recently submitted exhibits:

P. Geraghty letter, of August 28, 2020 referring to the history of the application, issues that COVID raised and lack of responsiveness.

P. Geraghty summarized his letter dated October 26, 2020 clarifying the open space question and a "conventional plan analysis" versus a, "conservation by design"

Exhibit Z gave the history of the application, staff comments and a full set of plans stamped and sealed.

October 5, 2020 (Exhibit X) reply to comments from member Bohmbach and Wetlands chairman Upton, he says the aerial photos show the property has been cleared in the past. He said the plan submitted (Exhibit MM) is conceptual and as an applicant they have to show the house(s) and accompanying septic and well can fit legally on the proposed lots. P. Geraghty responded to a previous comment from a commission member; he stated the proposed houses are similar in size to the surrounding houses at approximately 2600 sq. ft. and they are consistent with the rest of the neighborhood. He said the proposed development would not adversely affect housing values.

Exhibit OO demonstrated where the proposed houses are in relationship to the abutters, showing they are consistent with the rest of the neighborhood.

October 22, 2020, Ms. Clarke submitted letter to Mr. Benni outlining the substantive changes to the plan and why they did not need to supply a storm water management plan based on the sub-division regulations. In the new plan under the conservation design plan they merged three driveways into one, therefore reducing the impervious surface, they are also not disturbing more than a half acre, negating the need for a storm water management plan. He said there will be no rain garden near the Thomas property, it has been removed from the plan.

October 22, 2020 letter from P. Geraghty outlined timeline and that concerns were responded to in a prompt manner.

October 25, 2020 letter, P. Geraghty responded to previous public comment and showed the Covenant and Restrictions and the Deeds for the sub-division, clearly states the developer reserves the right to develop property in the sub-division.

October 26, 2020 (Exhibit NN) letter from P. Geraghty to G. Goeschel- analysis of conservation by design development vs a conventional plan, he states there is enough land for the access to be a town road. The plan shows what a conventional plan as compared to a conservation by design development would look like which is required by the sub-division regulations.

October 26, 2020 to Chairman, includes an aerial plan, showing that the lot had been previously cleared.

#### **Public Comment-none**

**MOTION: (Williams/Salvatore) to continue the public hearing to the next regularly scheduled meeting of November 10, 2020, utilizing the extra 90 days as allowed by the Governors executive order due to COVID.**

**Vote: APPROVED unanimously.**

P. Geraghty will also submit a letter allowing a continuation.

#### **IV. SUBDIVISIONS / RE-SUBDIVISIONS (Pending)**

- A. Application of Kristen T. Clarke, P.E., for English Harbour Asset Management LLC, Owner; Application for a 4-lot re-subdivision of approximately 3.8 acres of land zoned RU-40, located at 22 and 2 Upper Kensington Dr., East Lyme, Assessor's Map 40.0, Lot 22 and 23.**

The public hearing was continued; no discussion.

#### **V. ZONING REFERRALS: [Connecticut General Statute (CGS) 8-3a]**

- A. Petition of Pazz & Construction LLC, to rezone 20.24 acres from RU-80/RU-40, its existing zoning designation, to Affordable Housing District (AHD) and for approval of a Preliminary Site Plan which proposes and eighty (80) unit multi-family affordable residential housing development designated as "Brookside Apartments" for property identified on the westerly side of North Bride Brook Road in East Lyme, East Lyme Assessor's Map 09.0, Lot 37-2, pursuant to Connecticut General Statutes §8-30g.**

G. Goeschel reminded the commission that the application came in under the affordable housing statute, §8-30g but the Zoning Commission usually does a zone change when this type of application comes in. He stressed that the applicant is not asking for a zone change.

G. Goeschel read his memo to the commission dated October 27, 2020. He pointed out the application is neither consistent or inconsistent with the POCD.

It is not consistent in that the application is not located in an incentive zone, is not near one of the village centers and is not near public transportation or bus routes.

It is consistent in that it adds to the affordable housing supply and is in close proximity to main transportation arteries in the town.

The plan will have access to town water and sewer and has a storm water retention plan to accommodate a 2-100-year flood event.

The proposed plan consists of 80 units, 24 of which will be “affordable” for 40 years under the state statute. The highest affordable rent would be \$1451.00 per month, which is based on East Lyme’s median income.

There was considerable discussion by the members about the concept of affordable housing, they acknowledge the plan meets the letter of the law but not the spirit of what the commission has discussed and a recommendation in the pending POCD to form a committee to look at this issue. They noted the rent was still out of reach for many people who are looking for affordable housing and would like to live in East Lyme. G. Goeschel thought the application was more inconsistent than consistent.

The property is located across from the State of Connecticut correctional institution and next to land owned by the State of Connecticut, which on the GIS is zoned as an Affordable Housing District and is vacant. G. Goeschel said it is primarily open space and he does not know if there are any deed restrictions.

The commission noted that in order to get more affordable housing they are put into the position of also having to approve high density housing with a higher market rate due to the affordable housing statute. They discussed asking the Zoning Commission to ask the applicant to consider more affordable units.

The consistency and/or inconsistency of the plan as it relates to the POCD was fully discussed.

**MOTION: (Gordon/Williams) Move to find the proposed referral inconsistent with the 2009 POCD for the following reasons: in that the site lacks public transportation and is not proximal to the village centers. The Commission finds portions of the proposal consistent such that it has easy access to North Bride Brook Road, RT 156, and the I-95 Rocky Neck Connector and adds to the affordable housing stock.**

**Vote: APPROVED unanimously**

## **VI. ADJOURNMENT:**

**MOTION: (Gordon/Fitting) to adjourn at 9:25 Vote: APPROVED Unanimously.**

Respectfully Submitted,  
Sue Spang,  
Recording Secretary

**2020 Meeting dates: November 10\*, December 1.**  
**\*Second Tuesday of the month**