

# Town of

P.O. Drawer 519

Department of Planning &  
Inland Wetlands

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



# East Lyme

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## MEMORANDUM

To: East Lyme Planning Commission

From: Gary A. Goeschel II, Director of Planning

Date: December 8, 2020

RE: **Application of Carol York, Applicant/Owner;** Application for a 1-lot subdivision of approximately 1.4 acres± of land zoned R-12 and request for Waivers from Sections 7-2-1, 6-12-2, 6-8, 5-2-2Cii, and 5-6, on property located at 92 Old Black Point Rd, East Lyme, Tax Assessor's Map# 08.3, Lot# 132.

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Upon review of the above referenced application, supporting documentation, and proposed 3 sheet subdivision plan set entitled "Subdivision, Prepared for Carol York, Location: 92 Old Black Point Road, Niantic, Connecticut, dated September 25, 2020, revised through November 25, 2020, Scale 1" = 20-ft" prepared by J. Robert Pfanner, P.E., L.S. of J. Robert Pfanner & Associates, P.C., Engineers and Land Surveyors, 37 Grand Street Niantic, Connecticut" I offer the following findings:

### FINDINGS

**Whereas:** The Commission commenced a Public Hearing on November 11, 2020. The Public Hearing for said application was continued to and closed at the Commission's December 1, 2020 regularly scheduled meeting.

**Whereas:** The Commission has reviewed the application and received testimony from the applicant, his professionals, representatives, and the public. In addition, Town staff also provided the Commission with comment concerning this application's compliance with local requirements and regulations.

**Whereas:** The parcel of land constituting the property subject to this application is zoned R-12 Residential and the properties abutting the site to the north and south are zoned R-12 Residential. The abutting properties to the east are split by the R-12 and 4-U-40 zoning districts, and to the west opposite Old Black Point Road the properties are zoned TD-Tidal Marsh.

**Whereas:** The proposed Subdivision is found to meet the requirements of the East Lyme Subdivision Regulations and the East Lyme Plan of Conservation and Development (POCD) as demonstrated by the following:

**Section 3-4 Plan of Development:** As the proposed Subdivision is located completely within an R-12 zoning district adjacent to existing residential lots zoned R-12. The proposed subdivision continues following the pattern of development characteristic of the existing residential development. As such, 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.

Section 5-4 Sanitation Report: As indicated in Exhibit "Q" correspondence from Brad Kargl, Utilities Engineer, dated December 1, 2020, indicates the proposed lots are able to be served by municipal sewer.

Section 5-5 Water Supply Report: As indicated in Exhibit "Q" correspondence from Brad Kargl, Utilities Engineer, dated December 1, 2020, indicates the proposed lots are able to be served by municipal water.

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 November 9, 2020, indicates that the Drainage Summary meets the overall intent of Section 6-8 of the East Lyme Subdivision Regulations and the proposed site development will not adversely affect the water quality of downstream water features or exacerbate any downstream flooding.

Section 5-2-2(G) Erosion and Sedimentation Control Plan: As indicated by Exhibit "K" Memo from Victor Benni, P.E., Town Engineer, dated November 9, 2020, the proposed Plan was updated to contain generalized Erosion and Sedimentation Control Notes. As such, the appropriate notes, details, and provisions regarding erosion control measures adequate to control accelerated erosion and sedimentation and reduce the danger from storm water runoff on the proposed site have been incorporated into the proposed plan. Therefore, 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: As evidenced by the applicant's testimony during public hearing, there have been no known regular applications of pesticides on the subject site currently or historically. In addition, the site is currently occupied by a single-family dwelling.

Section 5-8 Archeological Survey: As Evidence by Exhibit "C", letter from Dr. Sarah P. Sportman, Ph.D., State Archeologist to Ms. Carol York dated October 13, 2020, indicate that due to shallow soils and relatively low archeological sensitivity of the site, the proposed subdivision and development is unlikely to impact buried archeological resources and the Office of the State Archeologist determined that it is not necessary to conduct an additional archeological survey prior to development.

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 "E" correspondence from William Mulholland, Zoning Official, dated October 29, 2020.

Section 6-7 Open Spaces: As demonstrated by Exhibit "A" the Applicant initially requested a waiver from Section 7-2-1 of the Subdivision Regulations as the subdivision is less than 4-lots and involves less than 10-acres of land which any proposed open space would be isolated and small in size thus, limiting the "usable" open space area. Subsequently, as demonstrated by Exhibit "J", the revised Subdivision Plan entitled "Subdivision, Prepared for Carol York, Location: 92 Old Black Point Road, Niantic, Connecticut, dated September 25, 2020, revised through November 25, 2020, Scale 1" = 20-ft" prepared by J. Robert Pfanner, P.E., L.S. of J. Robert Pfanner & Associates, P.C., Engineers and Land Surveyors, 37 Grand Street Niantic, Connecticut" which proposes a 31-foot wide conservation easement of approximately 6,202-square feet (0.14-Acres) that extends north to south along the rear property line to be dedicated as open space.

Section 6-9 Requirements Regarding Flooding: As indicated in Exhibit "K", Memo from Victor Benni, P.E., Town Engineer, dated November 9, 2020, indicates that the Drainage Summary meets the overall intent of Section 6-8 of the East Lyme Subdivision Regulations and the proposed site development will not adversely affect the water quality of downstream water features or exacerbate any downstream flooding.

**WHEREAS:** As demonstrated by Exhibit "A", the Application includes a written request for Waivers from Sections 7-2-1 - Open Space, 6-12-12 - Sidewalks, 6-8-7 - Exemptions (stormwater), 5-2-2Cii - Preliminary Resource Plan, and Section 5-6 - Pesticide Report pursuant to Section 4-12 of the East Lyme Subdivision Regulations

**WHEREAS:** Pursuant to Section 4-12 of the East Lyme Subdivision Regulations prior to the granting of any waiver, the Commission must find the following conditions exist:

**(1) The waiver must be requested in writing:**

The applicant submitted the request in writing with their application submission, see Exhibit "A";

**(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;**

As demonstrated by Exhibit "J" the existing parcel benefits from an existing 50-ft wide access and utility easement along the southerly property line which allow for the utilities and the proposed drive to be located within versus the 25-foot right-of-way provide over proposed parcel A.

**(3) Physical features of the property or its location cause exceptional difficulty or unusual hardship in meeting the requirements of these Regulations;**

As demonstrated by Exhibit "A", the Application and written waiver and Exhibit "J", the proposed Subdivision Plan, the location of the existing parcel is such that there are no existing sidewalks within a mile or more of the subject site, the site contains little to no land that has not already been developed and/or cleared by the existing dwelling, nor has there ever been any evidence of pesticide use on the site.

**(4) The granting of a waiver will not have a significantly adverse effect upon adjacent property, the environment, or the public health and safety;**

As demonstrated by Exhibit "N" Coastal Area management (CAM) Application, there are no adverse impacts to any coastal resources. As demonstrated by Exhibit "K", Memorandum from Victor Benni, PE, Town Engineer dated, indicates that the Drainage Summary meets the overall intent of Section 6-8 of the East Lyme Subdivision Regulations and the proposed site development will not adversely affect the water quality of downstream water features or exacerbate any downstream flooding. In addition, as demonstrated by Exhibit "J", the proposed subdivision proposes to create only one (1) additional building lot versus three (3) or more as allowed by the underlying zoning district. Thus, reducing the density which helps to maintain existing views of Long Island Sound, also reduces potential environmental impact from a more intense development. As such, the granting of the requested waivers would not have a significantly adverse effect upon adjacent property, the environment, or the public health and safety.

**(5) The granting of the waiver will not be in conflict with the Plan of Conservation and Development;**

As this is a one (1) lot Subdivision which, minimizes land disturbance, and mitigates any potential adverse effect upon adjacent property, the environment, or the public health and safety, the proposed subdivision as demonstrated by the record before the Commission, is consistent with the East Lyme 2020 Plan of Conservation and Development as it will reduce land disturbance, and mitigates any adverse impacts from stormwater runoff.

**WHEREAS:** 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 of the Regulations, 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 resolution:

**RESOLUTION FOR APPROVAL OF THE PROPOSED SUBDIVISION:**

**WAIVER REQUEST**

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 above Findings indicated in the Memorandum from Gary A. Goeschel II, Director of Planning, dated November 8, 2020.

Therefore, I Move to GRANT the applicant's request for a Waiver from Sections 7-2-1, 6-12, 6-8-7, 5-2-2Cii, and Section 5-6 of the East Lyme Subdivision Regulations.

**SUBDIVISION APPLICATION**

NOW THEREFORE, I hereby Move to APPROVE the application known as the Application of Carol York, Applicant/Owner; Application for a 1-lot subdivision of approximately 1.4 acres± of land zoned R-12 and request for Waivers from Sections 7-2-1, 6-12-2, 6-8, 5-2-2Cii, and 5-6, on property located at 92 Old Black Point Rd, East Lyme, Tax Assessor's Map# 08.3, Lot# 132 and plans entitled "Subdivision, Prepared for Carol York, Location: 92 Old Black Point Road, Niantic, Connecticut, dated September 25, 2020, revised through November 25, 2020, Scale 1" = 20-ft" prepared by J. Robert Pfanner, P.E., L.S. of J. Robert Pfanner & Associates, P.C., Engineers and Land Surveyors, 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. An Erosion & Sedimentation Control bond in an amount of \$3000.00 dollars shall be posted with the Town in a form acceptable to the Town of East Lyme Planning Commission prior to the start of any site work including but not limited to clearing, grubbing, filling and grading.
2. Contact the Planning Director to inspect the installation of erosion and sedimentation controls within 2-days prior to the start of any construction.
3. An Application for Right-of-Way Permit shall be filled with the East Lyme Engineering Department prior to the start of any site work.
4. The applicable items above 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 the as the Application of Carol York, Applicant/Owner; Application for a 1-lot subdivision of approximately 1.4 acres± of land zoned R-12 and request for Waivers from Sections 7-2-1, 6-12-2, 6-8, 5-2-2Cii, and 5-6, on property located at 92 Old Black Point Rd, East Lyme, Tax Assessor's Map# 08.3, Lot# 132 and plans entitled "Subdivision, Prepared for Carol York, Location: 92 Old Black Point Road, Niantic, Connecticut, dated September 25, 2020, revised through November 25, 2020, Scale 1" = 20-ft" prepared by J. Robert Pfanner, P.E., L.S. of J. Robert Pfanner & Associates, P.C., Engineers and Land Surveyors, 37 Grand Street Niantic, Connecticut." Any changes in the subdivision 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.