

# EASTLYME PLANNING COMMISSION

Regular Meeting, December 1, 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

## CALL TO ORDER 7:01

### I. ROLL CALL

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

**Absent:** Elizabeth Allen, Alt. Vacancy, Alt.

**Also Present:** G. Goeschel, J. Lindo, M. Salerno

FILED

### II. CALL FOR ADDITIONS TO THE AGENDA-~~none~~

### III. CALL FOR PUBLIC DELEGATIONS: None

### IV. REPORTS

Dec 7 2020 AT 8:30 AM/PM  
*Karen Miller*  
EAST LYME TOWN CLERK

#### A. Communications-None

#### B. Zoning Representative-no report

#### C. Ex-Officio:

M. Salerno informed the members, the Public Safety Building construction is in full swing.

The budget season has started

The town is receiving water from New London which may have more chlorine in the water. This is due to the manganese issue in the town's water.

#### D. Planning Director: Gary Goeschel-no report

#### E. Subcommittees-no report

#### F. Chairman: Kirk Scott:

K. Scott would like members of the commission to look over the bylaws

### V. APPROVAL OF MINUTES

#### A. November 10, 2020 Regular Meeting Minutes

**MOTION:** (Williams/Gordon) to approve the minutes of November 10, 2020, as presented.

**Vote:** APPROVED unanimously

### VI. 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.**

K. Scott started the public hearing at 7:11

G. Goeschel read a list of exhibits submitted since the commission last discussed the application.

XX	Ledge Light Health District Review	11/30/20
YY	Letter from Applicant to LLHD in response to LLHD review	12/1/20
ZZ	Revised plans of Dec 1 2020 in response to LLHD review	12/1/20

Attorney Paul Geraghty informed the commission that he received comments from Ledge Light Health District (LLHD) on November 30, 2020, the day before the meeting. LLHD approved one of the septic systems but wanted changes on the other two lots. P. Geraghty submitted the changes to the town and LLHD today (December 1, 2020) and understands there was not enough time for LLHD or the town to review the changes.

**MOTION: (Salvatore/Davison) to continue the public hearing to the next special meeting, December 10, 2020. Vote: APPROVED unanimously. (7:23)**

- B. Application of Carol York, 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, Assessor’s Map 08.3, Lot 132.

**The public hearing started at 7:24**

The list of exhibits, L thru R, were read into the record by G. Goeschel.

L	Email of Bruce Dupuis	11/25/20
M	Email of Michael Fullam	11/30/20
N	Signed CAM Application	11/30/20
O	Waiver Request Update and Narrative	11/30/20
P	Updated Site Plans	11/30/20
Q	Confirmation of Water & Sewer Availability	12/1/20
R	Email from Sabatini	12/1/20

David Markowitz, attorney for the applicant stated on the record he has watched the public hearing recordings and reviewed the record. He informed the commission that there were originally four waiver requests, there are now three. The applicant has eliminated the waiver for open space and will instead have a conservation area on the rear of the lot. The conservation easement is on the east side and will act as a buffer.

D. Markowitz said the Coastal Area Management (CAM) review form has been submitted.

The sewer and water dept. has confirmed water and sewer will be available to the proposed lot.

D. Markowitz addressed the concerns from neighbors about their view being blocked. He referred to a treatise (4.4A) by Robert Fuller, “the Dean of Land use law.” “In Connecticut property owners have no right to unobstructed views from a structure built on an adjacent property, the only exception to this is where there is an express statutory provision or there is a contract or a restrictive covenants protecting private rights of a view...” D. Markowitz stated he knows of no state statute guarantying a view.

Bob Pfanner, 37 Grand Street, for the applicant reviewed the waivers. He said they came up with the conservation easement in place of the waiver request for open space. The other three waivers are still being requested and he expanded on the language in the waivers as well as the requirements the applicant needs to meet.

The stormwater management waiver is not a full blown request but a lower level request that allows for a rain garden which was approved by the town’s engineer.

They are asking for a waiver for sidewalks as there are no sidewalks in the area and it is a rear lot.

The third waiver is the preliminary resource impact plan which they have received a report from the state archeologist and the natural resource data base for endangered species which states there were no endangered species.

He said there was no evidence of pesticides in the area.

A CAM report was completed and submitted.

B. Pfanner informed the members that any house that would go on the lot would be in a position for maximum solar gain.

As to the view of the neighboring properties he has looked at the deeds and there are no deeded rights to a view.

**Public Comment (7:50)**

Janet Knox, 86 Old Black Point Rd., wanted to know where the house will be situated on the lot and how will it affect their view?

B. Pfanner stated that the application is for a subdivision and they do not have to show where the house will be on the lot and the plan has not progressed that far.

Janet Knox, 86 Old Black Point Rd., said her view will be obstructed.

D. Markowitz reiterated that by law the public has no right to a view.

Henry Kates, 86 Old Black Point Rd. cite section 7.2L of the subdivision regulations which references views.

Paul Grady said he has a contract to buy the property at 92 Old Black Point Rd. from Carol York and he is happy to have Carol as a neighbor.

Holly Magna, 88 Old Black Point Rd., said Carol is a good neighbor but she also cited 7.2L which makes provisions for a view.

Barbara Johnston, 35 Sea Crest Ave., asked how many houses will be on the lot.

B. Pfanner replied that one would be on the lot.

M. Williams (member) clarified that the section being cited, 7.2, applies only to parcels 10 acres or more or a subdivision of four or more lots. G. Goeschel said, the regulation states that the commission may apply the provisions to subdivisions less than four lots with considerations to open space.

D. Markowitz said the application complies with the regulations and the proposed lot is consistent with neighboring lots and is actually larger than surrounding lots.

G. Goeschel informed the members that the town engineer approved the stormwater management plan and he is requiring the applicant install a paved apron on the end of the gravel driveway.

**MOTION: (Gordon/Salvatore) to close the public hearing. Vote: APPROVED unanimously. (8:15)**

**VII. 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.

**B. Application of Carol York, 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, Assessor's Map 08.3, Lot 132.

The commission asked G. Goeschel to draft a resolution for the application for presentation at the December 10, 2020 special meeting.

**VII. ZONING REFERRALS: [Connecticut General Statute (CGS) 8-3a]-none**

**VIII. MUNICIPAL REFERRALS [Connecticut General Statute (CGS) 8-24]**

G. Goeschel informed the commission there is a referral from the Town of Old Lyme's POCD for review and possible comment.

**IX. OLD BUSINESS-none**

**XI. NEW BUSINESS**

**A. FY 2021/2022 Budget**

G. Goeschel presented the proposed budget and the reason for the increase in the administrative assistant line due to running the ZOOM meetings. He stated the amount will be shared between Zoning Commission, Planning Commission and the Wetlands Commission.

**MOTION: (Williams/Gordon) to approve the 2021/2022 budget as presented. Vote: APPROVED unanimously.**

**B. Election of Officers**

M. Salerno asked for nominations (3 times) for chairman of the Planning Commission.

M. Williams nominated K. Scott for chairman, M. Salvatore seconded. Vote APPROVED unanimously.

K. Scott asked for nominations (3 times) for secretary of the Planning Commission. K. Scott nominated M. Williams, seconded by R. Gordon. Vote APPROVED unanimously.

**C. Request of Leonard L. Montesi, 104 East Pattagansett Rd for a release of the \$1200.00 bond for the installation and maintenance of erosion and sedimentation controls and site restoration associated with the construction of public improvements for the subdivision of 104E Pattagansett Rd. This bond was initially posted in 2006.**

G. Goeschel gave background of the property and informed the members that although they received approval for the property nothing has been built at this point. He said the owner wants to sell the property and he advised the commission that they take no action as the bond would still be needed by the new owner to develop the property.

**ADJOURNMENT:**

**MOTION: (Gordon/Fitting) to adjourn at 8:40. Vote: APPROVED Unanimously.**

Respectfully Submitted,  
Sue Spang,  
Recording Secretary

**2020 Meeting dates: December 10.**

**2021 Meeting dates: January 12, February 9, March 9, April 13, May 11, June 8, July 13, August 10, September 14, October 12, November 9, December 14.**