

# EAST LYME ZONING COMMISSION

Regular Meeting, June 1, 2023. 7:30 PM

East Lyme Town Hall, main room

**Members Present:** Chairman Anne Thurlow, Debbie Jett-Harris, Norm Peck, Terry Granatek, John Manning, Dave Schmitt, Alt., Jay Ginsberg, Alt, Denise Markovitz, Alt

**Members Absent:** none

**Also Present:** William Mulholland, Zoning Official, Rose Ann Hardy, BOS liaison, Sue Spang, Recording Secretary

**Call to Order:** Chairman Thurlow called the meeting to order at 7:30

J. Ginsberg were seated.

**I. PLEDGE OF ALLEGIANCE**-recited

**II. EXECUTIVE SESSION**-discussion of pending litigation

**MOTION: (Thurlow/Jett-Harris) to enter into Executive Session for the purpose of discussing pending litigation according to Section 6 of the state's general statutes 1-200.**

**Present: Chairman Anne Thurlow, Debbie Jett-Harris, Norm Peck, Terry Granatek, John Manning, Dave Schmitt, Alt., Jay Ginsberg, Alt, Denise Markovitz, Alt., William Mulholland, Zoning Official, Rose Ann Hardy, BOS liaison and Town Attorney Bleadsdale. 7: 36.**

The Commission came out of Executive Session at 8:26 and no motions were taken.

**MOTION: (Jett-Harris/Granatek) to move filling of the election for the full vacancy up on the agenda to be discussed now. APPROVED unanimously.**

Nominations were called for.

N. Peck nominates D. Markovitz-no second.

Jett-Harris/ Manning to nominate D. Schmitt,

D. Schmitt is appointed unanimously.

RECEIVED FOR RECORD  
EAST LYME, CT  
2023 JUN -5 A 8:06  
Caulfield  
TOWN CLERK

**III. PUBLIC DELEGATION**-none

**II. PUBLIC HEARINGS:**

**1. Continuation of application of Kristen Clarke, P.E., for conceptual Site plan Review, for an affordable housing multi-family residential development pursuant to CGS § 8-30g at property located on Holmes Rd, East Lyme, CT, Assessor's Map 55.0 Lot 30 (8:31)  
Attorney Carey for the Town is present.**

Memo from G. Goeschel, East Lyme Planner and WEO, May 16, 2023, was read into the record

Memo from B. Sheer, East Lyme Deputy Director of Public Works, April 24, 2023, was read into the record.

Memo from Liz Burdick, Montville Planning Director, May 10, 2023, was read into the record.

P. Geraghty, attorney for the applicant, took issue with the timing of the memos from staff and he is not getting them in a timely manner so he can address the comments.

P. Geraghty submitted an email with memo from B. Sheer as an exhibit.

P. Geraghty said they are not required to submit a zone change and he cited an appellate court case involving the Town of East Lyme and its zoning regulations requiring a zone change in conjunction with an affordable housing application. The appellate court said you cannot do that. He stated this in a

letter to B. Mulholland dated April 3, 2023.

P. Geraghty said G. Goeschel and B. Sheer are ignoring the conceptual site plan requirements. He said if the Commission gives a favorable approval, then they will proceed to future plans and refine and take the steps necessary that Goeschel and Sheer want.

P. Geraghty has submitted a number of items for the record, and he is not sure what is in the official record as nothing is posted on the website.

P. Geraghty submitted documents related to road width and other items.

He said the reliance on the POCD is not grounds to deny an affordable housing application.

P. Geraghty submitted and read letter (May 31, 2023), from K. Clarke, applicant, addressing two safety issues brought up during the recent Public Hearing. The first is the road width, he said the conceptual site plans according to 8-30g, do not require an in-depth traffic study. The letter discussed various road widths for low volume rural roads according to studies.

Second, is concern over lack of a water supply in case of a fire. P. Geraghty said if needed they have an easement agreement with the East Lyme Land Trust (ELLT) for access to a fire pond and adequate fire protection will be provided and discussed with the Fire Marshal. The easement allows a fire irrigation pond to connect to a dry hydrant on the development property. The easement area is 5.7 acres.

P. Geraghty said the easement was submitted as part of the record.

P. Geraghty received an email from DEEP addressing concerns from residents alleging that the ELLT is using dedicated open space for development. He introduced Jeff Torrence, 197 Upper Pattagansett Rd. to address the email.

Attorney Casey asked what the relevance is, as the ELLT open space property is not the parcel being discussed.

P. Geraghty wanted to clarify any public comment related to the DEEP email or the open space.

Attorney Casey said he has investigated with the Secretary of State's office, as to the status of Duval Properties and found no record of Duval Properties being registered, nor is there a record of Duval Properties in South Carolina.

J. Torrance, said it was in North Carolina. The Commission pointed out their documentation says South Carolina. He pointed to a document deed from Duval to the ELLT that gives a principal place of business of Fort Mills South Carolina.

J. Torrance is a volunteer for the ELLT and coordinated the closing of the property with DEEP for the grant. He submitted a warranty deed dated May 29, 2022, for the 301 acres of open space subject to easements and particular uses.

Duval Properties, which is the subject of the application is going to require rights on an adjoining parcel for a fire pond, (Torrance stated they are already in place). Torrance said it was in place before the conservation easement. He said the easement does not need DEEP approval.

P. Geraghty provided the size of the homes and bedrooms. He said the affordability plan will be administered by Evergreen Attainable Homes, Shelly Harney and he provide qualifications. He asked to continue the Public Hearing to make sure the record is complete.

P. Geraghty stated the applicant is originally from East Lyme but lives in New Hampshire and has participated in other developments under English Harbore Management.

## **PUBLIC COMMENT**

There were no comments in favor of the project.

Nancy Kalal, 80 Grassy Hill Rd., said the 2020 and 2009 POCD took a lot of thoughtful work by many people including the Zoning Commission. Nobody thought multifamily housing should be built on Holmes Rd. If the Commission makes a decision contrary to the POCD they need to justify their position. She cited Section 2.4, of the POCD, protecting water quality and she referenced the solar farm that washed sediments into Latimer Brook miles from the farm which destroyed fish habitats. She cited

2.5.7 concerning open space and conserving farmland, and forested tracts of land north of I-95.

The Natural Resource Commission approved and adopted the open space plan which states the importance of keeping the quality of water as a priority and to preserve and maintain large tracks of land. She said multi-family developments need to be located where there is public water and sewer.

Lindsay Rush, 15 Grassy Hill Rd., does not support high density housing on Holmes Rd. She cited portions of the plan which states the current low density, rural character north of I-95 and the need for it to be maintained as it contributes to the physical, aesthetic and cultural character of East Lyme.

She referred to the endangered species map and said just because there are no areas called out as habitat on the proposed project, it is unreasonable to think species will not travel out of their spots on the map.

L. Rush submitter her comments.

Paul Mastriani, 23 Holmes Rd., says he lives across from the proposed development and wanted to know if the developers will guarantee they will not damage his well or home foundation when they start blasting for wells and septic systems as the area is ledge. He also said there are two storm drains that drain onto other people's land. P. Mastriani said at this point there are approximately 30 houses on Holmes Rd., this proposal will more than double the number of homes and they will all be situated on 12 acres of land.

Mark Butterfield, 6 Walnut Hill Rd., has a farm which has been in his family for years. He said the proposal is not about affordability but profit. The affordable housing statute is a guideline. If the Commission approves this application then they have to approve any application that comes before them for the area which is home to many larger tracts of land than the current proposal. If the zoning is changed then property values will go up and you may see large landowners proposing developments like the one before the Commission.

**MOTION: (Jett-Harris/Ginsberg) to continue the public hearing. Vote: DENIED. In favor-Peck, Ginsberg, Jett-Harris. Opposed-Thurlow, Granatek, Manning. Abstaining-none.**

The Commission took a break: 9:55-10:00

P. Geraghty confirmed the public record is complete.

**MOTION: (Granatek/Jett-Harris) to close the Public Hearing. Vote: APPROVED unanimously.**

**2. Application for the Town of East Lyme, for a Special Permit, for a scale house, scale, and a restroom at the East Lyme Transfer Station, property located at 91 Roxbury Rd., Niantic Assessor's Map 15.0 Lot 2. (10:03)**

B. Sheer, East Lyme Deputy Director of Public Works presented plans for a new scale, scale house and bathrooms. The current scale house is subject to yearly lightning strikes which knock out the electronics. He said the project location is far away from any abutters. The project is proposed in the only place that can accommodate a septic system according to Ledge Light. The scale house will have 360 view of the area and the bathrooms will be ADA accessible. He also asked for a waiver request for sidewalks as there are none on Roxbury Road.

**MOTION: (Ginsberg/Jett-Harris) to close the Public Hearing. Vote: APPROVED unanimously. (10:10)**

**IV. REGULAR MEETING**

**1. Approval of Minutes of May 18, 2023**

**MOTION: (Jett-Harris/ Peck) to approve the May 18, 2023, minutes as amended.**

Also Present: William Mulholland, Zoning Official, ~~Anne Cicchiello~~, Rose Ann Hardy, BOS liaison,

**Vote: APPROVED. In favor-Thurlow, Peck, Jett-Harris, Ginsberg. Opposed-none. Abstaining-Manning, Granatek.**

**2. Continuation of application of Kristen Clarke, P.E., for conceptual Site plan Review, for an affordable housing multi-family residential development pursuant to CGS § 8-30g at property**

located on Holmes Rd, East Lyme, CT, Assessor's Map 55.0 Lot 30 (8:31)

The application will be discussed at the next meeting.

3. **Application for the Town of East Lyme, for a Special Permit, for a scale house, scale, and a restroom at the East Lyme Transfer Station, property located at 91 Roxbury Rd., Niantic Assessor's Map 15.0 Lot 2.**

**MOTION: (Jett-Harris/Granatek) to approve Application for the Town of East Lyme, for a Special Permit, for a scale house, scale, and a restroom at the East Lyme Transfer Station, and the sidewalk waiver request for property located at 91 Roxbury Rd., Niantic Assessor's Map 15.0 Lot 2. Vote: APPROVED unanimously.**

#### **OLD BUSINESS-none**

#### **NEW BUSINESS**

1. **Election of Commission Vacancy-discussed earlier**
2. **Application of Ricky Au, for The Spice Club, for a Special Permit for outdoor Dining at 239 Main Street, Niantic. A Public Hearing will be scheduled.**
3. **Application of Todd Donovan, for The Clubhouse, for a special Permit for indoor Recreation at 36 Industrial Park Rd., Niantic. A Public Hearing will be scheduled.**
4. **Any Business on the floor, if any, by the majority vote of the Commission- none**
5. **Zoning Official-no report**
  
6. **Comments from Ex-Officio-none**
7. **Comments from Zoning Commission liaison to Planning Commission-none.**
8. **Comments from the Chairman:**  
The subcommittee met to discuss the text amendment.

#### **VII. ADJOURNMENT**

**MOTION: (Jett-Harris/Ginsberg) to adjourn at 10:16. Vote: APPROVED unanimously**

Respectfully Submitted  
Sue Spang,  
Recording Secretary

Lindsay

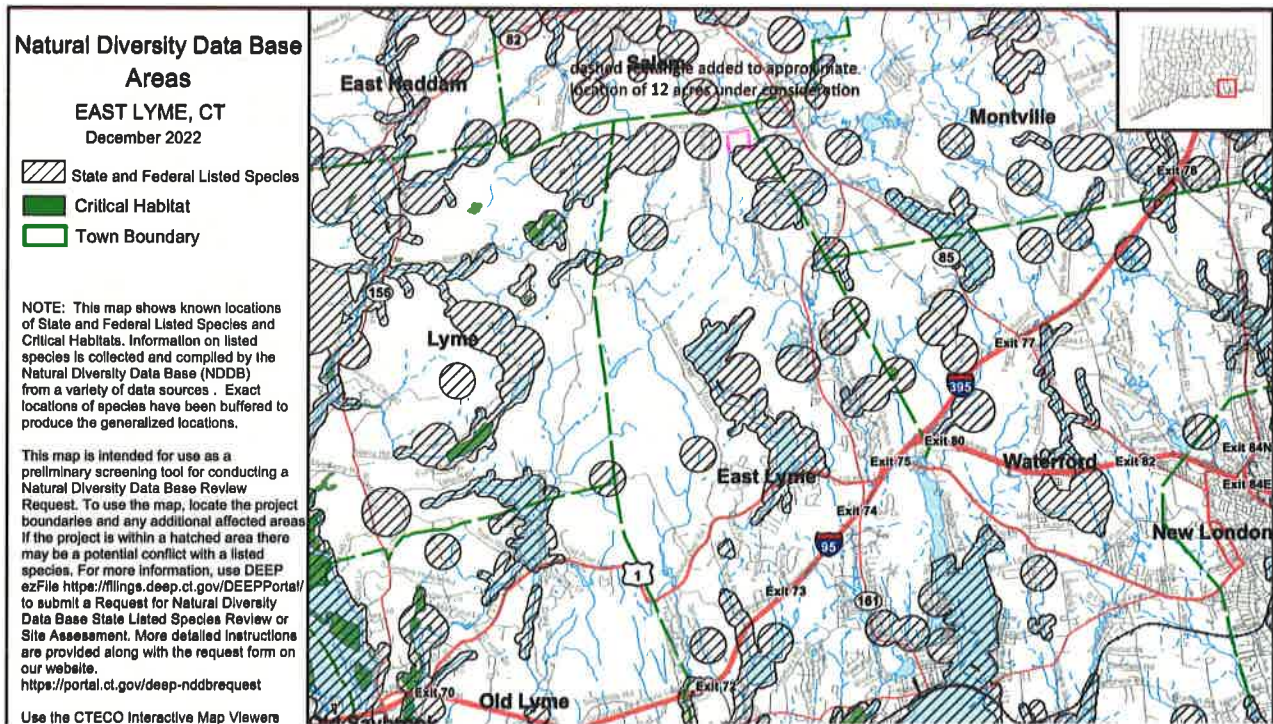
Comments for Public Hearing: Holmes Road zoning application on Assessor's Map 55 Lot 30. June 1, 2023

- Lindsay Rush - 15 Grassy Hill Road in East Lyme, encouraged to see awareness of affordable housing
- East Lyme's Affordable Housing Plan from December 2022:
  - Page 8: "As a rural-suburban community with substantial protected open space, low-density residential development, and limited public water and public sewer, it is reasonable to anticipate that East Lyme will continue to maintain its current overall land use pattern and predominant low-density rural-residential character north of I-95 .... It is important to maintain this development pattern, as it contributes so much to the *physical, aesthetic, and cultural character* of East Lyme."
  - "Zoning for the lower density areas of East Lyme was intentionally designed to reduce density, ensure that new housing blends with the landscape, and protect natural resources...It is reasonable to protect and maintain these areas, development patterns, and character provided East Lyme works to accommodate affordable housing through higher density, multi-family, and mixed-use development in certain and suitable locations within the community. "
  - Page 17: Incentives to "Create an Affordable Housing Overlay Zone for areas served by public water and sewer." Holmes Road has no public water or sewer. Page 18: guiding principles "**Protect and Preserve – do no harm.**" "**Focus on redevelopment.** East Lyme will encourage and utilize multi-family and affordable housing as means to reposition older commercial areas to compete for investment. This includes areas with the public infrastructures available to support greater density."
  - average 0.36 students per housing unit, with 43 proposed units anticipate 15+ school age children. Elementary school is 7 miles away, library 8 miles. Without other playgrounds within a walk or bike ride for kids, it's reasonable they might play in the woods.
- Immediately adjacent 301 acres land trust conserved should allow hunting per the easement. 10+ property owners immediately adjacent can hunt deer on own land since they own over 10 acres
  - Growing up in a rural environment and getting to play in the woods as a kid can be a blessing, but putting high density housing immediately adjacent to hunting should perhaps give us pause.
- Rural food deserts - grocery stores over 5 miles away. (Tri-Town is 6.7 miles, Stop and Shop is 7.5 miles)
  - United Way stat: 1 in 5 households in East Lyme ALICE – potentially food insecure
  - Shoreline Soup Kitchen at Saint John's Episcopal Church, 10 miles (17 minute drive) away
  - None of these are reachable by sidewalks or public transportation
- hope Land Trust would encourage potential development to meet the highest environmental standards
  - Zoning Commission meeting minutes (May 18<sup>th</sup>), stated no endangered species on property
  - CT's Natural Diversity Data Base (NDDDB) maps show approximate locations of endangered, threatened, and special concern species and Important natural communities. "Locations outside of the mapped areas are not necessarily free of listed species; these locations may not have been surveyed and there may be potential impacts from disturbance in these locations....Comprehensive biological surveys and site habitat characterization are highly recommended for all projects for listed plants and animals if conducting significant ground disturbance, converting natural lands to development, or otherwise disturbing or fragmenting over 10 acres. Biological surveys should consider all potential state-listed species that may occur and not necessarily be limited to those documented in the Site Assessment."
    - As of Tues, no site assessment or other NDDDB inquiries with DEEP for these 12 acres

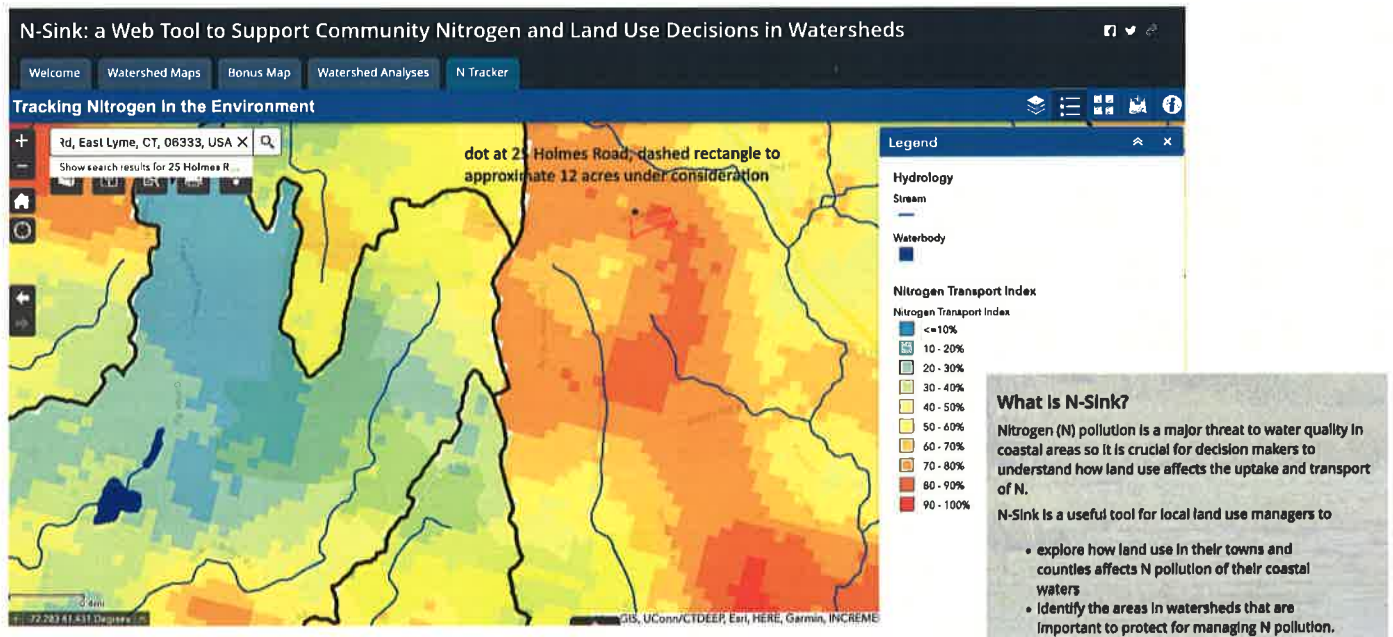
- neighbors' concerns about increased traffic – often backed far up on 85
- currently ~ 26 homes between corner of Upper Walnut east to end of Holmes Road. If that increases by another 43 to 69 units total, more than double, increase of 165%
  - increased road time with large vehicles like school buses and garbage trucks
  - Holmes Road is quite narrow, some in East Lyme to widen but also in Montville
- on Latimer Brook watershed, even without direct wetlands.
  - without sewer, 165% increased density with individual septic systems also run increased risk of eventually failing and contributing excess nitrogen to precious watershed
  - surface level concerns like fertilizer application too
  - UConn: N-sink web tool to support land use decisions in watersheds
    - Nitrogen Transport Index, “estimates the percentage of Nitrogen originating at a given location with a watershed that is expected to reach downstream receiving waters, such as a coastal embayment. Hotter colors denote more N reaching receiving waters while cooler colors denote lower Nitrogen transport from a given point on the map.”
  - Parcel is orange, indicating more Nitrogen transported downstream. What makes adjacent 301 land trust acres so great to have conserved also makes it risky for high density development.
  - The Niantic River Watershed Projection Plan from 2020 has good suggestions to reduce impacts, not heard those yet discussed in this particular proposal beyond some rain gardens
- 8-30g easier for towns to be sued, town rightly concerned about spending taxpayer dollars on lawyers' fees. Hope there is consideration for increased costs from development to high density, including those mentioned already like road widening and lack of public infrastructure.
- concerned at language in an article from The Day on May 28<sup>th</sup> 2023 which described proposed 43 units as “a conceptual site plan a ‘template’ that could evolve based on who’s ultimately interested in developing the property. That means the number of units, how many are designated affordable, and whether they’re rented or sold could also change.”
  - I worry that any support indicated by Zoning Commission could be leveraged in the future to push through a very different looking project.
- Encouraged by May 13<sup>th</sup> 2023 news article in the Day describing affordable housing progress in Old Lyme. Their Open Space Commission set aside 6 acres as part of a large 312 open space deal, partnering with Habitat for Humanity of Eastern CT to build 2 single family affordable homes, each on a 3-acre lot
  - With 12 acres set aside by our own Land Trust’s deal, maybe reasonable to pursue a similar partnership for small number of units consistent with current zoning/rural character of Holmes

I hope to see the town thoughtfully increase affordable housing by increasing density in areas supported by sidewalks, sewers, town water, traffic management, and social services. As East Lyme notes in its Affordable Housing Plan, this is a great opportunity to consider redevelopment of older commercial areas while preserving the purposefully low-density rural area above I-95 important for our town’s character. When adding in factors like safety, food deserts, and environmental concerns, it seems these proposed 12 acres on Holmes Road are not well suited for high residential density, affordable or otherwise.

Thank you for taking the time to hear public comments.



<https://portal.ct.gov/DEEP/NDDB/Natural-Diversity-Data-Base-and-Environmental-Reviews>



<https://uconnclear.maps.arcgis.com/apps/MapSeries/index.html?appid=e96b01502f5b4aeda64aacf0cb5234c7&folderid=de199a7cf674845a83b43a3011b1d31#>