

# EAST LYME PLANNING COMMISSION

Special Meeting, September 19, 2023. 7:00 PM

CHAIRMAN: Michelle Williams  
VICE CHAIRMAN: Kirk Scott  
SECRETARY: Rich Gordon

PLANNING DIRECTOR: Gary Goeschel II  
RECORDING SECRETARY: Sue Spang

## CALL TO ORDER 7:00

### I. ROLL CALL AND PLEDGE OF ALLEGIANCE

**Present:** Michelle Williams, Kirk Scott, Richard Gordon, Thomas Fitting, Timothy LaDucer, Alt., Olivia Fairchild, Alt., Brian Bohmbach, Alt.

**Absent:** Jason Deeble, Nichole Davison,

**Also, Present:** G. Goeschel, Planner, Kevin Seery, First Selectman. T. Laducer, and Brian Bohmbach were seated.

The Pledge of Allegiance was recited.

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

### III. CALL FOR PUBLIC DELEGATIONS-none.

### IV. REPORTS

#### A. Communications: none

#### B. Zoning Representative:

T. LaDucer attended the last Zoning Commission meeting and they discussed:

- Public discussion about the new car wash being too close to an aquifer.
- Car wash will open the second week of October.

#### C. Ex-Officio:

First Selectman Kevin Seery reported:

- The Giving Garden received a citation for giving over 19,000 lbs. of food items.
- Charter revision questions will be on the ballot; in October residents will be sent a mailer explaining the questions.
- Exit 74/RT 161 blasting texts are going out. Blasting will end in 3 weeks for this year.
- A Yale charette study was conducted today at town hall. It was recommended that the town take possession of the old police

Caution  
TOWN CLERK

2023 SEP 25 A 9:43

RECEIVED FOR RECORD  
EAST LYME, CT

building/Dominion bldg.

- September 30, 2023, the Nehantic Tribe will be celebrating Indigenous Peoples Day at McCooks Park. There will be a lot of history provided.
- Oyster Festival this weekend with the proceeds going to the Miracle League
- VFW cornhole tournament with proceeds going to the Veterans.

**D. Planning Director:**

- architects have been retained for the work on the Samual Smith house.
- 2 referrals from the Zoning Commission will be coming; Zoning will hold public hearings on October 19, 2023.
- Hathaway Farms subdivision application for a 3 lot resub-division was received. The date of receipt is, September 12, 2023.

**E. Subcommittees**

- **Plan of Conservation and Development**-no report

**E. Chairman: no report**

**V. APPROVAL OF THE MINUTES**

**A. Regular Meeting minutes of August 8, 2023**

**MOTION: (Gordon/Fitting) to approve the Regular Meeting minutes of August 8, 2023, as presented.**

**Vote: APPROVED. In favor-Williams, Gordon, Fitting, LaDucer, Fairchild, Bohmbach, Opposed-none. Abstaining-Scott**

**VI. PUBLIC HEARINGS:**

**A. East Lyme Planning Commission: Application for various proposed amendments to the East Lyme Subdivision Regulations including but not limited to Sections 4, 6, 8, and 11.**

**The Public Hearing was opened at 7:12**

G. Goeschel introduced the following exhibits:

Exhibit A-Subdivision Regulation changes

Exhibit B- Subdivision Regulation changes-draft listing

Exhibit C-Quinn Memo re road and water supply comments

Exhibit D-Scheer Memo re incomplete applications

Exhibit E-legal ad

Exhibit F-Attorney Zamarka memo re comments

Exhibit G-Subdivision changes with markup

Exhibit H-Current subdivision regulations

The Commission discussed the Zamarka memo, specifically the comments on taxes having to be paid for an application to be complete. It was M. Zamarka's opinion that an ordinance would have to be passed allowing the Commission to reject an application for delinquent taxes.

Zamarka recommends not levying fines without an ordinance.

G. Goeschel noted the comments from Zamarka on the proposed amendment for 4-7-2, allowing Planning Director to approve or deny lot line revision requests. Zamarka states the approval or denial of lot line revisions is not in the Planning Commission's purview. G. Goeschel reminded the Commission of a past lot line revision which he denied was challenged by an applicant attorney as the Planning Director not having the authority to deny lot line revisions.

M. Williams wants to clarify that the proposed subdivision regulations changes are also applicable to and include re-subdivision regulations.

G. Goeschel will add "re-subdivision" to section 3.1

Zamarka recommends taking section 4-14-3 out as it requires an Environmental Review Team (ERT) review that cannot be met, making the requirement illegal.

It was recommended that a time frame be added for the Natural Resources Commission to comment on an application.

The members discussed who would be qualified to provide an environmental impact statement.

### **Public Comment**

Brian Lepkowski, 27 Green Valley Lakes Rd., spoke of his experience as an intervener as it regards the ERT in trying to protect his home. He said taking the ERT out, benefits large developers. He said the Commission should reconsider the changes to section 4-14, any changes should be better than what was there.

He questioned who would be doing the environmental evaluation and if members were qualified to conduct a review of an environmental evaluation?

Harvey Beeman, 11 Green Valley Lakes Rd., said the revisions lack specificity as to when the environmental evaluation would be applied, who makes the determination when a subdivision is applied for as to whether they need an environmental evaluation.

Diane Lepkowski, 27 Green Valley Lakes Rd., agrees with previous comments. She asks that whoever is chosen to do the environmental impact study be unbiased.

Nicole Sinclair, 78 Springrock Rd., thought Section 4-14 was vague and did not see how the process could be unbiased.

Mark Lepkowski, 13 Rose Lane, asked if the Commission has looked at other towns and what they require for an environmental review.

M. Williams addressed some of the statements made by the public comment.

She said that the Commission has always required the applicant to pay for any required reports/material, as it is the applicant's burden to prove they are meeting the

requirements of the regulations.

The ERT has been removed because it is no longer available to municipalities. The revised language is meant to take the place of the ERT. They have not been able to receive an ERT in many years.

All board and commission members are lay people and they depend on professional town staff and their own experiences on the commission.

G. Goeschel said other towns were researched for substitute ERT language.

The members discussed the timeline for professionals to submit an environmental review considering the time it takes to conduct a review and possible seasonal considerations. It was determined that there are many requirements that take time such as test pits and the environmental review would be no different. The applicant is required to have a preapplication meeting with town staff at which time the requirements would be discussed.

G. Goeschel referred to section 4-2-3, Design reports which include:

- Archaeological Survey
- Biological Survey
- Areas identified on the “State and Federal Listed species and Natural Communities Map.”

He said he could add a report from the NDDB

The Commission took a break from 8:23-8:30

M. Williams summarized the changes so far:

- Add “re-subdivisions” to section 3.
- Remove sections 11-3 and 4-2-15.
- Remove ERT from last sentence from section 4-14-1 and replace with Environmental Impact Assessment
- Remove language from 4-14-1 describing property attributes and keep “subdivision shall be subject to an environmental review”.
- Add timeline language pertaining to a deadline for the Natural Resource Commission comments to the Planning Commission on subdivisions.
- Define who is qualified to submit an environmental impact assessment.

Brian Lepkowski, 27 Green Valley Lakes Rd., suggested that DEEP may be able to perform the work the ERT had previously done.

**MOTION: (LaDucer/Gordon) to close the Public Hearing. Vote: APPROVED unanimously. (8:57)**

**MOTION: (Scott/Williams) to adjust the schedule to hear the Municipal Referrals before discussion of decision on the subdivision regulations. Vote: APPROVED unanimously.**

## **IX. Municipal Referrals [Connecticut General Statutes (CGS) 8-24]**

**A. CGS 8-24 Referral Town of East Lyme: Acquisition of Land for the Purposes of Watershed and Open Space Preservation.**

K. Seery presented a description of the three properties the Town would like to purchase for open space:

Hathaway Property, Oswegatchie Hills and Brainard Road.

The Hathaway Property has long been a priority for the town to acquire and has been in past POCD's for recommended purchase as open space. The property is approximately 114 acres and the purchase price based on the appraisal is \$1,595,000

The Oswegatchie Hills property is owned by the East Lyme Land Trust (ELLT) and has numerous trails frequently used by the public. Some of the pieces are deeded as open space. Most of the parcels are difficult terrain, therefore undevelopable. The property has been used as collateral by ELLT for the purchase of the Hathaway Property. There are approximately 119.6 acres, and the purchase price is \$575,000.

The Brainard Road property is owned by ELLT and was used as collateral for the purchase of the Hathaway property. There are numerous trails, and it is accessible from Brainard Road, Giants Neck Beach and Giants Neck Heights. The land is very desirable for development as it has a flat topography. The parcel is approximately 22 acres and the purchase price based on the appraisal is \$125,000.

The Town has offered \$2,250,000 which will be offset by the funds in the Open Space Fund and a state Open Space Grant, ELLT received.

**MOTION: (Williams/LaDucer) The Commission finds the purchase of the Hathaway property, Oswegatchie Hills and Brainard Road consistent with the POCD. Vote: APPROVED unanimously.**

**MOTION: (Williams/Scott) to return to regular agenda schedule. Vote: APPROVED unanimously.**

**VII. SUBDIVISIONS/RE-SUBDIVISIONS-Pending**

G. Goeschel suggested using environmental "assessment" as opposed to "statement".

**MOTION: (Williams/Gordon) to approve revisions of the East Lyme Subdivision Regulations , effective December 1, 2023**

**VIII. Zoning Referrals [Connecticut General Statutes (CGS) 8-3a]-none**

**B. CGS 8-24 Referral Town of East Lyme: Review for proposed Pickleball courts at Peretz Park at Bride Brook**

G. Goeschel gave background on the proposed pickleball courts to be placed next to the basketball courts at Bride Brook Park. He said pickleball has become very popular and many people wanted the courts.

**MOTION: The Commission finds the construction of two pickleball courts consistent with the POCD. Vote: APPROVED unanimously.**

**X. Old Business-none**

**XI. New Business-none**

**XII. Adjournment**

**MOTION: (Williams/Gordon) to adjourn at 9:19. Vote: APPROVED unanimously.**

## Planning Public hearing 9/19/23

My name is Harvey Beeman and I reside at 11 Green Valley Lakes RD in East Lyme. I am also a member of the Commission for the Conservation of Natural Resources. Although I am a member of the CCNR, I am speaking tonight solely as a resident and not on behalf of the CCNR.

I would like to call your attention to the wording of section 4-14-1 Review and Evaluation which appears on page 31.

The basis for this paragraph is currently reflected in section 4-14-3 Environmental Review Team (ERT) Evaluation also on page 31 of the current Subdivision Regulation revised through March 1, 2016.

My concern for the revised wording is as follows;

1. It lacks any specificity as to when this paragraph would or would not be applied. Does it apply to small subdivisions as well as large ones? For example, if a large lot has a small area of steep slope would that require an ERT. Similarly, would a small two lot subdivision require the same level of ERT as a large one. Are all wetlands, watercourses and flood hazard areas defined in East Lyme records?

2. Who makes the determination when this requirement is applicable to a subdivision? Is it the Planning Commission? Or perhaps the applicant? Or the developers' lawyer?
3. In my opinion, this wording could apply to any and all subdivisions, or conversely none at all.
4. This section is being revised in part because of the time and planning needed to provide a thorough review by any group such as the Eastern Connecticut Environmental Review Team (which now appears to be consolidated as the Connecticut Environmental Review Team located in Haddam, CT). Are they dropped from due to time pressure?