

EAST LYME PLANNING COMMISSION

Special Meeting, November 13, 2023. 7:00 PM

CHAIRMAN: Michelle Williams

VICE CHAIRMAN: Kirk Scott

SECRETARY: Rich Gordon

RECEIVED FOR RECORD
EAST LYME, CT

PLANNING DIRECTOR: Gary Goeschel II

RECORDING SECRETARY: Sue Spang


TOWN CLERK

CALL TO ORDER 7:02

I. ROLL CALL

Present: Michelle Williams, Richard Gordon, Olivia Fairchild, Alt., Brian Bohmbach, Alt.

Absent: Kirk Scott, Thomas Fitting, Timothy LaDucer, Alt., Jason Deeble, Nichole Davison,

Also, Present: G. Goeschel, Planner.

O. Fairchild and Brian Bohmbach were seated.

II. CALL FOR ADDITIONS TO THE AGENDA-none.

III. CALL FOR PUBLIC DELEGATIONS-none.

IV. REPORTS

A. Communications: Town Clerk notice for appointments, resignations and 2024 meeting dates.

B. Zoning Representative:

M. Williams reported that the Zoning Commission appointed Michael Foley to the vacancy. They are looking at the affordable housing data.

C. Ex-Officio-no report

D. Planning Director:

G. Goeschel reported that they are looking at the affordable housing data points for each unit. The percentage of affordable housing units has decreased by 5%.

E. Subcommittees

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

V. Chairman

M. Williams informed the members that the letter to the Board of Selectmen concerning the ordinance that tax payments be current in order to submit an application was sent to the BOS

M. Williams thanked everyone for serving and wished all the new members good luck.

VI. APPROVAL OF THE MINUTES

A. Regular Meeting minutes of October 10, 2023

MOTION: (Fairchild/Gordon) to approve the Regular Meeting minutes of

October 10, 2023, as presented.

Vote: APPROVED unanimously

VII. PUBLIC HEARINGS: none

VII. SUBDIVISIONS/RE-SUBDIVISIONS-Pending

A. Application of Kristen T, Clarke, PE, for a 3 lot Re-subdivision of approximately 4.83 acres of land and request for a Waiver/Exemption from section 6-8 of the East Lyme subdivision regulations on property located at 117 Scott Road, East Lyme, Connecticut, Assessor's Map #35.0, lot # 23-4 (aka Hathaway Farms subdivision))Application Received 9/12/2023; Open and Closed 10/10/2023; 65 days to render a decision 12/14/2023

G. Goeschel confirmed the conservation easement has been filed, (it was not previously filed until after the public hearing). He noted the exhibits that came in after the public hearing and the changes in the listing of exhibits.

G. Goeschel noted there were no physical feature or exceptional difficulties in meeting the regulations, but he said the topography lends itself to raingardens. The town engineer had no issues with the waiver request.

MOTION: (Williams/Fairchild) 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 and the 2020 Plan of Conservation and Development as based on the above findings indicated in the Memorandum from Gary A. Goeschel II, Director of planning, dated November 13, 2023.

I move to APPROVE the applicants request for a Waiver from Section 6-8-7 of the East Lyme Subdivision Regulations.

Vote: APPROVED unanimously.

MOTION: (Williams/Fairchild) based on the findings in the Memorandum from Gary A. Goeschel II, Director of Planning to the East Lyme Planning Commission dated November 13, 2023, I hereby MOVE TO APPROVE the application known as the Application of Kristen T. Clarke, PE, for a 3 lot Re-subdivision of approximately 4.83 acres of land and request for a Waiver/Exemption from section 6-8-7 of the East Lyme subdivision regulations on property located at 117 Scott Road, East Lyme, Connecticut, Assessor's Map #35.0, lot # 23-4 (aka Hathaway Farms subdivision) 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 for each lot in an amount satisfactory to the Town Engineer and Planning Director and in a form acceptable to the Town of East Lyme Planning Commission shall be posted with the Town prior to the start of any site work including but not limited to clearing, grubbing, filling, and grading.

2. Copies of all deeds and easements including instruments proposed to be executed or delivered after approval of the application shall be submitted as specified in Section 4-2-10 of the Regulations and provided to the Planning Director for review and approval prior to the filing of the subdivision on the land record.

3. That Open Space notes be removed from the original application re-subdivision plans. Revised plans entitled, "Hathaway Farm Re-Subdivision of Lot 3 and Lot Line Revision of Lot 3, Property of Hathaway Farm LLC, Scott Road, East Lyme, Connecticut, dated September 7, 2023, and revised through October 12, 2023", prepared by John Paul Mereen.

4. The applicable items above shall be accomplished prior to the filing of the subdivision on the land records, or other documentation of planning approval and no further 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 Application of Kristen T. Clarke, PE, for a 3 lot Re-subdivision of approximately 4.83 acres of land and request for a Waiver/Exemption from section 6-16 of the East Lyme subdivision regulations on property located at 117 Scott Road, East Lyme, Connecticut, Assessor's Map #35.0, lot # 23-4 (aka Hathaway Farms subdivision) and the re-subdivision plans entitled "Hathaway Farm Re-Subdivision of Lot 3 and Lot Line Revision of Lot 3, Property of Hathaway Farm LLC, Scott Road, East Lyme, Connecticut dated September 7, 2023, and revised October 12, 2023, prepared by John Paul Mereen, L.S. of Gerwich-Mereen LLC. 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 the Application and Approval.

Vote: APPROVED unanimously

VIII. ZONING REFERRALS [Connecticut General Statute (CGS) 8-3a]

A. Application of the East Lyme Zoning Commission; for a Text Amendment to the East Lyme Zoning Regulations to amend section 24 "Site Plan Review Requirements" by adding subsection 24. 6 E-1.

The proposed text amendment would prohibit the use of any non-native invasive plant species in the development of any new development or redevelopment of property and require only native plant species be used. Also, outdoor lighting would require lighting plans be designed to follow the Illuminating Engineering society of North America Lighting Design Handbook requiring the use of full cut off type fixtures to reduce sky glow.

MOTION: (Gordon/Fairchild) the Planning Commission finds the Text Amendment to the East Lyme Zoning Regulations to amend section 24 “Site Plan Review Requirements” by adding subsection 24. 6 E-1, consistent with the Plan of Conservation and Development, Chapter 2, Agriculture Resources subsection 2-7 recommendations.

Vote: APPROVED unanimously.

- B. Application of the East Lyme Zoning Commission; for a Text Amendment to the East Lyme Zoning Regulations to add new Section 34.21 and to modify Section 34.3 Purpose and by adding new section 34.6.1.1, “the Flanders Village design District”.**

The proposed text amendment is to re-zone the current Flanders commercial district on Boston Post Road from Chesterfield Road to the west as CB or given a new designation such as Flanders Village District FVD, with regulations that encourage redevelopment to improve upon the village concept.

MOTION: (Williams/Bohmbach) the Planning Commission finds the Application of the East Lyme Zoning Commission; for a Text Amendment to the East Lyme Zoning Regulations to add new Section 34.21 and to modify Section 34.3 Purpose and by adding new section 34.6.1.1, “the Flanders Village design District” consistent with the POCD.

Vote: APPROVED unanimously.

IX. MUNICIPAL REFERRALS [Connecticut General Statues (CGS)8-24]:

X. OLD BUSINESS

XI. NEW BUSINESS

A. 2024 Planning Commission Meeting Calendar

MOTION: (Gordon/Bohmbach) to approve the 2024 Calendar as presented.

Vote: APPROVED unanimously.

XII. ADJOURNMENT:

MOTION: (Fairchild/Williams) to adjourn at 7:35. Vote: APPROVED Unanimously.

Respectfully Submitted,
Sue Spang,
Recording Secretary

2023 meeting dates; December 12.

**2024 meeting dates; January 9, February 13, March 12, April 9, May 14, June 11, July 9,
August 13, September 10, October 8, November 12, December 10.**

Town of

P.O. Drawer 519

**Department of Planning &
Inland Wetlands Agency**

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



East Lyme

108 Pennsylvania Ave
Niantic, Connecticut 06357

Phone: (860) 691-4114

Fax: (860) 860-691-0351

MEMORANDUM

To: Application File - **Application of Kristen T. Clarke, PE, for Hathaway Farm, LLC;** for a 3-lot Resubdivision of approximately 4.83-acres of land and request for a Waiver/Exemption from Section 6-16 of the East Lyme Subdivision Regulations on property located at 117 Scott Road, East Lyme, Connecticut, Assessor's Map#35.0, Lot#23-4 (aka Hathaway Farms Subdivision)

From: Gary A. Goeschel II, Director of Planning 

Date: November 21, 2023

Re: Approval and Written Request for a Waiver/Exemption

The East Lyme Planning Commission at a Special Meeting held on Monday, November 13, 2023 at the East Lyme Town Hall, voted to APPROVE the application known as the Application of Kristen T. Clarke, PE, for Hathaway Farm LLC; for a 3-lot Resubdivision of approximately 4.83-acres of land and request for a Waiver/Exemption from Section 6-8-7 of the East Lyme Subdivision Regulations on property located at 117 Scott Road, East Lyme, Connecticut, Assessor's Map#35.0, Lot#23-4 (aka Hathaway Farms Subdivision).

It is important to note Exhibit "B" Letter from Paul M. Gerghy dated September 11, 2024, provides the Applicant's written request for a "Waiver/Exemption of the Stormwater Management requirements of Section 6-16 et., al., of the East Lyme Subdivision Regulations pursuant to Section 6-8-7 of the Subdivision Regulations." However, as Section 6-8-7 of the Regulations expressly allows the waiver of stormwater management requirements, it states "Subdivisions consisting of 3 lots or less may request waivers, in accordance with Section 4-13, of specific Sections of 6-16 with the approval of the Planning Commission.....", Section 6-16 of the East Lyme Subdivision Regulations sets forth the requirements for Potable Water. Recognizing the typographical error in Section 6-8-7 of the Regulations and the erroneous reference to Section 6-16, the Planning Commission granted the Waiver from Section 6-8 of the Subdivision Regulations pursuant to Section 6-8-7 of the East Lyme Subdivision Regulations.

Town of

P.O. Drawer 519

**Department of Planning &
Inland Wetlands Agency**

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



East Lyme

108 Pennsylvania Ave
Niantic, Connecticut 06357

Phone: (860) 691-4114

Fax: (860) 860-691-0351

MEMORANDUM

To: East Lyme Planning Commission

From: Gary A. Goeschel II, Director of Planning

Date: November 13, 2023

Re: **Application of Kristen T. Clarke, PE, for Hathaway Farm, LLC;** for a 3-lot Resubdivision of approximately 4.83-acres of land and request for a Waiver/Exemption from Section 6-16 of the East Lyme Subdivision Regulations on property located at 117 Scott Road, East Lyme, Connecticut, Assessor's Map#35.0, Lot#23-4 (aka Hathaway Farms Subdivision)

Upon review of the above referenced application and the proposed 3 sheet plan set entitled "Hathaway Farm Re-Subdivision of Lot 3 and Lot Line Revision of Lot 3, Property of Hathaway Farm LLC, Scott Road, East Lyme, Connecticut, dated September 7, 2023," prepared by John Paul Mereen, L.S. of Gerwick-Mereen LLC offers the following:

FINDINGS:

Whereas: The Commission received the above referenced application at its September 12, 2023 meeting.

Whereas: The Commission commenced a Public Hearing on October 10, 2023. The Public Hearing for said application was also closed at the Commission's meetings of October 10, 2023.

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

Whereas: The parcel of land constituting the property subject to this application is zoned as RU-40 Rural Residential and the properties abutting the site in all directions are zoned RU-40 Rural Residential.

Whereas: As evidence by Exhibit "C, Design Report" no Inland Wetlands Permit is required as there is no activity occurring in the upland review area, wetlands, or watercourses.

Whereas: As demonstrated by Exhibit “B”, the Application includes a written request for Waivers from Section 6-8-7 - Exemptions (stormwater) 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 “B”.

(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 “C” the Design Report, the size of the area being developed is “small” and the topography of the property will disburse all the storm water on site. A Drainage Area and Runoff Flow Paths Plan was prepared by Tim May, P.E. of May Engineering demonstrating the disbursement of stormwater as part of the initial subdivision of the subject property (incorporated into the record by reference) would not exacerbate any downstream flooding. In addition, the proposed plans incorporate rain gardens into the development of each lot to capture stormwater from the proposed homes. In particular, the rain gardens have been sized 25% greater the what would be required based upon the proposed 1,776 square feet of proposed roof area.

(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 “C”, the Application and written waiver, and Exhibit “J”, the proposed Subdivision Plan, the size and location of the existing parcel do not create an exceptional difficulty or hardship but, rather the existing topographical conditions lend themselves to the use of rain gardens to treat and infiltrate the first 1-inch of stormwater runoff and sheet flowing any additional volume overland toward the rear property line of the proposed lots.

(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 “H”, Memorandum from Bill Sheer, P.E., L.S., Town Engineer dated, October 2, 2023, indicates that the Engineering Department does not take any exception to the application as submitted. As such, 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. Therefore, the granting of the requested waiver should not have any significantly adverse effects 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 three (3) 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 resubdivision 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: 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 within an RU-40 zoning district adjacent to existing residential lots zoned RU-40, the proposed subdivision continues to follow 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 4-2-11 Easements and Deeds: As evidence by Exhibit “K”, Conservation Easement” consisting of those portions of the land designated as “Conservation Easement Area” consisting of .672 acres on a map entitled “Hathaway Farm Subdivision Phase 1, East Lyme, Connecticut sheet 2 of 4”, prepared by Gerwick-Mereen Land Surveyors, and dated December 7, 2022, revised 2/8/2023 has been filed on the East Lyme Land Records (Vol. 1103, Pg. 296).

Section 5-4 Sanitation Report: As indicated in correspondence from Wendy Brown-Arnold, RS, Supervisor of Land Use Activities of the Ledge Light Health District, dated October 4, 2023 (Exhibit “I”), indicates Lots 3, 4, 5, and 6 as depicted are recommended suitable based on the soil testing presented, and the remainder of parcel 35.0, 23 is recommended suitable in its current condition for single 4-bedroom dwelling with private well.

Section 5-5 Water Supply Report: As indicated in correspondence from Wendy Brown-Arnold, RS, Supervisor of Land Use Activities of the Ledge Light Health District, dated October 4, 2023 (Exhibit “I”), indicates each lot is suitable to support a well.

Section 5-2-2(E) and 6-8 Stormwater Management Plan: As evidence in Exhibit “C”, A waiver of this requirement has been requested due to the small size of the area being developed and the fact the topography of the property will disburse all stormwater on site. A Drainage Area and Runoff Flow Paths Plan was prepared by Timothy May, P.E. of May Engineering LLC and submitted with initial subdivision application (aka Phase I of the Hathaway Farm Subdivision) demonstrating this fact which, has been incorporated into the current record by way of reference.

Section 5-2-2(G) Erosion and Sedimentation Control Plan: As indicated in Exhibit “C”, the proposed site plans show silt fence on the plans and provided a narrative sufficient to certify the Erosion and Sedimentation Control Plan, noting that less than ½ acre of disturbance is proposed for each of the three lots.

Section 5-6 Pesticide Report: As evidence by the Subdivision Design Report Exhibit "C", "No evidence of pesticide use exists. The 4.83-acre property is on a sloping site with mature Oak and Maple trees and surface boulders which would be indicative of no farming of this property having ever occurred."

Section 5-8 Archeological Survey: Shown in Subdivision Design Report Exhibit "C", no further action is required. See letter from Dr. Sarah P. Sportman, Ph.D., State Archeologist to G. Goeschel, Director of Planning dated February 3, 2023, (Exhibit H of Exhibit C).

Section 6-2 Lot Design Specifications: As demonstrated by the plans entitled "Hathaway Farm Re-Subdivision of Lot 3 and Lot Line Revision of Lot 3, Property of Hathaway Farm LLC, Scott Road, East Lyme, Connecticut, dated September 7, 2023," prepared by John Paul Mereen, L.S. of Gerwick-Mereen LLC the proposed lots will comply with all applicable Zoning Regulations for a conventional subdivision.

Section 6-7 Open Spaces: As evident in Exhibit "C", the proposed Open Space in the amount of approximately .672 acres was already provided for this property in Phase 1 of the Hathaway Farm Subdivision. As evident by Exhibit "K", the Conservation Easement has been filed on the East Lyme Land Records on November 8, 2023 (Vol. 1103, Pg. 296).

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 4-2-10 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.

Based on the above Findings, 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 and the 2020 Plan of Conservation and Development as based on the above Findings indicated in the Memorandum from Gary A. Goeschel II, Director of Planning, dated November 13, 2023.

Therefore, I **MOVE TO GRANT** the applicant's request for a Waiver from Sections 6-8-7 of the East Lyme Subdivision Regulations.

RESOLUTION FOR SUBDIVISION APPLICATION

NOW THEREFORE, based on the Findings in the Memorandum from Gary A. Goeschel II, Director of Planning to the East Lyme Planning Commission dated November 13, 2023, I hereby **MOVE TO APPROVE** the application known as the Application of Kristen T. Clarke, PE, for Hathaway Farm LLC; for a 3-lot Resubdivision of approximately 4.83-acres of land and request for a Waiver/Exemption from Section 6-8-7 of the East Lyme Subdivision Regulations on property located at 117 Scott Road, East Lyme, Connecticut, Assessor's Map#35.0, Lot#23-4 (aka Hathaway Farms Subdivision) 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 for each lot in an amount satisfactory to the Town Engineer and Planning Director and in a form acceptable to the Town of East Lyme Planning Commission shall be posted with the Town prior to the start of any site work including but not limited to clearing, grubbing, filling, and grading.
2. Copies of all deeds and easements including instruments proposed to be executed or delivered after approval of the application shall be submitted as specified in Section 4-2-10 of the Regulations and provided to the Planning Director and Town Council for review and approval prior to the filing of the subdivision on the land record.
3. That Open Space notes be removed from the original application resubdivision plans. Revised plans entitled "Hathaway Farm Re-Subdivision of Lot 3 and Lot Line Revision of Lot 3, Property of Hathaway Farm LLC, Scott Road, East Lyme, Connecticut, dated September 7, 2023 and revised through October 12, 2023", prepared by John Paul Mereen, L.S. of Gerwick-Mereen LLC and submitted November 9, 2023 to the Town of East Lyme, Land Use Department, Exhibit "K" removed said note.
4. The applicable items above shall be accomplished prior to the filing of the subdivision on the land records, or other documentation of planning approval and no further site work shall commence until all applicable conditions are satisfied.

This approval is specific to the application known as the Application of Kristen T. Clarke, PE, for Hathaway Farm LLC; for a 3-lot resubdivision of approximately 4.83-acres of land and request for a Waiver/Exemption from Section 6-16 of the East Lyme Subdivision Regulations on property located at 117 Scott Road, East Lyme, Connecticut, Assessor's Map#35.0, Lot#23-4 (aka Hathaway Farms Subdivision) and the resubdivision plans entitled "Hathaway Farm Re-Subdivision of Lot 3 and Lot Line Revision of Lot 3, Property of Hathaway Farm LLC, Scott Road, East Lyme, Connecticut, dated September 7, 2023 and revised through October 12, 2023", prepared by John Paul Mereen, L.S. of Gerwick-Mereen LLC. 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.