

RECEIVED FOR RECORD  
EAST LYME, CT

2024 JAN 16 A 8:13

*Camille Hillier*  
TOWN CLERK

## EAST LYME PLANNING COMMISSION

Regular Meeting, January 9, 2024. 7:00 PM

CHAIRMAN: Richard Gordon  
VICE CHAIRMAN: Kirk Scott  
SECRETARY: Brian Bohmbach

PLANNING DIRECTOR: Gary Goeschel II  
RECORDING SECRETARY: Sue Spang

### CALL TO ORDER 7:00

#### I. ROLL CALL

**Present:** Richard Gordon, Brian Bohmbach, Kirk Scott, Thomas Fitting, Nick Menapace, Cindy Collins, Sandy Gignac Alt., Sam Sims, Alt.

**Absent:** Timothy LaDucer

**Also Present:** G. Goeschel, Planner.  
The Pledge was recited.

#### II. CALL FOR ADDITIONS TO THE AGENDA

**MOTION: (Bohmbach/Gordon) to add discussion of vacancies and bylaw wording to New Business. Vote: APPROVED unanimously**

**MOTION: (Scott/Gordon) to move, New Business, item A, to next agenda item.**

#### NEW BUSINESS

##### A. Roles and Responsibilities of Local Land Use Officials; Planning Commission Powers, Duties and Procedures-Mark Zamarka, Esq of Waller, Smith and Palmer PC

M. Zamarka said the powers of the Planning Commission are a created and governed by state statute. They give the Planning Commission the power/duty to

- Prepare and revise the Plan of Conservation and Development
- Review and approve subdivision and resubdivison applications.
- Reviewing certain municipal improvements
- Reviewing proposed zoning regulations or zone boundaries

A subdivision is defined by deviding a tract of land into 3 or more parts or lots for the purpose of sale or development. This does not include a free split.

Resubdivision is defined as a change in a map or a recorded subdivision that creates an additional building lot.

A municipal review is specified in state statute 8-24.

M. Zamarka described the application process and timeline.

When an application is submitted to the town a time clock starts according to §8-7d.

The date of submission is the next regularly scheduled date of a commission meeting or 35 days after submission.

If a public hearing is needed, it must be held within 65 days and must be concluded within 35 days. Once the public hearing is concluded the Commission has 65 days to render a decision. Only the applicant can ask for an extension of time as long as those extensions last no more than 65 days.

He cautioned the members that it is important to adhere to the time frames as Connecticut has something called, "inferred approval", which means that if the Commission fails to act on the statutory time frames the application is considered approved.

The wetlands agency of the town must submit a report before the Planning Commission can render a decision.

### **Public Hearings**

A subdivision does not require a public hearing, but the Commission may decide to hold one. A resubdivision requires a public hearing.

Typically, the applicant presents first. Members of the public have a right to speak. The applicant can then go last to respond to any of the comments or questions that come up.

Once the hearing is closed the Commission goes into decision mode and may consider anything presented during the public hearing or information from town officials or attorneys. Only evidence in the record can be considered, if any information outside of the record is the basis for a member's decision, it can call the entire decision into question and can be overturned on appeal.

There may be times that a member should recuse themselves:

- If the member has a predetermined view or bias on the application.
- If the member has a personal or financial conflict of interest.

If any member who is an expert in the subject matter must reveal on the record during the public hearing, so the applicant has an opportunity to investigate.

### **FOIA**

M. Zamarka informed the members that anything in the public record can be subject to the Freedom of Information Act. The act also includes that the public has access to open meetings. This would include:

- All emails of members and staff
- All texts of members and staff

He recommended no group texts/emails especially of a quorum of the Commission as it would constitute a meeting.

M. Zamarka said there are specific reasons for the Commission to meet outside of the public. These meetings would take place during Executive Session.

**IV. CALL FOR PUBLIC DELEGATIONS-none.**

**IV. COMMISSION VACANCY**

**A. Alternate Member Vacancy**

Sandy Gignac was appointed by the Board of Selectmen as an alternate to the Planning Commission.

**V. REPORTS**

**A. Communications:** none

**B. Zoning Representative:**

G. Goeschel read a report from Mike Foley, Zoning Commission member.

- Zoning discussed village district regulations-Flanders
- The Trakas application was withdrawn.
- Bridebrook development is pending.
- The zoning chairman resigned.

**C. Ex-Officio:**

Don MacKenzie reported that he spent a day at the state capital for newly elected officials. There was a good discussion on FOIA and cyber security grants. He reported that the BOS approved \$25,000 for a temporary fix of the washed-out seawall at McCooks beach.

**D. Planning Director:** The grant for a sidewalk on East Pattagansett was applied for and they should be notified by Spring.

**E. Subcommittees**

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

**Chairman:** R. Gordon apologized for the confusion concerning the nominations at last months meeting. He asked that all members respect each other moving forward.

**VI. APPROVAL OF THE MINUTES**

**A. Regular Meeting minutes of December 12, 2023**

**MOTION:** (Bohmbach/Fitting) to approve the Meeting minutes of December 12, 2023, as presented.

**Vote:** APPROVED unanimously

**VII. PUBLIC HEARINGS:**

- A. Application of Petrit Marku; for a 4-lot Resubdivision of approximately 4.27 acres of land zoned RU 40-20 and request for a Waiver from Section 6-17-1 of the East Lyme Subdivision Regulations on property located at 220 Pennsylvania Avenue, East Lyme, Connecticut, Assessors Map #16.2, Lot #7.3, Niantic, CT. (application received 11/13/2023; P.H. Scheduled to open 12/12/23; 35 days to conduct P.H. to close 1/16/24)**

G. Goeschel list Exhibits U-HH

Jim Bernardo, surveyor reviewed the changes to the plan based on town comments.

There is an updated archeologist report. He said the open space will be maintained by a homeowner's association.

There will be one driveway to be shared by the four lots.

The plan has received approval from CTDOT and Ledge Light Health District.

G. Goeschel said the town owns the easements and there will be no structures allowed in the open space.

The construction timeline was reviewed.

The letter from CTDOT prefers one driveway cut onto Pennsylvania Ave.

**Public Comment**-none

**MOTION: (Scott/Fitting) close the Public Hearing. Vote: APPROVED unanimously. (8:00)**

#### VIII. SUBDIVISIONS/RE-SUBDIVISIONS-Pending

- A. Application of Petrit Marku; for a 4-lot Resubdivision of approximately 4.27 acres of land zoned RU 40-20 and request for a Waiver from Section 6-17-1 of the East Lyme Subdivision Regulations on property located at 220 Pennsylvania Avenue, East Lyme, Connecticut, Assessors Map #16.2, Lot #7.3, Niantic, CT. (application received 11/13/2023; P.H. Scheduled to open 12/12/23; 35 days to conduct P.H. to close 1/16/24)

G. Goeschel reviewed his findings in memo dated January 8, 2024.

**MOTION: (Bohmbach/Collins) approve the waiver request from section 6-17-1 of the East Lyme Subdivision Regulations for property located at 220 Pennsylvania Avenue, East Lyme, Connecticut, Assessors Map #16.2, Lot #7.3, Niantic, CT. Vote: APPROVED unanimously.**

**MOTION: (Gordon/Scott) based on the Findings in the Memorandum from Gary A. Goeschel II, Director of Planning to the East Lyme Planning Commission dated January 5, 2024, and the record before the Commission, 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 and hereby MOVES TO APPROVE the application known as the Application of Petrit Marku for a 4-Lot Resubdivision of approximately 4.27-acres of land Zoned RU40-20 and request for a Waiver from Section 6-17-1 of the East Lyme Subdivision Regulations on property located at 220 Pennsylvania Avenue, East Lyme, Assessor's Map#16, Lot#7.3, Niantic, CT and the plans entitled "Re-Subdivision Plan, Property of Petrit Marku, for Property Located at 220 Pennsylvania Avenue, Town of East Lyme, Country of New London, CT, dated September 25, 2023 revised through January 3, 2023[2024]" prepared by James Bernardo, L.S. of James Bernardo Land Surveying 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. The proposed plans shall be revised to reflect the correct year of the latest revision date of January 3, 2024, not 2023, and a copy shall be submitted to the Planning Department.
2. 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.
3. A Performance Bond for the proposed plantings along the existing driveway in an amount satisfactory to the Director of Planning 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. The performance bond may be released after two (2) full growing seasons (April 1 – May 31 and September 1 – October 31) provided the plantings achieve an 80% survival rate.
4. 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.
5. 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 Petrit Marku for a 4-Lot Resubdivision of approximately 4.27-acres of land Zoned RU40-20 and request for a Waiver from Section 6-17-1 of the East Lyme Subdivision Regulations on property located at 220 Pennsylvania Avenue, East Lyme, Assessor's Map#16, Lot#7.3, Niantic, CT and the resubdivision plans entitled "Re-Subdivision Plan, Property of Petrit Marku, for Property Located at 220 Pennsylvania Avenue, Town of East Lyme, Country of New London, CT, dated September 25, 2023, revised through January 3, 2023 [2024]" prepared by James Bernardo, L.S. of James Bernado Land Surveying.

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,

**Vote: APPROVED. In favor-Gordon, Scott, Fitting, Bohmbach, Collins.  
Opposed-None. Abstaining-Menapace**

Formatted: Font: (Default) Times New Roman, 12 pt, No underline

- IX. ZONING REFERRALS [Connecticut General Statute (CGS) 8-3a]-none
- X. MUNICIPAL REFERRALS [Connecticut General Statutes (CGS)8-24]-none

XI. OLD BUSINESS-none

**XII. NEW BUSINESS**

**A. Discussion Appointments and Bylaws**

**MOTION: (Bohmbach/Gordon) to table discussion until next month's meeting.**

**Vote: APPROVED unanimously.**

**XIII. ADJOURNMENT:**

**MOTION: (Menapace/Collins) to adjourn at 8:40. Vote: APPROVED Unanimously.**

Respectfully Submitted,  
Sue Spang,  
Recording Secretary

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