

Minutes of the East Lyme Zoning Commission February 1, 2024, Regular Meeting

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EAST LYME, CT

Date and Time: 2/1/2024 7:30PM to 9:58PM

2024 FEB 5 P 12:55

Members: Anne Thurlow, Chairman, Nancy Kalal, Secretary, Mike Foley, Norm Peck, Gary Pivo, Denise Markovitz. Alternate: Cathy Yuhas. Ex-Officio, Rosanne Hardy. Staff: William Mulholland. Recording Secretary: Jessica Laroco.

William Mulholland
TOWN CLERK

Absent: Alternates: Marc Peterson, Sarah Susco

Location: East Lyme Town Hall, Upper Conf Room, 108 Pennsylvania Avenue

1. Call Meeting to Order & Pledge

Chairman Thurlow called the February 1, 2024, Regular Meeting of the East Lyme Zoning Commission to order at 7:30PM and led the Pledge of Allegiance.

2. Attendance

Ms. Thurlow called the roll and noted that Alternates Marc Peterson and Sarah Susco were not present.

3. Public Delegations

Tom Kalal, 80 Grassy Hill Rd, spoke of his concerns regarding the water in East Lyme, specifically public drinking water. He noted that the aquifer has been known for years for its purity and the boundaries of the protection zone had been shrunk in years past. Mr. Kalal mentioned that the Water Dept report states numerous known levels of sodium, MTBE, salt and PFAS. He outlined the areas that the flowing water traverses and suggested five (5) things that can be done to better protect our water. He would like to see the Commission discuss this and take protective action.

Lisa McGowan, 33 Spinnaker, requested clarity on the Commission agendas and if the agenda creation is mentioned in the Bylaws. Ms. McGowan suggested the BOS make universal requirements for all boards and commissions. She is unsure if agenda items drive the process of the agenda for the Zoning Commission and mentioned Roberts Rules having a common set of rules and parameters. Ms. McGowan went on to address a New London Day article concerning the Pledge of Allegiance and how it concerns and affects the Veterans, as she is one.

4. Public Hearing

4-1 Application of Bride Lake, LLC, for site plan approval for the modification of the December 3, 2020, approval of an eighty (80) unit affordable housing multi-family residential development pursuant to Connecticut General Statutes 8-30g increasing the total unit count to one hundred (100) multi-family units on the westerly side of N. Bride Brook Rd (20.24 acres) now bearing street number 94, Assessor Map 9.0 Lot 37-2.

Ms. Thurlow noted that Mr. Peck recused himself and she sat Alternate Ms. Yuhas in his place.

Ms. Thurlow also noted that Attorney Harry Heller would make a presentation.

Attorney Heller, with an office located at 736 Norwich New London Turnpike, Uncasville, spoke representing Bride Lake, LLC. He began with a procedural matter, asking Mr. Pivo to recuse himself from the proceeding because of the testimony Mr. Pivo gave on television on 9/28/2023. The testimony specifically concerned this project, and Mr. Pivo's opinion that the property is not appropriately sited and that he (Mr. Pivo) expressed concerns about the applicability of the CT Affordable Housing Appeals Act 8-30g. Attorney Heller stated that it evidenced a predisposition that disqualified Mr. Pivo from sitting on the proceeding. It was noted that Attorney Heller could not require Mr. Pivo to step down, but that his presence could have the potential to taint the proceeding.

Mr. Pivo stated that he was not prejudiced, he was very open to hearing the presentation. He stated that he had not seen the application and knew nothing of the application and that meant there was no way he could be predisposed to make a judgement about the application and his referenced remarks were based on objective assessments that were not prejudicial.

It was noted for the record that Mr. Pivo declined to recuse himself.

Ms. Kalal read the Zoning Official (W. Mulholland) Memo to the Commission into the record (Attachment 2).

Ms. Thurlow read the Planning Director/Inland Wetland Agent (G. Goeschel) Memo to the Commission into the record (Attachment 3).

Mr. Foley read the Chief Operating Officer of the Water and Sewer Department (B. North) Memo into the record (Attachment 4).

Ms. Thurlow read the Deputy Fire Marshal (E. Quinn) Memo into the record (Attachment 5).

Ms. Kalal read the Deputy Director of Public Works (W. Scheer) Memo into the record (Attachment 6).

Mr. Pivo asked for clarification of the memo by Mr. Goeschel.

Mr. Mulholland stated that Attorney Heller would explain in his presentation but that originally the project had applied to the EL Inland Wetlands Agency for 108 units and was denied and the appeal went to court where it was ruled that the project could have up to 100 units.

Attorney Harry Heller made a presentation about the Affordable Housing Appeals Act, which was adopted by the CT Legislature in 1989 and has been modified sequentially since then. It was created to address housing inequities within the state. The report identified that housing prices and rents in CT had skyrocketed, that municipal zoning commissions were using their authority to approve single family homes on large lots which did not provide diversity of housing

opportunities in the state. The low to moderate income residents were unable to have affordable housing. The courts were then required to give deference to decisions of the local land use commissions and could only reverse the decisions if the decisions were arbitrary and capricious and not based on substantial evidence in the record of the proceedings. As a result, lower cost housing was being denied to residents at large. Hence the adoption of the Affordable Appeals Act. In an affordable housing appeal, the burden is on the commission based on sufficient evidence in the record to demonstrate that the denial was based on a material public health, safety, or welfare issue that was presented by the application. Attorney Heller also explained CT Legislation regarding Zoning which is CT Gen. Statutes Section 8-2 which encourages housing opportunities. The Affordable Housing Appeals Act does not apply to Wetlands Agency or a Water and Sewer Commission but does apply to Zoning Commission, a combined Planning/Zoning Commission, a Planning Commission, and a Zoning Board of Appeals. It is targeted at zoning.

Attorney Heller clearly spelled out the "4 Prong Test" which a denial to an affordable housing application must meet to be valid. The prongs are as follows:

- A. For each reason of denial, it must be enunciated by the commission, with specificity, the public interest that have not been satisfied by the application.
- B. For each reason of denial, there must be sufficient evidence existing in the record to support the determination.
- C. There must be a finding by the commission that the decision is necessary to protect substantial public interest in health, safety, or other matters that the commission may legally consider.
- D. Such public interest must clearly outweigh the need for affordable housing in the community. Such public interest cannot be protected by reasonable changes to the affordable housing development.

Attorney Heller pointed out that a decision of denial must have a collective finding that satisfies these four (4) requirements on an 8-30g application. He further stated that in an 8-30g application, whether to rent or for sale, the applicant must dedicate 30% of the housing units in the project for affordable purchasers or tenants. Affordability is based on the income parameters that are established under the CT state regulations adopted under 8-30g. Of the 30% that must be affordable, 15% have to be affordable to purchasers or tenants who are at or below 60% of the lower of the statewide median income or the regional median income (as published by HUD, whichever is lower). An additional 15% of the units must be available for purchasers or tenants who are between 60-80% of the lower of the statewide or the regional median income. The covenance concerning affordability must remain in place for a minimum of 40 years. The affordability plan must be updated annually.

Attorney Heller noted that the projects amended and restated affordability plan had been submitted with this application.

Attorney Heller discussed the presentation boards brought to illustrate the project for the Commissioners. Board 1 was the overall layout of the project as presented. This included 10 townhouse units. Board 2 was the lot layout as it exists currently with the 80 units, previously approved by the EL Zoning Commission. The original formulation of the project from 2017-2018

was for 108 residential apartment affordable housing units. An application was submitted to the Inland/Wetland Commission for approval, and it was noted that at that time the upland review area was 100 feet from the wetland boundary, with that boundary indicated on the board. There is an intermittent watercourse which flows through the property which largely carries stormwater runoff from the I-95 corridor and the 100 foot upland review offset from that. At that time, the Wetland Commission sited activity within the 100 foot upland review area. Although the belief of the applicant and its consultants was that the activity would not adversely impact the watercourse resources, the Wetlands Commission felt differently and denied the application. The applicant appealed the denial, and the project was reformulated to remove all activity from the upland review area. Once that was done, the applicant brought the proposal to the Zoning Commission which was then approved at 80 units in 10 buildings.

Attorney Heller pointed out another material change since the time of the original formulation pertained to the sewer shed area and the sewer avoidance area. The sewer avoidance line did not follow the property line, but rather cut through the area marked active and passive recreation. That eliminated the ability of the applicant to engage in the extension of municipal sewers to any unit being located in the sewer avoidance area. The Applicant presented the reconfigured units to the Water Sewer Commission out of the sewer avoidance area to the satisfaction of the Commission. This gained approval from the Water and Sewer Commission. He noted that, read into the record earlier, the reconfigured project showed the recreation area being moved as well as the units which were previously unavailable because of the sewer units. Additionally, the arguments in the appeal and the potential loss to both the Water/Sewer Commission and the applicant, a negotiated stipulated judgement was reached. This judgement had been approved by the Wetlands Agency as well as by the CT Superior Court. The 100-unit configuration is consistent with the revision of the sewer shed line by the Water and Sewer Commission and the stipulated judgement entered into by the Wetlands Agency.

Attorney Heller noted that the original project was designed in accordance with the 2004 Stormwater Quality Manual promulgated by DEEP which requires renovation of all stormwaters runoff on projects in CT. He noted the unique southeasterly area as far as soil quality.

Attorney Heller discussed the stormwater management system, the closed drainage system, catch basins, manholes, and rain gardens to treat water quality, noting that engineer Mr. Brandon Hanfield would be available for questions.

Attorney Heller noted the current construction of the project and showed the constructed and occupied buildings, the under-construction buildings, and the proposed buildings, noting that the unit increase proposed is going from 80 to 100, but the building increase will only go from 10 to 11 buildings in order to take advantage of better developable land with less impact. Additionally, in meeting with the Zoning Official to discuss his comments regarding the proposal, the calculation of parking was considered. Being an 8-30g application the Applicant is not required to comply with the parking space requirements; however, the Applicant *has* complied. There is a garage for every unit (1 parking space equivalent). The EL Zoning Regulations require two (2) parking spaces per unit for two (2) bedrooms or greater unit and an additional one (1) parking space for every three (3) units, regardless of the number of units. The parking table in

the plan requires 234 spaces and seven (7) handicapped accessible spaces and this application provides 250 spaces.

Attorney Heller noted the lighting plan provided in accordance with the original application and submitted into the record an updated lighting plan (Attachment 7) demonstrating there is no light migration off of the site. As an aside, the carve out in the middle which was formerly owned by Geraldine Dzwilewski is now owned by Bride Lake, LLC.

Attorney Heller noted that at the request of Mr. Mulholland, and although not required, the Applicant has committed to creating a two (2) foot high landscape berm along the project frontage and plant that with six (6) foot evergreen trees and the if the Commission sees fit to approve the modification, it should be incorporated as a condition of approval. He noted that although there is an Affordable Housing Section of the EL Zoning Regulations, the Applicant is not required to follow them because of the CT state 8-30g statute. The bulk requirements were submitted previously with the original, approved application. Now requesting that the Commission approve the modification to allow for the additional 20 proposed units.

He reminded the Commission of the legally allowed parameters, and that the stormwater has been approved for 108 units which was oversized for the development and that design and the treatment of the storm water continues to comply with the additional units proposed.

Attorney Heller stated that in his opinion, the one parameter the Commission was permitted to consider was the traffic generation, as that is a matter of public safety and welfare. The Applicant had previously had a traffic study prepared by Bubaris Traffic Associates, a consulting traffic engineer, and the project that was evaluated was for a 250 unit project of a mix of apartments and condo units. The report, which is part of the original record from 2020, concludes that "the proposed residential units of 250 units should not adversely impact traffic operations on the surrounding roadway network when it is completed and occupied. The proposed residential development is expected to generate from 98-130 trips per hour during the weekday AM and PM commuter peak periods. Operational analyses indicate that the proposed development will experience excellent levels of service at the proposed site drive intersection given the relatively low traffic volumes on N Brode Brook Rd. It appears that the required site lines to and from the proposed site line intersection can be provided given our preliminary field view. The traffic crash experience study area is excellent with no reason to expect that the subject development will exacerbate this excellent condition". In submitting the application in 2020 the AM peak traffic would be 37 trips and PM would be 45 trips per hour. By adding 20 units to the development the AM trips per hour will increase by 9 (to 46 trips) and the PM by 11 (to 56 trips). It is noted that because that original estimate was based much higher number of units (250 as opposed to 100) there will be no adverse impacts to traffic, as well as no adverse effects to any legal matters that the Commission is allowed to consider under 8-30g application.

Attorney Heller asked for questions by the Commission.

Ms. Kalal asked how many children were expected to live in the area.

Attorney Heller noted that the current statistic for a multi-family/multi-bedroom in CT is .2 school aged children for a two (2) bedroom. There are some three (3) bedrooms in the complex and although Attorney Heller did not have an exact number, he estimated 30 children.

Ms. Kalal noted there was no bus stop indicated on the plan and that the active and passive recreation area would now be occupied by a building. She wondered if there was a playground.

Attorney Heller stated that the recreation area had been moved but that there was no playground due to liability issues.

Ms. Kalal asked if there would be fencing around basins.

Mr. Brandon Hanfield, professional engineer with Yantic River Consultants, licensed engineer in the State of CT., indicated there was no proposed fencing around the basins but there are proposed plantings. In general, there are 3-1 gradual slopes and showing no steep slopes. The depths range 3-4 feet (depth of water).

Ms. Yuhas asked about the 1-inch rainfall, she questioned the current heavy rains.

Attorney Heller indicated the stormwater system will handle above the 100-year storm which is 7-8 inches of rain in a 24 hour period, but that he had been referring to the water quality volume and the first flush of dirty water which is the water the Storm Water Quality requires to be treated and renovated. That was referring to storm water quality, not storm water management.

Ms. Thurlow referred to the memo from Chief Operating Officer of the Water and Sewer Department (B. North) (Attachment 4) and asked if the builder was prepared to do what was asked.

Mr. Hanfield indicated that incorporating the valving was not a problem and had received the comments. He agreed that incorporating more repetitive isolation measures is good advice and will incorporate that.

Mr. Pivo asked about the lack of a bus stop and questioned if there was a bus route on that road (N. Bride Brook Rd).

Mr. Hanfield noted that the Board of Education (or another agent) would determine where a school bus would stop and that may not be in the complex but rather on the street, and there were internal sidewalks in the complex.

Mr. Pivo asked what the (dollar amount of) affordable unit rents would be.

Attorney Heller stated that as of October 2023 60% would be at \$1,266.05, and 80% would be \$1,946.00.

Mr. Pivo noted that he has expertise in that he is a professor emeritus of urban planning and real estate development. He has been teaching for 30 years. He has given lectures on site planning and multi-family and affordable housing projects. East Lyme has a 2022 Affordable Housing Plan and the Plan says the Town has more affordable housing than it needs in the table. He stated that the Town needs units that rent for less than \$625.

Attorney Heller noted that that number would fall under subsidized housing, which is not this project.

Mr. Pivo questioned the substantial public issues including that there is no playground, and he would like to see that as in other developments in town.

Attorney Heller qualified that there is no improved playground area.

Mr. Pivo was in favor of the landscape berm but requested that trees be ten (10) feet on center and not sparsely spread out, he thought they should be twelve (12) feet. He thought that the cost would not be too much more, and he noted the compatibility with neighboring uses. He wanted to point out that visual character of the road affected property values.

Attorney Heller indicated that the Applicant would not agree to that. He also noted that at the appellate level in the State of CT, neither aesthetics nor compatibility with neighboring uses were a matter within the consideration of the Zoning Commission on an 8-30g application.

Mr. Pivo questioned if the Applicant was no longer using the geotextile filtration system and Attorney Heller confirmed, as it is not available due to supply chain issues. He asked if the new system would produce the same level of water quality treatment for the discharged water so that the water shed is protected. He also wanted to question if the engineer had considered the 2024 Water Quality Manual.

Mr. Hanfield explained the geotextile filtration system and how the new system would work now with the new system including a more open water treatment style system. With the explanation, he stated that he always designs systems to be very conservative as it's not worth living in a margin as the larger storms recently have shown.

Additionally, Mr. Hanfield noted that the project was approved in 2004 and as such he had not done calculations based off of the 2024 Water Quality Manual as that would be inappropriate, however, his hydrologic analysis is very conservative. He did state that the project is reducing the amount of flow entering the North Bride Brook growth corridor from realistic analysis of existing to a very realistic analysis of proposed and are still lowering the amount of flow. It also applies to the 100 year storm. He again stated it would not be appropriate to perform and submit calculations based off of a manual that has not been officially released yet.

Mr. Pivo questioned the lack of sidewalks and wanted to suggest adding sidewalks to the existing project. Additionally, he thought that the parking was excessive.

Mr. Hanfield stated there are no sidewalks connecting the project to N Bride Brook Rd and the sidewalks that are there connect the parking lots to the units in handicapped accessible units. It was intended to minimize grading on the site.

Attorney Heller disagreed with Mr. Pivo regarding parking.

Ms. Kalal questioned the plant list, specifically the arborvitae.

Mr. Hanfield responded that the arborvitae referenced is known as a Green Giant and is a western variety and is considered not to be a favorite among local deer. It is fast growing and would get to be 40-50 feet tall and 15 feet wide. They would go in at 5-6 feet tall.

Ms. Kalal requested that the applicant use three (3) inch maple trees and not two (2) inch maple trees, noting the significant price difference. She also noted that she did not see pollinator plants which was a text amendment that was adopted recently by the EL Zoning Regulations.

Mr. Hanfield noted that the native grass seed would be a mixture of native plants, native flowers and native grasses. These would be no-mow grasses, meaning maintenance free, pesticide free grasses.

Attorney Heller reminded the Commission that aesthetics are not a legitimate consideration on an 8-30g application. He noted that while it could enhance the project, it was not a requirement.

Mr. Pivo questioned why the Applicant would agree to add the berm if aesthetics were not required.

Mr. Mulholland stated that the Applicant was asked to soften the look of the project with the berm and the Applicant had agreed but was not required to.

Ms. Kalal asked if the application was subject to the current 300-foot upland review area by the Wetlands Commission or if it was grandfathered in according to the previous 100-foot upland review area.

Attorney Heller confirmed that it was grandfathered in to the 100-foot upland review because it was originally submitted and approved under the 100 foot upland review requirements.

Mr. Pivo questioned the traffic study done specifically regarding needing a review by the State of Connecticut DOT because of the 100-unit proposal.

Mr. Hanfield responded that *more* than 100 units would trigger an OSTA review, but it will be reviewed for all the other parameters.

Mr. Pivo wondered at the total cost of construction.

Attorney Heller responded that that had no bearing on the application, as that was not one of the parameters of the application consideration. He went on to describe the aggrievement standard.

Ms. Thurlow asked for comments from the public for, against or neutral.

Penny Howell-Heller, 61 E Pattagansett Rd Chairman of Natural Resources Commission, spoke neutrally regarding the project. She is concerned with the watercourse and one of the largest spawning grounds in southern New England of alewife (fish). Her Commission was alerted to muddy water entering North Bride Brook and had adverse effect on spawning alewife. It was fixed but the damage had been done. It is counterproductive to spend money to fix what should be taken into consideration during construction. She is asking that in the strongest terms that the full scope of the development be carefully reviewed in light of past failures especially during construction and especially once it is completed and the residents moved in.

Ms. Kalal asked Ms. Howell-Heller what type of erosion control is appropriate.

Ms. Howell-Heller indicated the berm was a good idea, that trees hold the slope naturally and to have more vegetation. Limiting the impervious surfaces. She noted that the tributary that holds

water that includes runoff from the highway as well as runoff from the construction is what caused the muddy water previously.

Ms. Kalal asked if hay bales would help.

Ms. Howell-Heller noted she is not an engineer and was asking for an engineer to be aware and to be careful.

Mr. Pivo asked if the damage to the stream was corrected.

Ms. Howell-Heller answered the affirmative.

Mr. Heller reminded the Commission that the project did not require Wetland Agency approval and noted that the engineer was tasked with designing the new proposal to make sure that the project would not disturb the watercourse. He noted that the Wetlands Agent had been to the site and did not find the project to have contributed to the muddy water, additionally the tributary is fed by the runoff on I-95 as well as multiple other sources.

MOTION 1

Mr. Pivo moved to continue the public hearing to the next meeting or when the applicant could return to address the issues raised.

Ms. Markovitz seconded the motion.

Ms. Yuhas supported this motion.

Mr. Foley, Ms. Kalal and Ms. Thurlow opposed the motion.

The motion did not pass.

MOTION 2

Ms. Kalal moved to close the public hearing.

Mr. Foley seconded the motion.

Ms. Thurlow supported this motion.

Mr. Pivo, Ms. Markovitz and Ms. Yuhas opposed the motion.

The motion did not pass.

Mr. Mulholland noted that the hearing continued at this time.

Mr. Heller reminded the Commission that there was a statutory time period in which it was required that the public hearing be closed.

Mr. Mulholland and Mr. Heller noted that the deadline date was March 6, 2024.

Mr. Foley asked to clarify that the 80 units had been approved and the Applicant is looking for 20 more, which the courts had strongly suggested they be granted, and in his opinion, it seemed as though the Commission was trying to start over and relitigate the entire project and he did not think that was appropriate. The Applicant was asking for 20 units on a project that is more than halfway built already.

MOTION 3

DECISION 1

Ms. Markovitz moved to continue the public hearing to February 15, 2024.

Mr. Pivo seconded the motion.
Ms. Yuhas and Mr. Foley supported the motion.
Ms. Kalal and Ms. Thurlow opposed the motion.
Motion passed 4-2.

Ms. Hardy noted that there were several people who would like to speak and asked if the illustrated boards presented by Mr. Heller would be available for viewing.

Ms. Thurlow noted that materials would be put online, and the boards would be in the land use office for viewing as well.

Ms. Thurlow asked Ms. Yuhas to step down and Mr. Peck to be reelected.

5. Regular Meeting

Ms. Thurlow noted a typo on the January 18, 2024, on page 2, the approval of minutes previously should have read: Approval of Minutes of January 4, 2024, and January 16, 2024.

5-1 Approval of Minutes January 18, 2024, Regular Meeting.

MOTION 4

DECISION 2

Ms. Kalal moved to approve the minutes of January 18, 2024.
Mr. Peck seconded the motion.
Motion passed 6-0-0.

5-2 Application of Bride Lake, LLC, for site plan approval for the modification of the December 3, 2020, approval of an eighty (80) unit affordable housing multi-family residential development pursuant to Connecticut General Statutes 8-30g increasing the total unit count to one hundred (100) multi-family units on the westerly side of N. Bride Brook Rd (20.24 acres) now bearing street number 94, Assessor Map 9.0 Lot 37-2.

Ms. Thurlow noted that the public hearing had been continued and therefore the discussion would be continued to the next meeting as well.

6. Old Business

6-1 Subcommittee for outdoor lighting.

Mr. Peck noted that they had not met yet but were planning to.

6-2 Text Amendment for Mixed Use in CA Zone.

Mr. Peck noted he had not met with Mr. Mulholland yet.

6-3 Affordable Housing

Ms. Thurlow noted that Attorney Bleasdale should have findings to share sometime in March 2024, and they were waiting on information from G. Goeschel and then a discussion could happen.

7. New Business

7-1 Application of Kristen Clarke, P. E. for conceptual site plan approval for an age restricted, affordable housing, rental community per Conn. Gen. Statute 8-30g.

Ms. Thurlow asked Mr. Mulholland to schedule a public hearing.

Mr. Pivo asked for the location.

It is noted the address is 91 Boston Post Rd.

7-2 Any business on the floor, if any, by the majority vote of the Commission.

Mr. Peck wished to discuss the regulations in CB zone to disallow new mixed-use buildings, in order to preserve the current historic buildings. He would like to have a subcommittee.

Ms. Thurlow and Mr. Pivo indicated interest.

Ms. Kalal and Mr. Pivo are the subcommittee.

Mr. Pivo wishes to discuss have the BOS granted the same authority as the Planning Commission has, in that if the commission needs to hire a consultant, they commission should be able to pass the cost along to the developer for complex projects.

TASK

Mr. Mulholland will investigate the statute regarding consultant fees and report back.

7-3 Correspondence

Ms. Thurlow noted the correspondence in the commissioner's packets regarding a pollinator pathway workshop.

Mr. Pivo also noted the information he had provided regarding site planning guidelines.

7-4 Comments from the Chairman

Ms. Thurlow stated that in the future perhaps the commission should look at the architectural review in the regulations and the wording used for hiring an architect.

7-5 Zoning Official

No comments.

7-6 Comments from the Ex-Officio

Ms. Hardy noted that due to the calendar the BOS has not met since the last Zoning Commission meeting. She did speak of the Conservation Commission and its origins. The Conservation was split into the Inland/Wetlands Commission and the Commission on Natural Resources. She believes that there should be an agenda item for the Commission on Natural Resources because of the expertise offered among the members. She feels the same way about the Aquifer Protection Agency. She noted that the Commission could appeal the boundaries to the state to make them larger as they were previously.

Ms. Kalal wished to change the Aquifer Protection boundary change and Ms. Hardy thought it would be better to make a plan and get organized first.

TASK

Mr. Mulholland will investigate adding a referral to the Aquifer Protection Agency as a requirement of an application.

7-7 Comments from Zoning Board Liaison to Planning Commission

Ms. Kalal confirmed she will attend the March 12, 2024, Planning Commission Meeting.

8. Adjournment

MOTION 5

DECISION 3

Ms. Markovitz moved to adjourn the Regular Meeting of the East Lyme Zoning Commission at 9:58PM.

Mr. Foley seconded the motion.

Motion passed. 6-0-0.

Attachment 1

Good evening. Thank you for serving. I am Tom Kalal of 80 Grassy Hill Rd. I am grateful to live in the north end of town because I don't have to drink our public water. In the last number of years I have learned our drinking water has elevated levels of MTBE, Sodium or Salt, and PFAS or forever chemicals. First and last are carcinogenic, the middle is hard on your heart. Read at the water report and they issue advisories about these chemicals.

We are a unique community that gets public water from an aquifer. This aquifer has been known for tremendous yield purity. Starts in my neighborhood, goes under Powers Lake, under Lake Pattaganset, under I-95, and surfaces by Ron's Guns and flows above and below ground from there to the sound. It is a gravel packed aquifer and the water is only 6' down. If you would like to see this tremendous aquifer flowing underground, I could take you to the Flanders Baptist Church, and remove a cement well cover and you'll see it, 6' down. Beautiful crystal clean water

But shortly downstream the contaminants enter, and we pump this water into our public water system. Of course they are treating in some way for contaminants. Remember this was extremely pure prior to this point.

Not long ago the state came to this commission and Conservation Commission and said, hey we don't want to monitor your aquifer anymore,, and by the way you can shrink its boundaries. Of course they did not tell the water in the ground they have shrunk its boundaries.

Conservation recommended staying with current aquifer protection zone, but this commission voted to shrink it drastically. You could now call it a well head protection zone not, not an aquifer protection zone..

At the same time Costco wanted to build but would not without a gas station.. And low and behold the boundary change

permitted this gas station to be built. I hope you told our drinking water beneath it to watch our for contaminants.

And with Costco comes the disgustedly ugly exit 74 project.

So all this water flows its merry way from gas station to gas station along 161 picking up any containments in the ground

My how we are doing a great job of destroying a beautiful water supply.

But there are things we can do:

1. Revert to the former aquifer protection zone shown in the 2010 POCD. This would be huge
2. Post signs stating entering our aquifer area
3. Ask for further reduced salt use in those areas
4. Turn over aquifer protection to Conservation
5. For the protection of the aquifer, create more 2, 3 5, acres zones

There are more containment out there,. Like lead, look what it did to Flint Michigan, or what was City of Flint.

So I ask the commission, discuss this now and act, for yourselves, our kids, our grandkids and citizens 300 years from now

Tom Kalas

attachment 2

Town of
108 Pennsylvania Ave
Zoning Department



East Lyme
Niantic, Connecticut 06357
Ph. (860) 691-4114 Fax (860) 691-0351

MEMO TO: East Lyme Zoning Commission

DATE: February 1, 2024

FROM: William Mulholland, Zoning Official *WM*

RE: Application of Bride Lake, LLC, for a site plan modification to add 20 units to the Brookside Apartments Affordable Housing development. 94 N Bride Brook Rd

In their proposal, the Applicant has applied to modify the existing site plan to add 20 additional units to the project. This is an 8-30g Affordable Housing development which was previously approved by the Commission for 80 units.

The original application for a new Affordable Housing development, zone change, and site plan was approved in 2020. At that time, the Applicant sought a permit from the Inland/Wetlands and Watercourses Commission for 108 units. This application was denied and subsequently appealed to the Superior Court where the court overturned the denial and granted an approval of up to 100 units.

The project is now under construction and the initial phase has been occupied. As a result of the court's action the Applicant is seeking a site plan modification to add the additional 20 units. Because this is a site plan modification, the Zoning Commission must review, and approve, modify, or deny, keeping in mind that this is an 8-30g application.

Further, regarding the site plan, the Town's Land Use team reviewed the proposal and have signed off on it. The team consists of myself, Gary Goeschel, the Planning Director/Wetlands Agent, Ben North, the Municipal Utilities Engineer, Bill Scheer, the Deputy Public Works Director, and Erik Quinn, the Fire Marshal. They have submitted reports to my office, which are included in your packets.

As the Commission is aware, in an 8-30g application, the burden is on the Commission to prove, based upon evidence in the record, that its decision is supported by such evidence, whether in the affirmative or the negative. The Applicant's attorney, Harry Heller, is here and will present the application.

Move to Approve: Application of Bride Lake, LLC, (successor to Pazz & Construction, LLC) for site plan approval for the modification of the December 3, 2020, approval of an eighty (80) unit affordable housing multi-family residential development pursuant to Connecticut General Statutes 8-30g increasing the total unit count to one hundred (100) multi-family units on the westerly side of N. Bride Brook Rd (20.24 acres) now bearing street number 94, Assessor Map 9.0 Lot 37-2.

Move to Deny: Application of Bride Lake, LLC, (successor to Pazz & Construction, LLC) for site plan approval for the modification of the December 3, 2020, approval of an eighty (80) unit affordable housing multi-family residential development pursuant to Connecticut General Statutes 8-30g increasing the total unit count to one hundred (100) multi-family units on the westerly side of N. Bride Brook Rd (20.24 acres) now bearing street number 94, Assessor Map 9.0 Lot 37-2.

Attachment 3

Town of

P.O. Drawer 519

**Department of Planning &
Inland Wetlands**

*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: William Mulholland, Zoning Official,
East Lyme Zoning Commission**

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

Date: January 30, 2024

Re: 94 North Bride Brook Road- Multi-Family Development: Application of Bride Lake, LLC (successor to Pazz & Construction, LLC); Applicant/Owner; Application to modify the December 3, 2020 Site Plan Approval for Affordable Housing identified in the application known as 94 North Bride Brook Road, Assessor's Map# 09.0, Lot# 37-2, East Lyme, CT

Information submitted by the Applicant which was considered in this review:

- **Application for Site Plan Review and associated narrative of the Application Details**
- **Site Development Plan (10-sheet plan set) entitled:** "North Bride Brook MF Development, Site Modification Plans, prepared for Bride Lake, LLC, Sheets 1 through 10, dated 9/25/2019 and revised through 10/10/2023," by Brandon J. Hanfield, P.E. of Yantic River Consultants, LLC of 191 Norwich Avenue, Lebanon, CT
- **Property Survey entitled:** "Property Survey, Land of Pazz & Construction, LLC, North Bride Brook Road-East Lyme, Connecticut, Scale 1"= 60', dated January 31, 2019 revised through June 8, 2020, by Robert C. Simoni, L.S. of 44 Ingham Hill Road, Old Saybrook, CT 06457
- **Stormwater Management Report entitled:** "Proposed Site Modifications, Brookside Apartments MF Development, 94 North Bride Brook Road, East Lyme, CT" prepared for Bride Lake, LLC dated November 1, 2019, Revised November 6, 2023

This office has reviewed the above referenced information and has the following comments:

1. The East Lyme Inland Wetlands Agency at their duly noticed meeting of July 13, 2023, considered and voted to enter into a Stipulation to Judgement (see attached Motion for Judgement In Accordance With Stipulation).

2. Through the Stipulation of Judgement, the parties to the administrative appeal (Pazz & Construction, LLC VS the Town of East Lyme Inland Wetlands Agency) agreed and stipulated that judgement in the appeal approving a modified plan of development may enter on certain terms and conditions. More specifically, that judgment was entered in favor of the Plaintiff approving a modified plan for the development of up to one hundred (100) units of multi-family affordable housing which, shall conform to the requirements delineated on a plan entitled "North Bride Brook Multi-Family Development, Prepared for Pazz & Construction, LLC, Overall Layout Plan N. Bride Brook Road (Assessor's Map 9, Lot 37-2) East Lyme, CT Sheet 1 of 8 Date 9/25/19 Revisions 1/15/20 Per Town Comments & Updated Survey Mapping 7/10/20 Revised Development Layout 10/30/20 Per Town Comments 11/17/20 Per Town Comments 5/23/23 Revised Layout Revised 5/23/23" prepared by Yantic River Consultants, LLC (see Attached Stipulation to Judgment).
3. Review of the modified plans submitted by the applicant indicated they conform to the Stipulation of Judgement and the requirements of the approved modified plan entitled "North Bride Brook Multi-Family Development, Prepared for Pazz & Construction, LLC, Overall Layout Plan N. Bride Brook Road (Assessor's Map 9, Lot 37-2) East Lyme, CT Sheet 1 of 8 Date 9/25/19 Revisions 1/15/20 Per Town Comments & Updated Survey Mapping 7/10/20 Revised Development Layout 10/30/20 Per Town Comments 11/17/20 Per Town Comments 5/23/23 Revised Layout Revised 5/23/23" prepared by Yantic River Consultants, LLC. As such, the proposed activities are non-regulated, and an Inland Wetlands Permit is not required.

Received

JAN 26 2024

Town of East Lyme
Land Use

DOCKET NO.: KNL-CV-20-6046767-S	:	SUPERIOR COURT
	:	
PAZZ & CONSTRUCTION, LLC et al	:	J.D. OF NEW LONDON
	:	
VS.	:	AT NEW LONDON
	:	
TOWN OF EAST LYME INLAND WETLANDS AGENCY	:	JULY 25, 2023

MOTION FOR JUDGMENT IN ACCORDANCE WITH STIPULATION

The parties in the above entitled administrative appeal hereby respectfully request the Court to enter judgment in accordance with the Stipulation to Judgment submitted herewith, duly signed by counsel for each party to this administrative appeal.

The parties further request that this Court hold a hearing pursuant to the requirements of Section 8-8(n) of the Connecticut General Statutes to approve the Stipulation to Judgment. The proposed Stipulation to Judgment was considered by the Defendant, East Lyme Wetlands Agency at a duly noticed regular meeting held on July 13, 2023, at which meeting any interested person was provided an opportunity to appear and voice his/her opinion on the proposed Stipulation to Judgment.

In accordance with the Stipulation to Judgment, Judgment should enter in favor of the Plaintiff, on the terms and conditions stated therein, without costs taxed against any party.

ORAL ARGUMENT REQUESTED
TESTIMONY NOT REQUIRED

LAW OFFICES OF
HELLER, HELLER & MCCOY
736 NORWICH-NEW LONDON TURNPIKE
UNCASVILLE, CONNECTICUT 06382
PHONE: (860) 848-1248
FACSIMILE: (860) 848-4003
FIRM JURIS NO.: 027155

DOCKET NO.: KNL-CV-20-6046767-S

SUPERIOR COURT

PAZZ & CONSTRUCTION, LLC et al

J.D. OF NEW LONDON

VS.

AT NEW LONDON

TOWN OF EAST LYME INLAND
WETLANDS AGENCY

JULY 25, 2023

ORDER

The foregoing Motion for Judgment in Accordance with Stipulation having been presented to the Court in the above referenced administrative appeal, together with a Stipulation to Judgment executed by the parties, and a hearing duly held in accordance with the requirements of Section 8-8(n) of the Connecticut General Statutes it is hereby **ORDERED**:

GRANTED/DENIED

Dated at _____, Connecticut this ____ day of _____, 2023.

BY THE COURT,

Clerk/Judge

LAW OFFICES OF
HELLER, HELLER & MCCOY
736 NORWICH-NEW LONDON TURNPIKE
UNCASVILLE, CONNECTICUT 06382
PHONE: (860) 848-1248
FACSIMILE: (860) 848-4003
FIRM JURIS NO.: 027155

Received

JAN 26 2024

Town of East Lyme
Land Use

DOCKET NO.: KNL-CV-20-6046767-S

SUPERIOR COURT

PAZZ & CONSTRUCTION, LLC et al

J.D. OF NEW LONDON

VS.

AT NEW LONDON

TOWN OF EAST LYME INLAND
WETLANDS AGENCY

JULY 25, 2023

STIPULATION TO JUDGMENT

The parties to the above referenced administrative appeal hereby stipulate and agree that judgment in the above entitled action approving a modified plan of development of certain real property situated on the westerly side of North Bride Brook Road in the Town of East Lyme, Connecticut may enter on the terms and conditions hereinafter set forth:

1. Judgment may enter in favor of the Plaintiff approving a modified plan for the development of up to one hundred (100) units of multi-family affordable housing on real property designated as Lot 37-2 on East Lyme Assessor's Map 9, which modified plan of development shall conform to the requirements delineated on a plan entitled "North Bride Brook Multi-Family Development Prepared for Pazz & Construction, LLC Overall Layout Plan N. Bride Brook Road (Assessor's Map 9, Lot 37-2) East Lyme, CT Sheet 1 of 8 Date 9/25/19 Revisions 1/15/20 Per Town Comments & Updated Survey Mapping 7/10/20 Revised Development Layout 10/30/20 Per Town Comments 11/17/20 Per Town Comments 5/23/23 Revised Layout Revised 5/23/23" prepared by Yantic River Consultants, LLC.
2. The Judgment entered in accordance with this Stipulation shall be entered as a final, unappealable judgment of this Court.

3. Each party to this action shall be solely responsible for the payment of such party's counsel's fees, court costs and incidental expenses incurred in the prosecution/defense of this appeal.
4. The obligations contained in this Stipulation to Judgment shall have the full force and effect of a judgment of this Court and any violation thereof may be enforced under the contempt powers of this Court.
5. This Court shall retain jurisdiction over the subject matter of this action for purposes of enforcing this Stipulation to Judgment.
6. This Stipulation to Judgment was approved by the Defendant, East Lyme Wetlands Agency, in an open meeting at a regular meeting held on July 13, 2023. A copy of the Agenda of said meeting of the Defendant, East Lyme Wetlands Agency is attached hereto as **Exhibit A**.

THE PLAINTIFFS,
PAZZ & CONSTRUCTION, LLC and
JASON PAZZAGLIA

By: _____ /s/027140

Harry B. Heller, its Attorney
Heller, Heller & McCoy
736 Norwich–New London Turnpike
Uncasville, Connecticut 06382
Telephone: (860) 848-1248
E-mail: hheller@hellermccoy.com
Firm Juris No.: 027155
Its Attorneys

THE DEFENDANT,
TOWN OF EAST LYME INLAND WETLANDS
AGENCY

By: 

Mark S. Zamarka
Waller, Smith & Palmer PC
52 Eugene O'Neill Drive
New London, CT 06320
Telephone (860) 447-9915
E-mail: mszamarka@wallersmithpalmer.com
Its Attorney

EXHIBIT A

**COPY OF THE JULY 13, 2023 MEETING AGENDA OF THE TOWN OF EAST LYME
INLAND WETLAND AGENCY**

Jessica Laroco

Attachment 4

Received

JAN 26 2024

From: Ben North
Sent: Friday, January 26, 2024 11:33 AM
To: Jessica Laroco; Erik P. Quinn; William J. BundyIII; Gary Goeschel
Cc: Bill Mulholland
Subject: RE: Site Plan Modification
Attachments: 22020240126_110802.pdf

Town of East Lyme
Land Use

Good Morning,

I have reviewed the site plan modification for 94 N. Bride Brook Rd with revision date 10/10/23 and offer the following comments to the developer:

Please place the unit count with sewer capacity tabulations from sheet 2 of 10 onto sheet 5 of 10, Utility Plan.

Please adjust water main, valving, and hydrant configuration to conform to the approved plan revision date of 3/21/22 in the Southern portion of the project, especially in the areas between buildings G and H, and buildings D,E, and F. The design was approved in this way to allow for isolation within the private system to allow for the maximum number residents to continue to enjoy utilities in the event of a main break or water service disruption. The proposed new configuration has no valving isolation, and a main break in most part of the development would cause water to be shut off for the total development, an unsatisfactory condition that could easily be avoided with proper valve isolation design.

Thank You



Ben North
Chief Operating Officer
East Lyme Water and Sewer
Phone 860-691-4108
Web eltownhall.com
Email bnorth@eltownhall.com
108 Pennsylvania Ave, Niantic CT
06357

From: Jessica Laroco <jlaroco@eltownhall.com>
Sent: Tuesday, January 9, 2024 12:35 PM
To: Erik P. Quinn <equinn@eltownhall.com>; William J. BundyIII <wbundyiii@eltownhall.com>; Ben North <bnorth@eltownhall.com>; Gary Goeschel <ggoeschel@eltownhall.com>
Cc: Bill Mulholland <billm@eltownhall.com>
Subject: Site Plan Modification

Good afternoon,

Please see the attached site plan modification for 94. N Bride Brook Rd.

We are going to schedule a Public Hearing for 2/1/24 so please have comments in as soon as possible.

Let me know if you have any questions.

Jess

Jessica Laroco

Office Manager

Town of East Lyme

Land Use Dept.

108 Pennsylvania Ave

Attachment 5

Jessica Laroco

From: Erik P. Quinn
Sent: Thursday, January 18, 2024 8:37 PM
To: Jessica Laroco; William J. BundyIII; Ben North; Gary Goeschel; Bill Scheer
Subject: Re: Site Plan Modification

Good evening,

The current buildings are townhouses and if the additional buildings are also townhouses there is no issue on our end. We would just need to see plans showing the firewalls between units and an updated site plan.

Erik P. Quinn
Deputy Fire Marshal Town of East Lyme
Fire Chief Niantic Fire Department
Office 860-739-2420
Cell 860-235-8394
Email equinn@eltownhall.com

Be advised that emails are subject to FOI requests. This e-mail message is intended only for the named recipient(s) above. It may contain confidential information that is privileged or that constitutes an official work product. If you are not the intended recipient, you are hereby notified that any use, dissemination, distribution, or copying of this email and any attachment(s) is strictly prohibited.

From: Jessica Laroco <jaroco@eltownhall.com>
Sent: Wednesday, January 17, 2024 11:08 AM
To: Erik P. Quinn <equinn@eltownhall.com>; William J. BundyIII <wbundyiii@eltownhall.com>; Ben North <bnorth@eltownhall.com>; Gary Goeschel <ggoeschel@eltownhall.com>; Bill Scheer <bscheer@eltownhall.com>
Subject: FW: Site Plan Modification

Please have these comments in by 10am Monday.
Thanks!
Jess

From: Jessica Laroco
Sent: Tuesday, January 9, 2024 12:35 PM
To: Erik P. Quinn <equinn@eltownhall.com>; William J. BundyIII <wbundyiii@eltownhall.com>; Ben North <bnorth@eltownhall.com>; Gary Goeschel <ggoeschel@eltownhall.com>
Cc: Bill Mulholland <billm@eltownhall.com>
Subject: Site Plan Modification

Good afternoon,
Please see the attached site plan modification for 94. N Bride Brook Rd.
We are going to schedule a Public Hearing for 2/1/24 so please have comments in as soon as possible.
Let me know if you have any questions.
Jess

Jessica Laroco

Attachment 6

Town of East Lyme

P.O. DRAWER 519

NIANTIC, CONNECTICUT 06357



Deputy Director of Public Works
William A. Scheer Jr. P.E. L.S.

860-691-4101
FAX 860-739-6930

Received

JAN 29 2024

Town of East Lyme
Land Use

January 29, 2024


RE: Revised Application of Bride Lake LLC, North Bride Brook Road, Drawings revised to 10/10/2023

Mr. Mulholland,

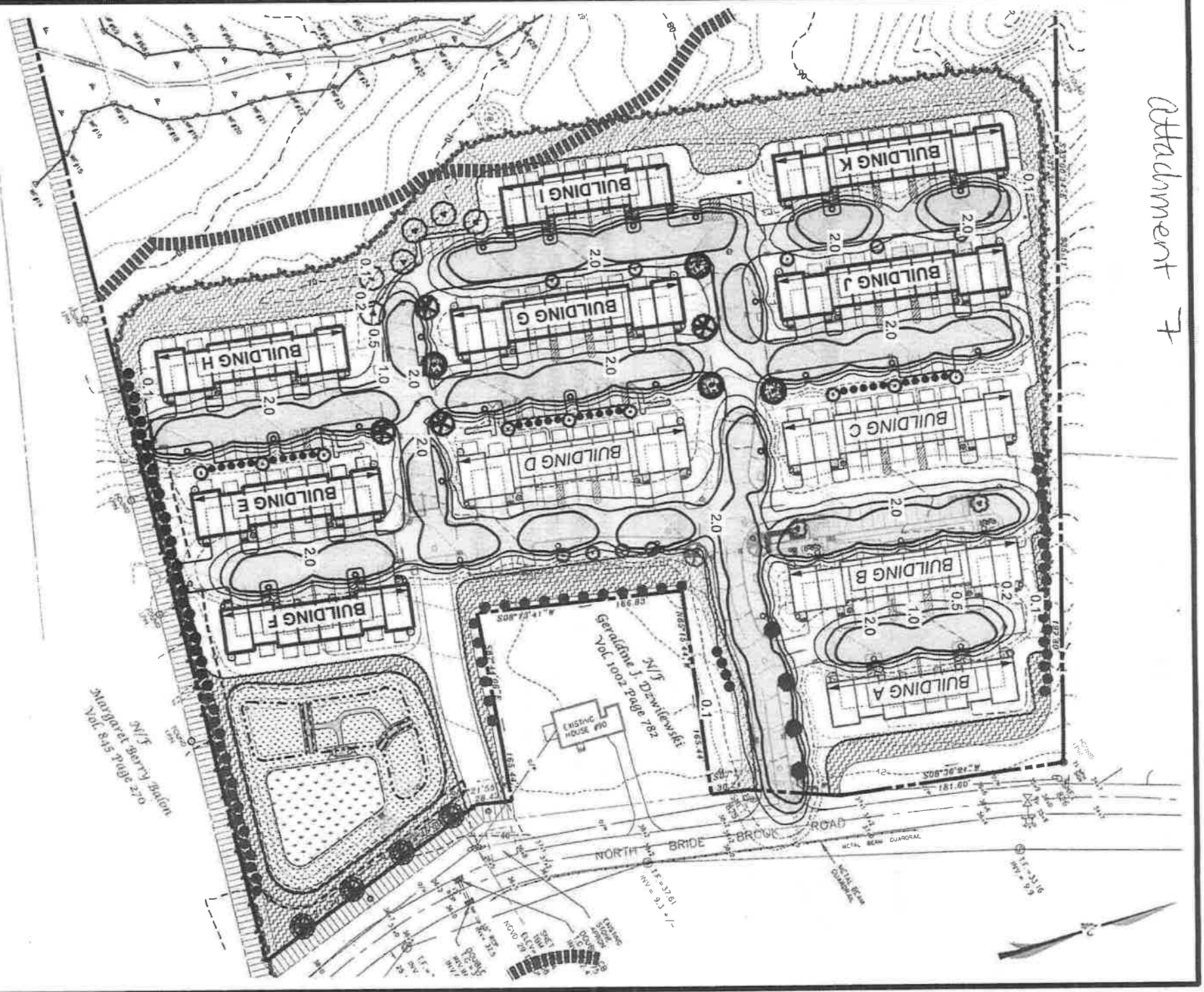
The Engineering department has reviewed the revised application for the affordable multi-family development on North Bride Brook Road.

This application is a revision to the prior approval of 80 units that was reviewed in detail in 2020 by the Town Engineer. The increased number of units is not a significant change from the original approval from an engineering review perspective. The revised drawings and drainage report reflect the proposed modifications in building footprint, parking, and stormwater infrastructure. The engineering department takes no exception to the revised application as submitted.

Respectfully,


William Scheer PE, LS
Deputy Director of Public Works
(acting Town Engineer)

Attachment 7



SCALE: 1" = 100'

DATE: 2/11/24

SHEET: L-1



CONTACT INFORMATION

YANTIC RIVER CONSULTANTS, LLC
 191 NORWICH AVENUE
 LEBANON, CONN 06249
 (860) 387-2784
 www.yanticriver.com

BROOKSIDE APARTMENTS
 PREPARED FOR BRIDE LAKE, LLC
ISOMETRIC OVERLAY PLAN

94 N. BRIDE BROOK ROAD
 EAST LYME, CT