

*English Harbour*  
*BBB*

## MEMORANDUM

**To: Anne Thurlow, Chairman  
East Lyme Zoning Commission  
William Mulholland-Zoning Officer**

**From: English Harbour Capital Partners, LLC**

**Date: March 20, 2024**

**Subject: Response to Public Comments  
Conceptual Site Plan Application  
Per Conn. Gen. Statute 8-30g  
91 Boston Post Road**

**Please accept this memorandum for the record of this matter which responds to the public comments made and submitted at the East Lyme Zoning Commissions Special Meeting of March 14, 2024.**

**As an initial matter each of the public speakers addressed matters that are either completely outside of the jurisdiction of this commission or premature based upon the requirements for a Conceptual Site Plan for a Development proposed under Conn. Gen. Statute 8-30g the requirements for which are already in the record of the pending application.**

**Donald Danila Correspondence dated March 14, 2024.**

**Record Exhibit**

- **With regard to the documents not being provided for review we, the applicant, does not control the uploading of the documents onto the Town's website for this commission nor do we control the Town providing access to the documents we have submitted. The application submission documents were submitted on January 17, 2024 and per Connecticut Law should have been made available for public inspection as of that date. Since January 17, 2024 we have provided additional documents which included several communications and exhibits submitted for the record of this matter addressed to the Town's Zoning Officer, this Commissions Chairman Ms. Thurlow, the Town Planner/Wetlands Agent Mr. Goeschel, the Town Engineer Alex Klose, Deputy Public Works Director Mr. Scheer and the Towns Utility Engineer Ben North. All of these documents were made available to each member of this commission in the binder hand delivered to the Commission Members on March 7, 2024 and many of them have yet to be uploaded to this Commissions web page. Mr. Danila's lack of transparency claims are misguided. They should be addressed to this commission and its staff.**

- **The use of this property as a farm is consistent with historical use of this property. The property has been and continues to be classified as a “Farm” in the November 13, 2023 “Assessors Certificate Farm-Forest-Open Space East Lyme , CT November 13, 2023” and recorded in the East Lyme Land Records at Volume 1103 Page 506. See Ex. 1. Both this property and its abutting property owned by Mr. Davis have been and continue to be maintained to both shoreline of the Pond and Latimer Brook as is evidenced by the recent A-2 Survey and Site Context Plan submitted with the pending application. Historical Photographs of the property from the Connecticut Board of Realtors are attached as Ex. 2. In further contradiction of Mr. Danila’s claims that this use of portions of this property is “inconsistent with our Inland Wetlands Regulations” ignores the undisputable fact that farming activities are exempt as a right from the Connecticut Inland Wetlands Act. Finally the Connecticut Department of Energy and Environmental Protection Open Space Land Acquisition Grant Program allows for funding applications for “Lands Valuable for Local Agricultural Heritage” demonstrating Mr. Danila’s claim that Farmland “...is inconsistent with Open Space..” is also incorrect. As is set forth in the record of this matter Sod Farms located near the shoreline of the Connecticut River in Wethersfield are cross used as Public Open Space. Finally, Agricultural uses of property are as of right in this commissions RU-40 Zone. See Ex. 3. Excepting a very**

**small area at the entrance to the property this Property is Zoned RU-40. Ex. 4.**

- **Mr. Danila confuses the statements made regarding National Diversity Data Base findings. As evidenced by the initial Design Report the Town of East Lyme GIS shows no endangered or threatened species. The East Lyme GIS NDDB map was an exhibit to January 11, 2024 Design Report. Notwithstanding the Towns records application was made to the DEEP for a National Diversity Data Base Determination on January 8, 2024. The results dated February 22, 2024 were provided to the record of this matter as part of the letter to Mr. Goeschel and Mr. Mulholland on February 29, 2024 and were also an attachment to the Amended Design Report dated March 5, 2024 provided to each of the members of this Commission on March 7, 2024 (Binder Exhibits 9 and 15).**

**The Amended Design Report dated March 5, 2024 states as follows;**

### **BIOLOGICAL REPORT**

**“No endangered State of Federal Listed Species or Critical Habitat are identified on the Town of East Lyme GIS Natural Diversity Data Base Area Map (“NDDB”). See Exhibit B. The applicant questioned the reliability of this information and submitted a request for NDDB determination from the State of Connecticut Department**

**of Energy and Environmental Protection (“DEEP”). The DEEP Determination Report bearing determination Number 202400186 is attached as Exhibit C. The report provides guidance regarding protective measures to be taken and speaks for itself.”**

**That this Amended Design Report has not yet been posted to this Commissions Web Page that contains portions, but certainly not all, of the record of this matter is a disservice to the public and the undersigned as it sows the confusion demonstrated in Mr. Danila’s submission.**

**Deb Moshier-Dunn Correspondence Dated March 14, 2024-Record Exhibit TT**

**This document and the attached “Trinkaus Engineering Review” demonstrate that Mr. Trinkaus does not understand the legal requirements for Conceptual Site Plan Approval or alternatively simply ignored them. Those requirements have been identified several times in the record of this matter. In response to the various statements attributed to Ms. Mosier -Dunn beginning at the bottom of Page 2 of her letter we offer the following;**

**1) “The number bedrooms per unit are not clear in the documentation”**

**Answer: Incorrect, We provided this information on January 17, 2024. Binder Exhibit 6- 2 bedrooms per unit.**

**2) The size/type of septic tanks...The Town can not evaluate this proposal properly without knowing the number of proposed bedrooms.**

**Answer: Number of bedrooms was answered in answer to #1. The Town will not be evaluating the Septic Designs. Approvals for the Community Septic System will come from the Ledge Light Health District and State of Connecticut Department of Health.**

**3) Septic systems will be on the down hill side of a retaining wall. How will they be pumped ?**

**Answer: Only the leaching fields will be located west of the retaining wall. The Septic tanks are located convenient to the road and the proposed locations of the Septic Tanks are located on the site plan.**

**4) How can the developer design stormwater mitigation without soil sampling.**

**Answer: The Preliminary Stormwater Design is based on existing soils mapping. As noted we have had an application an administrative permit for Wetlands Agent for test holes pending since January 8, 2024. The delay in issuance of this permit is rather suspicious.**

**5) Why are six Septic Systems located in the AE Flood Zone.**

**Answer: Please see revised Site Plan submitted this evening. There are no longer proposed System Areas in the flood zone.**

**6) Sod Farm**

**Answer: We have indicated a Sod Farm will likely not be part of a Final Site Plan for the proposed project.**

**7) Trinkaus Report Opinion that the submitted plans and documents are not adequate to determine if this an appropriate use of this site even on a conceptual basis.**

**Answer: This opinion, as do Mr. Trinkaus's comments on his review attached to the Mosier-Dunn letter ignore the requirements for an 8-30g Conceptual Site Plan as such are identified in long standing Case Law. The Trinkaus review is responded to as follows:**

**1) Soil testing not required for Conceptual Site Plan approval.**

**2) Systems in the AE Flood Zone have been moved. Item moot.**

**3) Untrue. See Design Report "Sewage Disposal Report".**

**4) Information on retaining walls not required for Conceptual Site Plan approval.**

**5) Fire Marshall has indicated proof of concept demonstrates feasibility of infrastructure for fire/emergency access.**

**6) Parking Spaces provided per unit : Two (2)**

**7) Soils from East Lyme GIS mapping is correct. Nothing more required for Conceptual site plan approval.**



**8) The concerns regarding “depth to ledge” are premature and will be addressed by site testing with both Ledge Light Health District and State of CT Department of Health representatives in attendance.**

**9) Total Bedrooms on Site: 50**

**10) Rain Gardens will be addressed in the final site plan. Not needed for Conceptual Site Plan approval.**

**11) No erosion control plan is required for Conceptual Site Plan approval.**

**12) Untrue. Preliminary Storm water data has been provided notwithstanding none being required for Conceptual Site Plan approval.**

**13) Correct that no site testing has been done however ,again, Tinkaus ignores it is not required for a Conceptual Site plan Approval.**

**14) Not Required for Conceptual Site Plan approval.**

**15) See Answer to #14.**

**16) See Answer to # 14**

**17) See Answer to #14 however the applicant has indicated they will be utilizing the 2023 DEEP Stormwater Management Manual.**

**18) The Soil Scientist has visited the site on several occasions and his Wetland Function & Value and Impact Assessment report submitted to the record of this matter speaks for itself. (Binder Exhibit 15)**

**19) The Site plan has been modified to address the separation distances from the Stormwater Detention pond.**

**20) We cannot respond to this claim as Trinkaus does not offer any support for his claim that the proposed detention pond does not comply with any of the management practices found in the 2023 DEEP Stormwater Manual.**

**21) See Answer to #20.**

# EXHIBIT 1

VOL: 1103 PG: 506  
INST: 00002317

ASSESSOR'S CERTIFICATE  
FARM – FOREST – OPEN SPACE  
EAST LYME, CT

RESPECTFULLY SUBMITTED, NOVEMBER 13, 2023

Diane Vitagliano CCMA II

DIANE VITAGLIANO, CCMA II  
ASSESSOR

Town of East Lyme  
Public Act 490

VOL: 1103 PG: 512  
INST: 00002317

List	Name	Location/ Map	Total	Acres Class	Acres Class	Gross	Acquire/ Purch/ Expire Date
			Acres/ Class				
6631	STEFANSKI WILLIAM J JR & STEFANSKI GAIL M 130 GRASSY HILL RD EAST LYME, CT 06333	132 GRASSY HILL RD 51.0 20 0950/0303	87.55 0	29.22 56.50	8,950 15,420	4/22/1968 Farm 7/15/2015 Forest 4/22/1978	
5118	TAYLOR JEFFREY M & PAULA R 15 PLANTS DAM RD EAST LYME, CT 06333	15 PLANTS DAM RD 19.0 78 0811/0531	9.49 0	8.58	1,670	10/24/2008 Farm 10/24/2008 10/24/2018	
1978	TILLER GARY W 31 DEAN RD EAST LYME, CT 06333	31 DEAN RD 24.0 77 1099/0694	3.66 0	2.75	1,910	5/26/1970 Farm 8/17/2023 5/26/1980	
6913	TOMASZEK JOYCE 56 STONE RANCH RD EAST LYME, CT 06333	56 STONE RANCH RD 23.0 1 10/1 48	103.99 0	102.00	27,850	12/20/1991 Forest 10/23/2020 12/20/2001	
6914	TOMASZEK JOYCE 56 STONE RANCH RD EAST LYME, CT 06333	STONE RANCH RD 24.0 2 10/1 48	12.00 0	12.00	3,280	12/20/1991 Forest 10/23/2020 12/20/2001	
7048	TYTLA PETER J EST 13 ENID LN EAST LYME, CT 06333	91 BOSTON POST RD 31.0 2 105/ 348	11.36 0	11.19	8,690	3/24/2006 Farm 4/30/2021 1/31/1979	
3669	WALDEN HELEN J 259 UPPER PATTAGANSETT RD EAST LYME, CT 06333	259 UPPER PATTAGANSETT RD 39.0 5 103/ 464	50.21 0	42.41	11,580	11/02/1993 Forest 9/21/2020 11/02/2003	
7411	WOLLSCHLAGER JAMES A ETAL 5550 GLENRIDGE DR #225 ATLANTA, GA 30342	OLD BLACK PT RD 05.1 27 0375/0328	2.50 0	2.50	680	8/04/1972 Forest 6/09/1994 8/04/1982	
7412	WOLLSCHLAGER JAMES A ETAL 5550 GLENRIDGE DR #225 ATLANTA, GA 30342	OLD BLACK PT RD 05.1 28 0375/0328	2.90 0	2.90	790	8/04/1972 Forest 6/09/1994 8/04/1982	
7413	WOLLSCHLAGER JAMES A ETAL 5550 GLENRIDGE DR #225 ATLANTA, GA 30342	OLD BLACK PT RD 05.1 30 0375/0328	1.20 0	1.20	330	8/04/1972 Forest 6/09/1994 8/04/1982	
7414	WOLLSCHLAGER JAMES A ETAL 5550 GLENRIDGE DR #225 ATLANTA, GA 30342	OLD BLACK PT RD 05.1 31 0375/0328	22.00 0	22.00	6,010	8/04/1972 Forest 6/09/1994 8/04/1982	
1091	WOODRIDGE CONDOMINIUM ASSOC IN C/O THAMES HARBOR ASSOCIATES 5 SHAWS COVE SUITE 200 NEW LONDON, CT 06320	KING ARTHUR DR 31.0 9 0367/0190	34.08 0	34.08	9,300	1/19/1994 Forest 1/19/1994 1/20/2004	
2809	YUHAS THOMAS M & TERRI A 36 GIANTS NECK RD NIAHTIC, CT 06357	36 GIANTS NECK RD 07.1 4 0398/0066	37.48 0	30.50	8,330	10/06/1995 Forest 10/06/1995 10/06/2005	

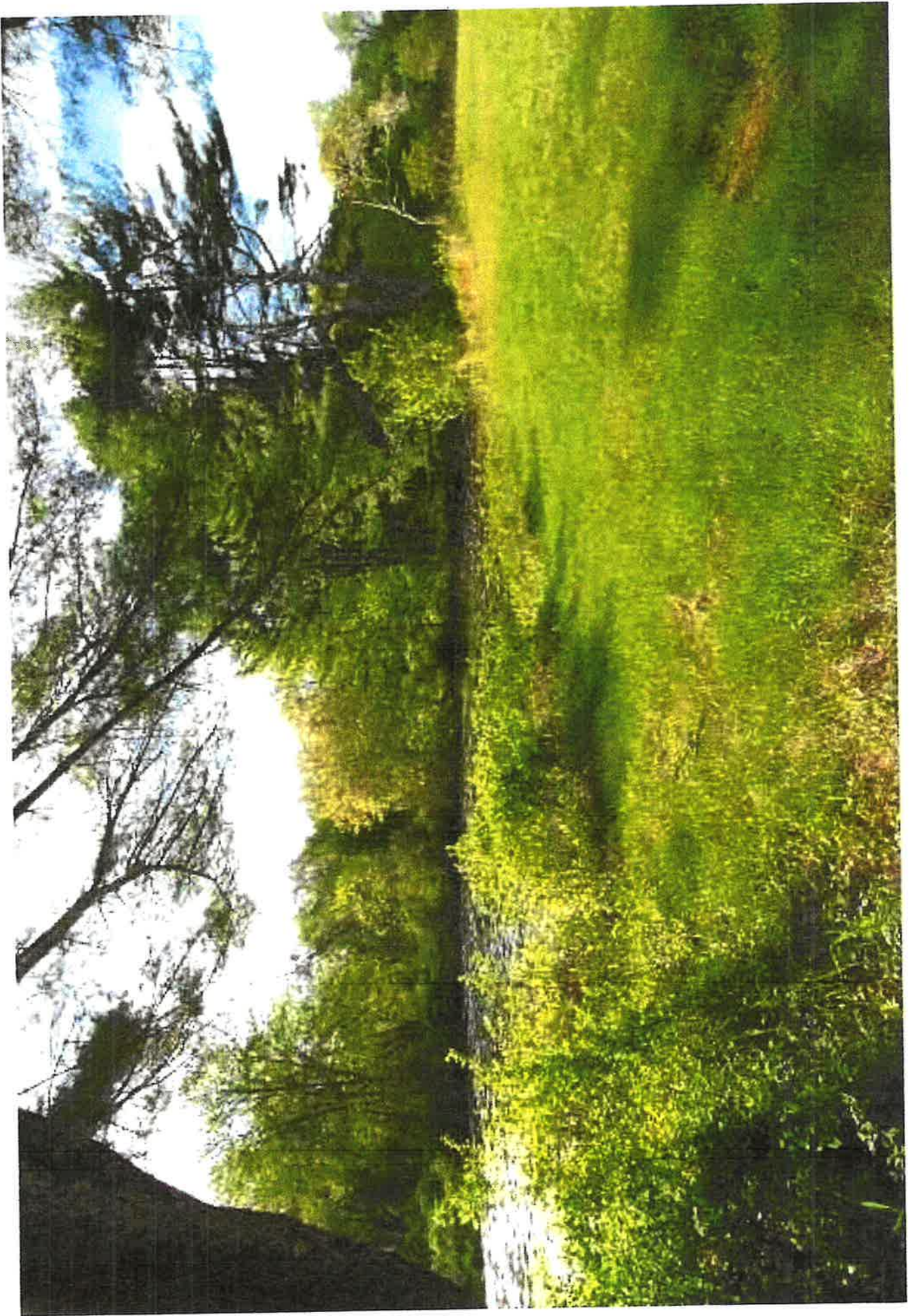
RECEIVED FOR RECORD  
Nov 13, 2023 03:42:33P  
Karen Miller Galbo  
TOWN CLERK  
EAST LYME, CT

# EXHIBIT 2









# EXHIBIT 3

# SECTION 5

## RU-40 RURAL DISTRICTS

GENERAL DESCRIPTION AND PURPOSE - Areas generally outside of the developed sections of the Town, but not so remote as the RU-80 Districts, and characterized by sparse settlement and lack of utilities. It is the purpose of these Regulations to encourage low-density residential development for areas zoned RU-40.

5.1 PERMITTED USES - The following uses of buildings and/or land and no others are permitted:

5.1.1 Single family detached dwelling

5.1.2 Forestry

5.1.3 Nursery or greenhouse provided they are not less than 100 feet from any lot line

5.1.4 Agricultural or Farm Poultry -- 6 or less (see Section 25.5)

5.1.5 Accessory uses customarily incidental to any of the above permitted uses, including home occupations subject to the provisions of Section 20.3.

5.2 SPECIAL PERMIT USES - The following uses may be permitted when granted a Special Permit by the Zoning Commission subject to the Special Permit requirements of Section 25 and 25.5.

5.2.1 Convalescent home.

5.2.2 Bed & Breakfast

5.2.3 Agricultural or farm use, including the raising of livestock or poultry (more than 6)

5.2.4 Roadside stand for the display and sale of agricultural produce grown on the lot

5.2.5 Kennels, Small Animal Veterinary Clinic, riding or boarding stables

5.2.6 Commercial golf, tennis or similar club

5.2.7 Commercial greenhouse or nursery

5.2.8 Antique shop

5.2.9 Farm Event accessory to an existing Agriculture or Farm use

(ALSO SEE SECTION 20 - - GENERAL REGULATIONS)

# EXHIBIT 4

Town of East Lyme

Zone Change Permit #

243C

PO Box 519
Niantic, CT 06357
(860) 691-4114
Fax: (860) 691-0351

Date Entered into ZC Log

APPLICATION FOR ZONE CHANGE REQUEST

NOV 08 9 41 AM '12

Date of Application: 5-10-12 Zone:

Applicant's Name: PETER T. TYTLA EAST LYME

Applicant's Address: 91 Boston Post Rd. / P.O. Box 43 Telephone: 860-7397105

Location of Affected Premises: 91 Boston Post Rd Assessor's Map/Block/Lot:

Owner of Record: Same as applicant Volume/Page:

Owner's Address: Same as applicant Telephone: 8607397105

DESCRIPTION OF ZONE CHANGE REQUESTED {Must comply with Section 28 of the East Lyme Zoning Regulations and requires compliance with all applicable Zoning Regulations of the Town of East Lyme}:

Change current commercial zone on 91 Boston Post Road to Residential zone

Signature of Owner: [Signature]

Signature of Applicant:

\*\*\*\*\*

Below this line for Office Use Only:

\*\*\*\*\*

Attach a true copy of the Deed and a Site Plan {10 copies required}. A copy of the deeds for all affected properties and a site plan demonstrating compliance with all applicable zoning code requirements must accompany this application.

Attach an accurate map. Please attach a copy of a map delineating the dimensional meets and bounds and names of adjacent property owners.

Table with 4 columns: Field Name, YES/NO, Fee Name, Fee Amount. Includes rows for Deed Copies Attached, Map Attached, PERMIT FEE, ZONE CHANGE FEE, SITE PLAN FEE, STORM WATER, STATE FEE, and TOTAL DUE.

Approval box containing Date Approved (7/12/2012), Date Denied, Approval subject to conditions below (1, 2, 3), Approval to become effective upon publication, Date (7/12/12), and Attest (Maurice Salerno, East Lyme Zoning Chairman).

# EXHIBIT 1

VOL: 1103 PG: 506  
INST: 00002317

ASSESSOR'S CERTIFICATE  
FARM – FOREST – OPEN SPACE  
EAST LYME, CT

RESPECTFULLY SUBMITTED, NOVEMBER 13, 2023

Diane Vitagliano CCMA II

DIANE VITAGLIANO, CCMA II  
ASSESSOR

Town of East Lyme  
Public Act 490

VOL: 1103 PG: 512  
INST: 00002317

<u>List</u>	<u>Name</u>	<u>Location/ Map</u>	<u>Total Acres/ Class</u>	<u>Acres Class</u>	<u>Gross</u>	<u>Acquire/ Purch/ Expire Date</u>
6631	STEFANSKI WILLIAM J JR & STEFANSKI GAIL M 130 GRASSY HILL RD EAST LYME, CT 06333	132 GRASSY HILL RD 51.0 20 0950/0303	87.55 0	29.22 56.50	8,950 15,420	4/22/1968 Farm 7/15/2015 Forest 4/22/1978
5118	TAYLOR JEFFREY M & PAULA R 15 PLANTS DAM RD EAST LYME, CT 06333	15 PLANTS DAM RD 19.0 78 0811/0531	9.49 0	8.58	1,670	10/24/2008 Farm 10/24/2008 10/24/2018
1978	TILLER GARY W 31 DEAN RD EAST LYME, CT 06333	31 DEAN RD 24.0 77 1099/0694	3.66 0	2.75	1,910	5/26/1970 Farm 8/17/2023 5/26/1980
6913	TOMASZEK JOYCE 56 STONE RANCH RD EAST LYME, CT 06333	56 STONE RANCH RD 23.0 1 10/1 48	103.99 0	102.00	27,850	12/20/1991 Forest 10/23/2020 12/20/2001
6914	TOMASZEK JOYCE 56 STONE RANCH RD EAST LYME, CT 06333	STONE RANCH RD 24.0 2 10/1 48	12.00 0	12.00	3,280	12/20/1991 Forest 10/23/2020 12/20/2001
7048	TYTLA PETER J EST 13 ENID LN EAST LYME, CT 06333	91 BOSTON POST RD 31.0 2 105/ 348	11.36 0	11.19	8,690	3/24/2006 Farm 4/30/2021 1/31/1979
3669	WALDEN HELEN J 259 UPPER PATTAGANSETT RD EAST LYME, CT 06333	259 UPPER PATTAGANSETT RD 39.0 5 103/ 464	50.21 0	42.41	11,580	11/02/1993 Forest 9/21/2020 11/02/2003
7411	WOLLSCHLAGER JAMES A ETAL 5550 GLENRIDGE DR #225 ATLANTA, GA 30342	OLD BLACK PT RD 05.1 27 0375/0328	2.50 0	2.50	680	8/04/1972 Forest 6/09/1994 8/04/1982
7412	WOLLSCHLAGER JAMES A ETAL 5550 GLENRIDGE DR #225 ATLANTA, GA 30342	OLD BLACK PT RD 05.1 28 0375/0328	2.90 0	2.90	790	8/04/1972 Forest 6/09/1994 8/04/1982
7413	WOLLSCHLAGER JAMES A ETAL 5550 GLENRIDGE DR #225 ATLANTA, GA 30342	OLD BLACK PT RD 05.1 30 0375/0328	1.20 0	1.20	330	8/04/1972 Forest 6/09/1994 8/04/1982
7414	WOLLSCHLAGER JAMES A ETAL 5550 GLENRIDGE DR #225 ATLANTA, GA 30342	OLD BLACK PT RD 05.1 31 0375/0328	22.00 0	22.00	6,010	8/04/1972 Forest 6/09/1994 8/04/1982
1091	WOODRIDGE CONDOMINIUM ASSOC IN C/O THAMES HARBOR ASSOCIATES 5 SHAWS COVE SUITE 200 NEW LONDON, CT 06320	KING ARTHUR DR 31.0 9 0367/0190	34.08 0	34.08	9,300	1/19/1994 Forest 1/19/1994 1/20/2004
2809	YUHAS THOMAS M & TERRI A 36 GIANTS NECK RD NIAHTIC, CT 06357	36 GIANTS NECK RD 07.1 4 0398/0066	37.48 0	30.50	8,330	10/06/1995 Forest 10/06/1995 10/06/2005

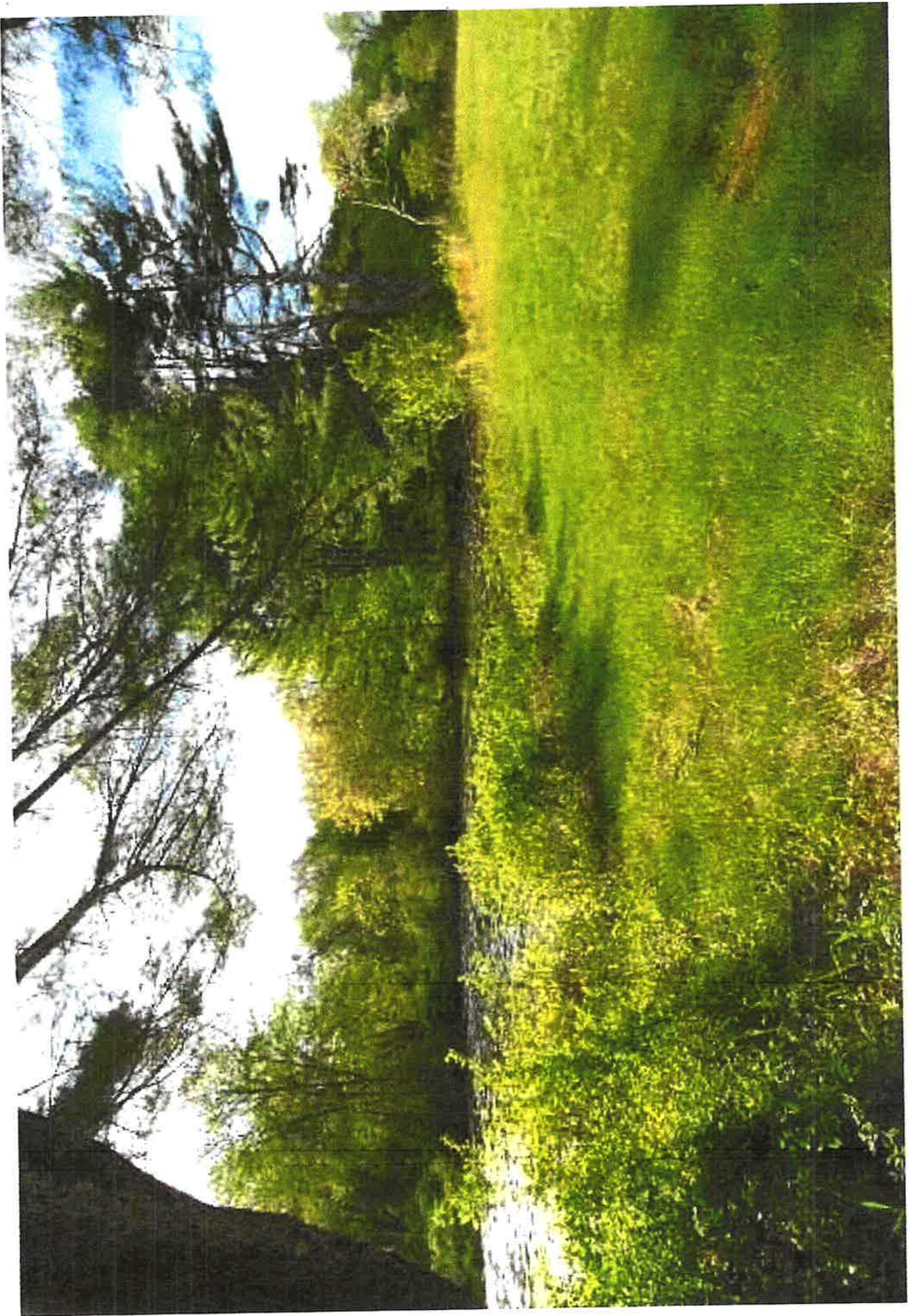
RECEIVED FOR RECORD  
Nov 13, 2023 03:42:33P  
Karen Miller Galbo  
TOWN CLERK  
EAST LYME, CT



# EXHIBIT 2







# EXHIBIT 3

# SECTION 5

## RU-40 RURAL DISTRICTS

GENERAL DESCRIPTION AND PURPOSE - Areas generally outside of the developed sections of the Town, but not so remote as the RU-80 Districts, and characterized by sparse settlement and lack of utilities. It is the purpose of these Regulations to encourage low-density residential development for areas zoned RU-40.

5.1 PERMITTED USES - The following uses of buildings and/or land and no others are permitted:

5.1.1 Single family detached dwelling

5.1.2 Forestry

5.1.3 Nursery or greenhouse provided they are not less than 100 feet from any lot line

5.1.4 Agricultural or Farm Poultry – 6 or less (see Section 25.5)

5.1.5 Accessory uses customarily incidental to any of the above permitted uses, including home occupations subject to the provisions of Section 20.3.

5.2 SPECIAL PERMIT USES - The following uses may be permitted when granted a Special Permit by the Zoning Commission subject to the Special Permit requirements of Section 25 and 25.5.

5.2.1 Convalescent home.

5.2.2 Bed & Breakfast

5.2.3 Agricultural or farm use, including the raising of livestock or poultry (more than 6)

5.2.4 Roadside stand for the display and sale of agricultural produce grown on the lot

5.2.5 Kennels, Small Animal Veterinary Clinic, riding or boarding stables

5.2.6 Commercial golf, tennis or similar club

5.2.7 Commercial greenhouse or nursery

5.2.8 Antique shop

5.2.9 Farm Event accessory to an existing Agriculture or Farm use

(ALSO SEE SECTION 20 - - GENERAL REGULATIONS)

# EXHIBIT 4

Town of East Lyme

Zone Change Permit #

243C

PO Box 519
Niantic, CT 06357
(860) 691-4114
Fax: (860) 691-0351

Date Entered into ZC Log

APPLICATION FOR ZONE CHANGE REQUEST

Date of Application: 5-10-12 Zone:

Applicant's Name: PETER T. TYTLA EAST LYME

Applicant's Address: 91 Boston Post Rd. / P.O. Box 43 Telephone: 860-7397105

Location of Affected Premises: 91 Boston Post Rd Assessor's Map/Block/Lot:

Owner of Record: Same as applicant Volume/Page:

Owner's Address: Same as applicant Telephone: 8607397105

DESCRIPTION OF ZONE CHANGE REQUESTED (Must comply with Section 28 of the East Lyme Zoning Regulations and requires compliance with all applicable Zoning Regulations of the Town of East Lyme):

Change current commercial zone on 91 Boston Post Road to Residential zone

Signature of Owner: [Signature]

Signature of Applicant:

Below this line for Office Use Only:

Attach a true copy of the Deed and a Site Plan {10 copies required}. A copy of the deeds for all affected properties and a site plan demonstrating compliance with all applicable zoning code requirements must accompany this application.

Attach an accurate map. Please attach a copy of a map delineating the dimensional meets and bounds and names of adjacent property owners.

Table with 2 columns: Field (Deed Copies Attached, Map Attached, PERMIT FEE, etc.) and Value (YES, NO, N/A, \$400.00, etc.)

Approval box containing Date Approved (7/12/2012), Date Denied, Approval subject to conditions below, and Date/Attest (Man Salerno, East Lyme Zoning Chairman)