

MEMORANDUM

Exhibit 99

To: William Mulholland

From: Kristen Clarke P.E. (KC)

Date: 3/13/2024

Subject: 91 Boston Post Road
8-30g Housing Application
Responses to Staff Comments

Please accept this memorandum as my response to the staff comments you provided to us on March 6, 2024 regarding our above referenced Conceptual Site Plan Approval Application;

1) Town Engineer Alex Klose letter dated March 5, 2024

- With regard to point 1 I note that any retaining wall will be engineered to standards that reflect the existence of the flood zone.
- With regard to the septic systems I note that this project will benefit from the design flexibility of the State of Connecticut Health Code requirements for "State Health Code Septic System" which is proposed pursuant to the Health Code Section 19-13-B104 a-d. The specific design flexibility allows us to locate an area or areas in which the septic system leach trench's with suitable soils can be utilized in close proximity to each other, if necessary, to provide required effluent discharge. Accordingly, it is more likely than not that no leach trench's will be constructed in the AE flood zone. I would note that the subject systems areas and design for this project will be approved by both Ledge Light

Health District and the State of Connecticut Department of Health prior to submission of a final site plan approval application.

- **With regard to point 2 a note had been added to the revised Site Plan submitted to the Zoning Commission at their meeting on March 7 which read as follows;**

“Note:

1) Property owner will be responsible for maintenance and repair of water service, septic systems, private roads, including but not limited to , snow plowing, street lights and pedestrian internal access improvements. An Operations and Maintenance Plan will be submitted with the Final Site Plan Application for this project as has been requested.

2) Building Inspector Memo Dave Garside 2/27 2024

- **Mr. Garside provided no written comments however he did provide our team with several helpful expectations and requirements he will be looking for in the Final Site Plan application.**

3) COO/Municipal Engineer Ben North memo dated March 6, 2024

- **Mr. North confirmed the availability of municipal water service for the proposed project and set forth the terms and conditions for our connection to municipal water.**
- **Based on the property being outside the “sewer shed boundary” it is unlikely sewer will be available and even if such service were available it would not be cost feasible for a project this small. Accordingly, we intend to pursue approval from the Ledge Light**

Health District and State of Connecticut Department of Health for onsite wastewater disposal for systems of 7500 GPD or less.

4) Director of Planning/Inland Wetlands Agent Gary Goeschel memo Dated 2/15/2024

- **1) Appears to Indicate the 2020 POCD would support the location of this project in this location. We note that compliance with a POCD is not required by Conn. Gen. Statute 8-30g and there is supporting case law available to supports this proposition. With regard to sidewalks the subject owns only 50' of property west of the existing curb cut. The State of Connecticut Department of Transportation ("DOT") holds an easement that extends 100' northward from the Boston Post Road provided to the Zoning Commission in Binder Exhibit 9 (Exhibit G). Accordingly, there are several stakeholders that would need to agree to the requested sidewalk extension including the Town of East Lyme, DOT and the adjacent property owner.**
- **2) This site as currently envisioned has been designed to generally comply with Section 7.3 of the 2020 POCD in that;**
- **It is generally free of major site development constraints as we have avoided proposing any development activities, excepting only the existing driveway and a stormwater management at the property entrance, within 100' of any inland wetlands. The preliminary Storm Water documents provided demonstrate rather conclusively our ability to design this project in full compliance with the State of Connecticut DEEP 2023 Stormwater**

Manual Regulations. We have avoided all steep slopes and in fact have proposed an area approximately eight acres in size , over 75% of the property that would be subject to a conservation easement that would prohibit further development activity on the property which includes, wetlands, wetlands buffers and rock outcroppings.

- **3) The claim that this is a “de-facto-zone change is incorrect in our opinion. Our opinion is supported by case law that involved the East Lyme Zoning Commission in a matter captioned “Jag Capital Drive v. East Lyme Zoning Commission Case No. AC 37924 (2016)”.**

- **5) We agree that this property is not located within the Town’s current Sewer Shed Boundary. My professional opinion is that we will have no issue(s) obtaining a Permit from Ledge Light Health District and the State of Connecticut Department of Health pursuant to Health Code Section 19-13-B104 a-d. As evidenced by the soils map provided to this commission (Binder Exhibit 3) the predominant soils on this property are well or moderately well-draining with high gravel content. Percolation rates in these soils typically provide 1”/10 minute rates.**

- **6) Appears to demonstrate this project is in compliance with the 2023 Town of East Lyme Affordable Housing Strategy. We note however that compliance with this document is not required as a matter of law under Conn. Gen. Statute 8-30g.**

- **7) The requirement for the plan signature of the delineated wetlands on the site plan and or A-2 survey is exclusive to an application submitted to the Inland Wetlands Agency which has yet to occur. As was addressed by Paul Geraghty at the March 7, 2024 hearing on this application no Inland Wetlands Permit or application is required as a matter of law at this juncture, refer to Edward O'Connell, Esq. opinion Letter to the East Lyme Inland Wetland Agency provided to this commission in Binder Exhibit 11. I note that subsequent to the date of Mr. Goeschel's Memorandum of February 15, 2024 Mr. Goeschel was provided with the requested wetland delineation reports and a Wetlands Function in Value and Impact Assessment Report each of which was prepared by Soil Scientist Joseph Theroux that opined no adverse effects to the wetlands resulting from this proposed development. These reports were also provided to the Zoning Commission on March 7, 2024. Refer to Binder Exhibit 15.**

- **8) I would note that while no stormwater/drainage information is required by Connecticut Law for approval of a Conceptual Site Plan pursuant to Conn. Gen. Statute 8-30g we have provided the commission with rather significant information regarding contemplated stormwater detention and treatment including the opinion of Timothy May P.E. regarding the ability of this site to comply with the 2023 State of Connecticut DEEP Stormwater Management Regulations. The requested Drainage Report, Stormwater Calculations and an Operations and Maintenance Plan will be provided with the Final Site Plan Application.**

- **9) An Erosion and Sedimentation Control Plan will be provided with the Final Site Plan Application.**

- **10) As evidenced by the conceptual site plan and the testimony of Timothy May P.E. at the March 7, 2024 Zoning Commission meeting “left turn out” traffic will be prohibited and will be controlled by a raised channelization island aka “Pork Chop Island”.**

In addition I note that the proposed ingress/egress locations provide the ASSHTO required sightline distance of 350’ looking east and 335’ looking west from a distance of 10’ from the Boston Post Road travel lane at a height of 42”. I can provide your commission with a “Sight Line Plan” now or as part of a Final Site Plan. Please advise of your preference. For perspective purposes the “Welcome to East Lyme” sign on Boston Post Road as you approach Flanders Four Corners traveling west is 363’ from the centerline of the existing curb cut and the entrance to Flanders Plaza is 341’ from the same location.

- **11) A Pollution Loading Analysis will be provided as part of ta Final Site Plan application.**