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Received

FEB 10 2025

Town of East Lyme  
Land Use

February 9, 2025

Hand Delivered  
Richard Gordon, Chairman  
Town of East Lyme Planning Commission  
108 Pennsylvania Avenue  
Niantic, CT 06357

**FILE COPY**

Hand Delivered  
Gary Goeschel, Planning Director  
Town of East Lyme  
108 Pennsylvania Avenue  
Niantic, CT 06357

Re: Affordable Housing Development Application  
Holmes Road-Assessors Map 57.0 Lot 30

Gentlemen,

Enclosed please find an Affordable Housing Application package for a set-aside development on property located on Holmes Road known as Assessors Map 57 Lot 30. I note that this property has never before been subdivided and therefore no Public Hearing is required.

The Affordable Housing Development envisioned by the enclosed application will result in the creation of nineteen additional building lots on the existing subject property. Proposed lots 1 through 19 would be developed as single-family homes. Lot 20, the remaining existing land, is envisioned for multi-family use. Both the single and multi-family components of this Affordable Housing Development are subject to a legal appeal pending in the Hartford Superior Court bearing Docket No: HHD-CV-23-6177383-S. For purposes of this application Lot #20 is being identified, without prejudice to the pending legal claim(s) and all other rights and remedies, solely as a building lot given the limits of this commission's statutory authority to oversee the subdivision of land.

As you are likely aware, but to the extent you are not;

In two cases decided by the Connecticut Supreme Court, specifically Kaufman v. Danbury Planning & Zoning Commission 232 Conn. 122, 141, 653 A. 2d 798, 809 (1995) and

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West Hartford Interfaith Coalition v. West Hartford Town Council 228 Conn 498, 509, 636 A.2d 1342 (1994), the Court determined the definition of an affordable housing application to include “any application filed with the commission in connection with an affordable housing proposal” (Interfaith at, 509). The reasoning of the Kaufman and Interfaith cases makes it clear that an §8-30g application is *sui generis* (meaning “of its own kind”) in the field of land use law.

Based upon settled case law to commence an affordable housing application, under the Kaufman case, the minimum requirements are “to submit to the commission, at the time of his initial application in connection with an affordable housing development, any more detailed “plans” than an applicant who requests a zone change for a purpose other than affordable housing” and an Affordability Plan as is identified in Conn Gen. Statute 8-30 (a) (8) (b) (1), (A), (B), (C), & (D). In Chapter 28 of the Town of East Lyme Zoning Regulations (July 19, 2024) titled “Amendments to regulations and Zoning District Map” the sole plan requirement is to provide “a plan drawn to scale showing the area of the lots included in such proposed change” and “designating the owner or owners of said lots and of all lots within 500’ from the boundary of the area subject to the zone change request”. Each of these documents are included with the enclosed affordable housing application.

Pursuant to Conn. General Statute § 8-30g (a)(2) an affordable housing application is defined as “... any application made to a commission in connection with affordable housing development by a person who proposes to develop such housing.

An affordable housing development application submitted to a Planning Commission under Conn. Gen. Statute 8-30g is not required to comply with the Town of East Lyme Subdivision Regulations as a matter of law. See Wisniowski v. Berlin Planning Commission, supra, 37 Conn. App 312, at 315, 317-18, 655 and Nizza v. Andover Planning & Zoning Commission 1994 CT Sup. 7883. Additionally, there is no requirement to comply with local zoning regulations. As established in Jag Cap Drive v. East Lyme Zoning Commission 168 Conn. App. 655, 670, 147, A.3d 177, 185 (2016) “non conformity of zoning is not, per se, a reason to deny the application. The legislature did not intend zoning non conformity to block an affordable housing subdivision application”. Additionally, attached as Exhibit 1 is Chapter 18 of the book often cited by the Town Planner Mr. Goeschel titled “WHATS LEGALLY REQUIRED” Eighth Edition 2023 by Michael Zizka, Chapter 18, which addresses Affordable Housing and states in pertinent part the following:

“...The fact that a proposed development does not comply with the applicable zoning or subdivision regulations, including minimum lot size, setback or similar dimensional standards is not, in and of itself, a sufficient basis to deny or severely condition an affordable housing application...”

**To be clear, this application is not being filed pursuant to any particular provision of the Town of East Lyme Zoning Regulations including, but not limited to, Sections 4, 23 and 32 nor does the applicant intend to or need to comply with them as a matter of settled law.**

In the *Mutual Housing Association v. Trumbull Planning and Zoning Commission* decision decided by the Connecticut Supreme Court in 1996 Ct. Sup. 5261 Sup. 5261 the court states in pertinent part “...traditional land use policies were not solving Connecticut’s affordable housing problem...” thus, the legislature enacted §8-30g “to deal with the particular problem of the lack of affordable housing in Connecticut”, “Indeed, the legislative history of §8-30g reveals that “the key purpose of §8-30g is to encourage and facilitate the much needed development of affordable housing throughout the state”.

“Section 8-30g has several provisions that operate to encourage and facilitate the development of affordable housing. Chief among those provisions are subsections (b) and (c) which, respectively, remove affordable housing from the traditional land use statutory scheme and prescribe unique procedures that govern affordable housing applications. General Statutes §8-30g (b) and (c). Subsection (b) states that “any person whose affordable housing application is denied or is approved with restrictions which have substantial adverse impact on the viability of the affordable housing development or the degree of affordability of the dwelling units...may appeal such decision pursuant to the procedures of this section” “Subsection (c) that “upon an appeal taken under subsection (b) of this the burden shall be on the commission to prove, based upon the record compiled before such commission that (1) the decision from which said appeal is taken and the reasons cited for such a decision are supported by sufficient evidence in the record; (2) the decision is necessary to protect substantial public interests in health, safety, or other matters which the commission may legally consider; (3) such public interests clearly outweigh the need for affordable housing; and (4) such public interests cannot be protected by reasonable changes to the affordable housing development.”

Of additional note, Title 8, Chapter 126, Section 8-25(a) of the Conn. Gen. Statutes specifically exempts the requirement for Open Space in this affordable housing development “... if the subdivision is to contain affordable housing, as defined in section 8-39a, equal to twenty percent or more of the total housing to be constructed in such subdivision”. Accordingly, there will be no Open Space dedicated as part of this affordable housing application. We note however that the application property is surrounded on three sides by the East Lyme Land Trust’s 301+ acre property which is publicly accessible open space.

In addition to the Survey, Exhibit 2, meets and bounds legal description, Exhibit 3, List and location of adjacent property owners within 500’, Exhibit 4 and the Affordability Plan, Exhibit 5 enclosed are the following;

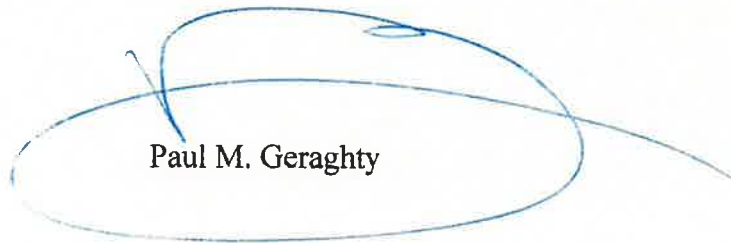
1. An original and one copy of the application form.
2. A check for the application fee in the amount of \$2710.00
3. 12-Copies 11” x 17” in size of the initial 4-page Plan set.
4. 10-Copies 24” x 36” of the 4 Page Plan set.
5. 10- Copies of the Affordable Housing Developments Design Report.

6. 10- Copies 24" x 36" Copies of the Natural & Cultural Resources Map.

7. 10-Copies 24" x 36" of the Site Context Plan-

As a result of the *sui generis* application submitted herewith together with the fact that our research indicates that the Town of East Lyme Planning Commission has never before received, reviewed or acted upon a Conn. Gen. Statute 8-30g Affordable Housing Development application the preference of the applicant would be to commence the application process with a "workshop" style meeting wherein the Commission and the applicants could informally review the submissions to date, answer questions and obtain input from the Commission. The applicant would agree that there will be no votes taken at this initial juncture of the application process and that any discussions will be considered non-binding and advisory. Given, however, that there is now a valid Affordable Housing Development application pending based upon established law this initial review and any associated activity will become part of the record of the application and therefore this component of the application process should be held by the Planning Commission during a scheduled and legally noticed meeting. If the Commission would prefer not to hold such a meeting please provide us with written notice of such a decision so we can submit additional technical submissions for staff review and the Commission can schedule a formal hearing on the enclosed application.

Sincerely,



Paul M. Geraghty

Enc.

# EXHIBIT 1

## Chapter 18 – Affordable Housing

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### A. The Affordable Housing Appeals Act – C.G.S. § 8-30g

To encourage the development of affordable housing, the legislature has enacted several laws aimed at planning and zoning regulations. For example, CGS § 8-2 requires zoning regulations to “promote housing choice and economic diversity in housing, including housing for both low- and moderate-income households.” Likewise, CGS § 8-23 requires a municipality’s plan of development to provide for and promote affordable housing and housing opportunities.

The most noteworthy and rigorous law, however, is CGS § 8-30g, the Affordable Housing Appeals Act (“AHAA”). That act provides a special procedure for appeals from the denial, or even from an overly restrictive approval, of any development proposal that qualifies under the statute’s definition of an “affordable housing development.” Although the AHAA has been controversial and, early on, was subjected to repeated legislative attempts to weaken or repeal it, it has remained in force for more than 30 years and, in many respects, has been strengthened. The way the AHAA has been interpreted and enforced by the courts shows that it is an extremely potent tool for developers and that it must be taken very seriously by municipalities.

“Affordable housing development” is defined by the act to include certain government-assisted housing, as well as any “set-aside development.” A “set-aside development” means a development in which at least fifteen percent (15%) of the dwelling units will be conveyed by deeds containing covenants or restrictions requiring those units to be sold or rented, for at least forty (40) years after the initial occupation of the development, at prices deemed affordable to persons and families having an income no greater than eighty percent (80%) of the area median income or eighty percent (80%) of the state median income, whichever is less. Another fifteen percent (15%) or more of the units must be conveyed under the same terms to persons and families having an income no greater than sixty percent (60%) of the area median income or sixty percent (60%) of the state median income, whichever is less .

The real power of the AHAA arises from two key points: (1) the Act changes the burden of proof on an appeal from the denial of an application, or from an approval with conditions that would have a substantially adverse impact on the viability of the proposed development; and (2) it greatly restricts the criteria under which a commission may lawfully deny or condition approval of an application.

With respect to the first point (burden of proof), most zoning or subdivision appeals require the plaintiff to prove that the commission acted improperly, and the courts will generally defer to the commission’s findings of fact. The AHAA reverses that burden and eliminates the deferential review standard. Whenever an applicant files a court appeal under the AHAA, the commission, not the applicant, has the burden to prove (a) that the decision and the reasons given for the decision are supported by sufficient evidence in the record; (b) that the decision is necessary to protect substantial public interests in health, safety, or other matters that the commission may legally consider; (c) that those interests clearly outweigh the need for affordable housing; and (d) that those interests cannot be protected by reasonable changes to the affordable housing development. If the proposal is not for government-assisted housing, the commission may also protect its decision by showing that the proposal involved industrially zoned

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land on which residential uses are not allowed. However, the commission must specifically raise that issue during the administrative review process and must include it as a reason for denial in its final decision.<sup>226</sup>

As to the second point, the criteria listed in the preceding paragraph are the *only* reasons that will support a denial or an approval with financially burdensome conditions. The fact that a proposed development does not comply with the applicable zoning or subdivision regulations, including minimum lot size, setback or similar dimensional standards, is not, in and of itself, a sufficient basis to deny or severely condition an affordable housing application.<sup>227</sup> Likewise, the failure of an applicant to conform to municipal ordinances will not be a sufficient basis for denial unless that failure would meet the criteria listed in the preceding paragraph.<sup>228</sup>

Essentially, to deny any affordable housing application, there must be evidence in the record from a qualified expert or other source that the proposed development would pose an unavoidable safety or environmental hazard or other serious consequence. One Superior Court has even ruled that the AHAA supersedes the provisions of CGS § 8-3 that require a supermajority vote for a proposed zone change when a proper petition is filed.<sup>229</sup> In other words, the filing of a petition under CGS § 8-3 means nothing in connection with an AHAA application.

An applicant whose proposal is rejected or severely restricted may, as an alternative to an immediate appeal, submit a modified proposal and have it considered as an amended application. The commission must hold a public hearing on the modification if it held a public hearing on the original proposal. The commission may, but is not obliged to, hold a public hearing on any other modification. Regardless of whether it holds a public hearing on a modification, the commission must render a decision within sixty-five (65) days after the "day of receipt" of the modification. The only exception is that, if the 65-day period would expire before, or less than 35 days after, a decision by the inland wetlands and watercourses agency on the modified proposal, the time for the zoning or planning decision to be made is automatically extended to 35 days after the date of the IWWA's decision. There is no provision for the applicant to consent to an extension of time to consider a modified proposal. If the zoning or planning

226 See *JPI Partners, LLC v. Planning & Zoning Board*, 259 Conn. 607 (2002).

227 See *Jag Capital Drive, LLC v. East Lyme Zoning Commission*, 168 Conn. App. 655, 670-71 (2016); *Wisniewski v. Planning Commission*, 37 Conn. App. 303, cert. denied, 233 Conn. 909 (1995).

228 *Brenmor Properties, LLC v. Planning & Zoning Commission*, 326 Conn. 55 (2017). Commissions should note that the *Brenmor* decision involved only the ability of a planning and zoning commission to deny an application based on noncompliance with an ordinance; it did not involve the issue of whether the agency or official responsible for administering the ordinance (as opposed to the zoning or subdivision regulations) could deny an application made to that agency or official under the ordinance itself.

229 *Housing Authority v. Planning & Zoning Commission*, 67 Conn. L. Rptr. 348 (Super. CT. 2019). (See also Chapter 16, Section G.2.a of this manual for a discussion of the supermajority requirements of CGS § 8-3).

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decision is not made on the proposed modification within the specified time, the modification is deemed to be rejected.

If a zoning or planning commission does not satisfy its burden of proof on appeal, the court may revise, remand, modify, or reverse the decision. The AHAA also nominally applies to decisions by zoning boards of appeal, but since the Act has been interpreted to override any contrary zoning regulations, there is no practical need for an applicant to seek a variance. To date, most of the denials of affordable housing applications that have been reviewed by a court have been reversed.

Municipalities are exempt from the new appeals procedures if at least ten percent of the dwelling units within the municipality meet certain affordability criteria. [CGS § 8-30g(k)] Municipalities may also be entitled to a limited moratorium on affordable housing applications in certain circumstances. [CGS § 8-30g(l)]

As this overview suggests, CGS § 8-30g is quite complicated, both in terms of its procedural elements and the way it has been interpreted by the courts. In addition, as indicated above, the law has been subject to frequent legislative review and proposals for change. Public Act 21-29 further bolstered the legislature's emphasis on providing affordable housing. Commissions should therefore try to keep abreast of breaking developments in this area. Commissions should also consult their legal counsel whenever an application for an affordable housing development is submitted, especially if they have never previously had to go through the AHAA process.

### B. Affordable Housing Plans

Under C.G.S. § 8-2j, as amended by Public Act 21-29, every municipality was obliged to prepare and adopt an affordable housing plan by June 1, 2022. They are also obliged to review the plan and potentially revise it at least once every five years. Notably, C.G.S. § 8-2j does not say that the planning commission must adopt such a plan; rather, it requires "the municipality" to do so. Although the most logical entity to take on the task would presumably be a planning commission, the legislative body of the municipality might wish to consider adopting an ordinance officially delegating the responsibility to that commission.

Oddly, unlike the complicated technical requirements for adopting or amending a plan of conservation and development, the procedures required for adopting or amending an affordable housing plan are simple: (1) any drafts of the plan must be posted on the municipal internet web site; (2) if any public hearings are held on the draft plan (hearings are not required), the drafts must be posted at least 35 days prior to the hearing (the statute does not require notice of the hearing to be published in a newspaper); (3) the final plan must be posted on the municipal internet web site and filed in the office of the town clerk (the statute does not refer to city or borough clerks, but the author recommends filing a copy in those offices, too, if applicable); and (4) a copy must be sent to the Secretary of the Office of Policy and Management.

# EXHIBIT 2

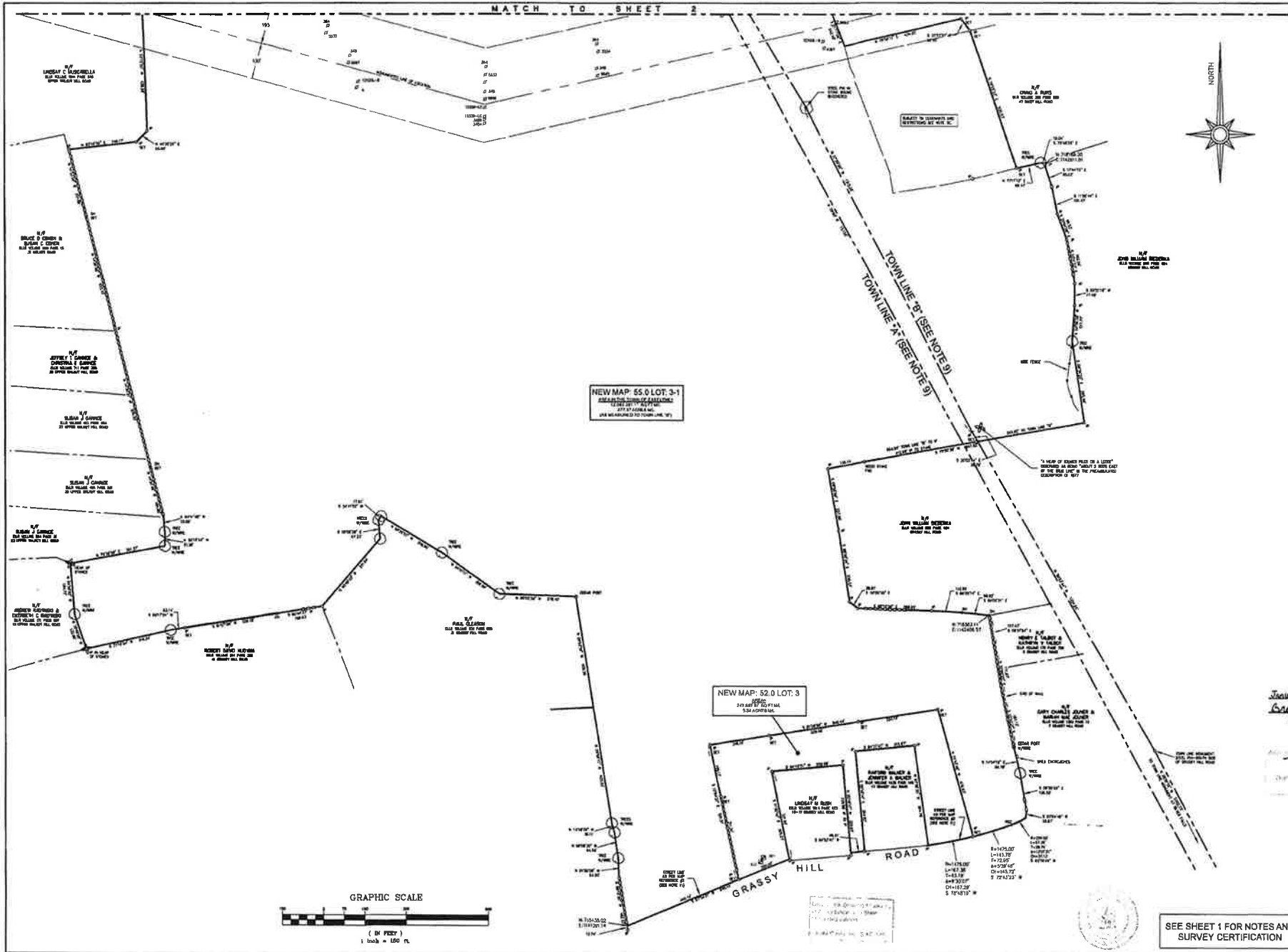




Recorded at Drawer 8 # 228

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MATCH TO SHEET 2



PROPERTY SURVEY - LOT LINE MODIFICATIONS  
 PROPERTY OF  
**DUVAL PARTNERS LLC**  
 FOR PROPERTY LOCATED AT  
**HOLMES ROAD, WALNUT HILL ROAD  
 & GRASSY HILL ROAD**  
 TOWN OF EAST LYME & MONTVILLE, COUNTY OF NEW LONDON, CONNECTICUT



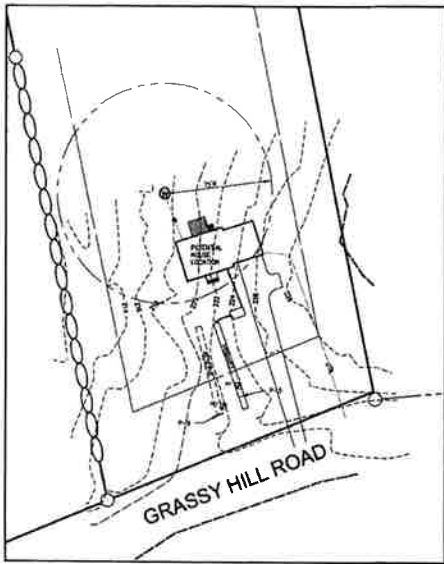
NO.	DESCRIPTION	DATE
1	ADDITIONAL BEAR PINS SET AS PER CT-DEED DRAWING 1	11-4-2021
2	BEAR PINS SET FOR BEAR PINS AND BEAR PINS	11-10-2021
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FILED  
 January 3, 2022 11:22 AM  
 [Signature]  
 EAST LYME TOWN CLERK  
 [Signature]  
 12/27/2021

Sheet No.  
**S-03**  
 SHEET 3 OF 4  
 Scale: 1" = 150'  
 Date: SEPTEMBER 2, 2021  
 Project No. 21040-3

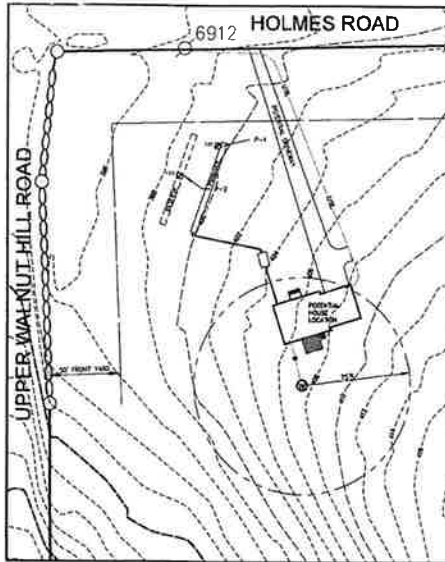
SEE SHEET 1 FOR NOTES AND SURVEY CERTIFICATION

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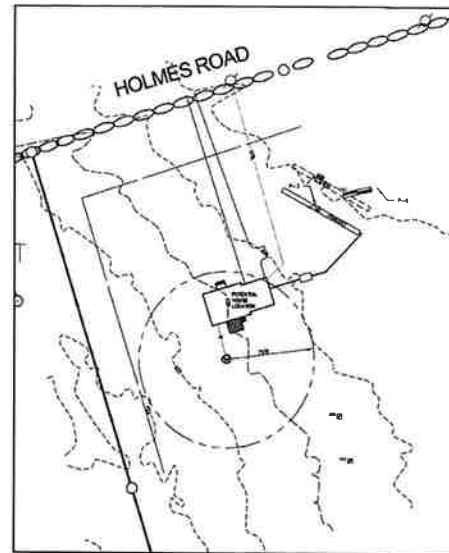
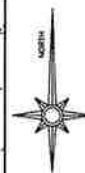
MAP: 52.0 LOT:3.0

CONNECTICUT PUBLIC HEALTH CODE SECTION 19-13-B100A CODE COMPLIING SEPTIC AREA FOR 3-BEDROOM HOUSE  
 SEPTIC TANK CAPACITY: 110 GALLONS  
 SEPTIC TANK SIZE: 10' x 10' x 6' 6" (10' x 10' x 6' 6" MINIMUM)  
 USE 25' OF WHITE 3/4" x 2" x 1/2" PIPING AND SQUARE FEET OF EFFECTIVE LEADING AREA.



MAP: 55.0 LOT 3-1

CONNECTICUT PUBLIC HEALTH CODE SECTION 19-13-B100A CODE COMPLIING SEPTIC AREA FOR 3-BEDROOM HOUSE  
 SEPTIC TANK CAPACITY: 110 GALLONS  
 SEPTIC TANK SIZE: 10' x 10' x 6' 6" (10' x 10' x 6' 6" MINIMUM)  
 USE 25' OF WHITE 3/4" x 2" x 1/2" PIPING AND SQUARE FEET OF EFFECTIVE LEADING AREA.



MAP: 55.0 LOT:30

CONNECTICUT PUBLIC HEALTH CODE SECTION 19-13-B100A CODE COMPLIING SEPTIC AREA FOR 3-BEDROOM HOUSE  
 SEPTIC TANK CAPACITY: 110 GALLONS  
 SEPTIC TANK SIZE: 10' x 10' x 6' 6" (10' x 10' x 6' 6" MINIMUM)  
 USE 25' OF WHITE 3/4" x 2" x 1/2" PIPING AND SQUARE FEET OF EFFECTIVE LEADING AREA.



NOTE:  
 THE ZONING SETBACK LINES SHOWN HEREON ARE BASED ON THE PRESUMED REZONING OF THE PROPERTY TO RU-60.  
 FRONT YARD: 50 FEET  
 SIDE YARD: 30 FEET  
 REAR YARD: 50 FEET

LLID	LLID	LLID
<p>LLID</p> <p>1.00</p> <p>1.01</p> <p>1.02</p> <p>1.03</p> <p>1.04</p> <p>1.05</p> <p>1.06</p> <p>1.07</p> <p>1.08</p> <p>1.09</p> <p>1.10</p> <p>1.11</p> <p>1.12</p> <p>1.13</p> <p>1.14</p> <p>1.15</p> <p>1.16</p> <p>1.17</p> <p>1.18</p> <p>1.19</p> <p>1.20</p> <p>1.21</p> <p>1.22</p> <p>1.23</p> <p>1.24</p> <p>1.25</p> <p>1.26</p> <p>1.27</p> <p>1.28</p> <p>1.29</p> <p>1.30</p> <p>1.31</p> <p>1.32</p> <p>1.33</p> <p>1.34</p> <p>1.35</p> <p>1.36</p> <p>1.37</p> <p>1.38</p> <p>1.39</p> <p>1.40</p> <p>1.41</p> <p>1.42</p> <p>1.43</p> <p>1.44</p> <p>1.45</p> <p>1.46</p> <p>1.47</p> <p>1.48</p> <p>1.49</p> <p>1.50</p> <p>1.51</p> <p>1.52</p> <p>1.53</p> <p>1.54</p> <p>1.55</p> <p>1.56</p> <p>1.57</p> <p>1.58</p> <p>1.59</p> <p>1.60</p> <p>1.61</p> <p>1.62</p> <p>1.63</p> <p>1.64</p> <p>1.65</p> <p>1.66</p> <p>1.67</p> <p>1.68</p> <p>1.69</p> <p>1.70</p> <p>1.71</p> <p>1.72</p> <p>1.73</p> <p>1.74</p> <p>1.75</p> <p>1.76</p> <p>1.77</p> <p>1.78</p> <p>1.79</p> <p>1.80</p> <p>1.81</p> <p>1.82</p> <p>1.83</p> <p>1.84</p> <p>1.85</p> <p>1.86</p> <p>1.87</p> <p>1.88</p> <p>1.89</p> <p>1.90</p> <p>1.91</p> <p>1.92</p> <p>1.93</p> <p>1.94</p> <p>1.95</p> <p>1.96</p> <p>1.97</p> <p>1.98</p> <p>1.99</p> <p>2.00</p>	<p>LLID</p> <p>1.00</p> <p>1.01</p> <p>1.02</p> <p>1.03</p> <p>1.04</p> <p>1.05</p> <p>1.06</p> <p>1.07</p> <p>1.08</p> <p>1.09</p> <p>1.10</p> <p>1.11</p> <p>1.12</p> <p>1.13</p> <p>1.14</p> <p>1.15</p> <p>1.16</p> <p>1.17</p> <p>1.18</p> <p>1.19</p> <p>1.20</p> <p>1.21</p> <p>1.22</p> <p>1.23</p> <p>1.24</p> <p>1.25</p> <p>1.26</p> <p>1.27</p> <p>1.28</p> <p>1.29</p> <p>1.30</p> <p>1.31</p> <p>1.32</p> <p>1.33</p> <p>1.34</p> <p>1.35</p> <p>1.36</p> <p>1.37</p> <p>1.38</p> <p>1.39</p> <p>1.40</p> <p>1.41</p> <p>1.42</p> <p>1.43</p> <p>1.44</p> <p>1.45</p> <p>1.46</p> <p>1.47</p> <p>1.48</p> <p>1.49</p> <p>1.50</p> <p>1.51</p> <p>1.52</p> <p>1.53</p> <p>1.54</p> <p>1.55</p> <p>1.56</p> <p>1.57</p> <p>1.58</p> <p>1.59</p> <p>1.60</p> <p>1.61</p> <p>1.62</p> <p>1.63</p> <p>1.64</p> <p>1.65</p> <p>1.66</p> <p>1.67</p> <p>1.68</p> <p>1.69</p> <p>1.70</p> <p>1.71</p> <p>1.72</p> <p>1.73</p> <p>1.74</p> <p>1.75</p> <p>1.76</p> <p>1.77</p> <p>1.78</p> <p>1.79</p> <p>1.80</p> <p>1.81</p> <p>1.82</p> <p>1.83</p> <p>1.84</p> <p>1.85</p> <p>1.86</p> <p>1.87</p> <p>1.88</p> <p>1.89</p> <p>1.90</p> <p>1.91</p> <p>1.92</p> <p>1.93</p> <p>1.94</p> <p>1.95</p> <p>1.96</p> <p>1.97</p> <p>1.98</p> <p>1.99</p> <p>2.00</p>	<p>LLID</p> <p>1.00</p> <p>1.01</p> <p>1.02</p> <p>1.03</p> <p>1.04</p> <p>1.05</p> <p>1.06</p> <p>1.07</p> <p>1.08</p> <p>1.09</p> <p>1.10</p> <p>1.11</p> <p>1.12</p> <p>1.13</p> <p>1.14</p> <p>1.15</p> <p>1.16</p> <p>1.17</p> <p>1.18</p> <p>1.19</p> <p>1.20</p> <p>1.21</p> <p>1.22</p> <p>1.23</p> <p>1.24</p> <p>1.25</p> <p>1.26</p> <p>1.27</p> <p>1.28</p> <p>1.29</p> <p>1.30</p> <p>1.31</p> <p>1.32</p> <p>1.33</p> <p>1.34</p> <p>1.35</p> <p>1.36</p> <p>1.37</p> <p>1.38</p> <p>1.39</p> <p>1.40</p> <p>1.41</p> <p>1.42</p> <p>1.43</p> <p>1.44</p> <p>1.45</p> <p>1.46</p> <p>1.47</p> <p>1.48</p> <p>1.49</p> <p>1.50</p> <p>1.51</p> <p>1.52</p> <p>1.53</p> <p>1.54</p> <p>1.55</p> <p>1.56</p> <p>1.57</p> <p>1.58</p> <p>1.59</p> <p>1.60</p> <p>1.61</p> <p>1.62</p> <p>1.63</p> <p>1.64</p> <p>1.65</p> <p>1.66</p> <p>1.67</p> <p>1.68</p> <p>1.69</p> <p>1.70</p> <p>1.71</p> <p>1.72</p> <p>1.73</p> <p>1.74</p> <p>1.75</p> <p>1.76</p> <p>1.77</p> <p>1.78</p> <p>1.79</p> <p>1.80</p> <p>1.81</p> <p>1.82</p> <p>1.83</p> <p>1.84</p> <p>1.85</p> <p>1.86</p> <p>1.87</p> <p>1.88</p> <p>1.89</p> <p>1.90</p> <p>1.91</p> <p>1.92</p> <p>1.93</p> <p>1.94</p> <p>1.95</p> <p>1.96</p> <p>1.97</p> <p>1.98</p> <p>1.99</p> <p>2.00</p>

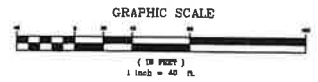
DATE	TIME	DEPTH	TEMP	WIND	WAVE	SEA	SWELL	STATE
10:15	10"	8:00	8.20"					
10:20	10"	8:10	12"					
10:25	10"	8:20	14.50"					
10:30	10"	8:30	18"					
10:40	10"	8:40	17.25"					
10:45	10"	8:51	8"	REFL				
10:50	10"	9:04	11.25"					
10:55	10"	10:14	14"					
11:00	10"	10:24	16.25"					
11:05	10"	10:34	17.25"					
11:10	10"	10:44	18"					
11:15	10"	10:54	18"					

PROPERTY SURVEY - LOT LINE MODIFICATIONS  
 PROPERTY OF  
**DUVAL PARTNERS LLC**  
 FOR PROPERTY LOCATED AT  
**HOLMES ROAD, WALNUT HILL ROAD  
 & GRASSY HILL ROAD**  
 TOWN OF EAST LYME & MONTVILLE, COUNTY OF NEW LONDON - CONNECTICUT



NO.	DESCRIPTION	DATE
1	INITIAL REVIEW AND SET OF 30' x 40' (COMMIT)	10-1-2021
2	REVISIONS FOR REVIEW FOR BUREAU OF PUBLIC WORKS - THE TOWN	11-18-2021

FILED  
 January 3, 2022 AT 2:17 PM  
 Duval Partners LLC  
 EAST LYME TOWN CLERK  
 12/27/2021



CONNECTICUT PUBLIC HEALTH CODE 19-13-B100A COMPLIANCE

SEE SHEET 1 FOR NOTES AND SURVEY CERTIFICATION

Sheet No.  
**S-04**  
 SHEET 4 OF 4  
 Scale: 1" = 40'  
 Date: **SEPTEMBER 2, 2021**  
 Project No.: **E1040-Z**

# HOLMES RD

Location HOLMES RD

Mblu 57.0/ 30/ //

Acct# 003492

Owner DUVALL PARTNERS LLC

Assessment \$134,190

Appraisal \$191,700

PID 8331

Building Count 1

## Current Value

Appraisal			
Valuation Year	Improvements	Land	Total
2021	\$1,300	\$190,400	\$191,700

Assessment			
Valuation Year	Improvements	Land	Total
2021	\$910	\$133,280	\$134,190

## Owner of Record

Owner DUVALL PARTNERS LLC

Sale Price \$0

Co-Owner

Certificate

Address 1101 RED VELNTURES DR  
FORT MILL, SC 29707

Book & Page 1077/721

Sale Date 03/29/2022

Instrument 06

## Ownership History

Ownership History					
Owner	Sale Price	Certificate	Book & Page	Instrument	Sale Date
DUVAL PARTNERS LLC	\$0		0956/0613	18	12/11/2015
NET FIVE AT PALM POINTE LLC	\$2,000,000		0860/0159	24	11/10/2010
WEXWATER LLC	\$0		0854/0247	18	08/24/2010
WALNUT HILL PROPERTIES LLC	\$0		0726/0221	04	11/28/2005

## Building Information

### Building 1 : Section 1

Year Built:

Living Area: 0

Replacement Cost: \$0

**Building Percent Good:**

**Replacement Cost**

**Less Depreciation:** \$0

**Building Attributes**

Field	Description
Style:	Outbuildings
Model	
Grade:	
Stories:	
Occupancy	
Exterior Wall 1	
Exterior Wall 2	
Roof Structure:	
Roof Cover	
Interior Wall 1	
Interior Wall 2	
Interior Flr 1	
Interior Flr 2	
Heat Fuel	
Heat Type:	
AC Type:	
Total Bedrooms:	
Total Bthrms:	
Total Half Baths:	
Total Xtra Fixtrs:	
Total Rooms:	
Bath Style:	
Kitchen Style:	
Num Kitchens	
Cndtn	
Num Park	
Fireplaces	
Fndtn Cndtn	
Basement	

**Building Photo**



(<https://images.vgsi.com/photos2/EastLymeCTPhotos//default.jpg>)

**Building Layout**

 Building Layout (ParcelSketch.ashx?pid=8331&bid=8610)

Building Sub-Areas (sq ft)	Legend
No Data for Building Sub-Areas	

**Extra Features**

Extra Features	Legend
No Data for Extra Features	

**Land**

**Land Use**

**Use Code** 1310  
**Description** RES ACLNPO  
**Zone** SU  
**Neighborhood** 0045  
**Alt Land Appr** No  
**Category**

**Land Line Valuation**

**Size (Acres)** 12.67  
**Frontage** 0  
**Depth** 0  
**Assessed Value** \$133,280  
**Appraised Value** \$190,400

**Outbuildings**

Outbuildings						Legend
Code	Description	Sub Code	Sub Description	Size	Value	Bldg #
SHD1	SHED FRAME			144.00 S.F.	\$900	1
IMP	IMPLEMENT SHED			240.00 S.F.	\$400	1

**Valuation History**

Appraisal			
Valuation Year	Improvements	Land	Total
2022	\$1,300	\$190,400	\$191,700
2020	\$900	\$715,300	\$716,200
2019	\$900	\$715,300	\$716,200

Assessment			
Valuation Year	Improvements	Land	Total
2022	\$910	\$133,280	\$134,190
2020	\$630	\$500,710	\$501,340
2019	\$630	\$500,710	\$501,340

# EXHIBIT 3

Holmes Road East Lyme, CT.

A certain parcel of land with all improvements therein situated on southerly side of Holms Road in the Town of East Lyme, county of New London and the State of Connecticut shown as, "NEW MAP: LOT 55.0 LOT 30 AREA = 552,087 SQ. FT. M/L 12.67 ACRES M/L" on a plan entitled; "PROPERTY SURVEY – LOT LINE MODIFICATIONS PROPERTY OF DUVAL PARTNERS LLC FOR PROPERTY LOCATED AT HOLMES ROAD, WALNUT HILL ROAD & GRASSY HILL ROAD TOWN OF EAST LYME 7 MONTVILLE – COUNTY OF NEW LONDON - CONNECTICUT SHEET No. s-02 SHEET 2 OF 4 SCALE: 1" = 150' DATE: SEPTEMBER 2, 2021" and more particularly described as follows;

Beginning at an iron pin set in the southerly line of Holmes Road marking the northwesterly corner of the herein described parcel and a corner of land now or formerly of the East Lyme Land Trust, Inc.;

Thence running N71°55'-24"E, 226.54 feet along the southerly line of Holmes to an iron pin;

Thence running N72°-47'-02"E, 263.25 feet along the southerly line of Holmes Road to an iron pin;

Thence running N72°-35'25"E, 331.32 feet along the southerly line of Holmes Road to an iron pin;

Thence running N73°-11'-58"E, 98.80 feet along the southerly line of Holmes Road to an iron pin marking the northeasterly corner of the herein described parcel and a corner of lands now or formerly of the East Lyme Land Trust, Inc.;

Thence running S10°-40'-31"E, 336.75 feet along land now or formerly of the East Lyme Land Trust, Inc. to an iron pin;

Thence continuing S10°-40'-31"E, 336.74 feet along land now or formerly of the East Lyme Land Trust, Inc. to an iron pin marking the southeasterly corner of the herein described parcel and an angle point in land now or formerly of the East Lyme Land Trust, Inc.;

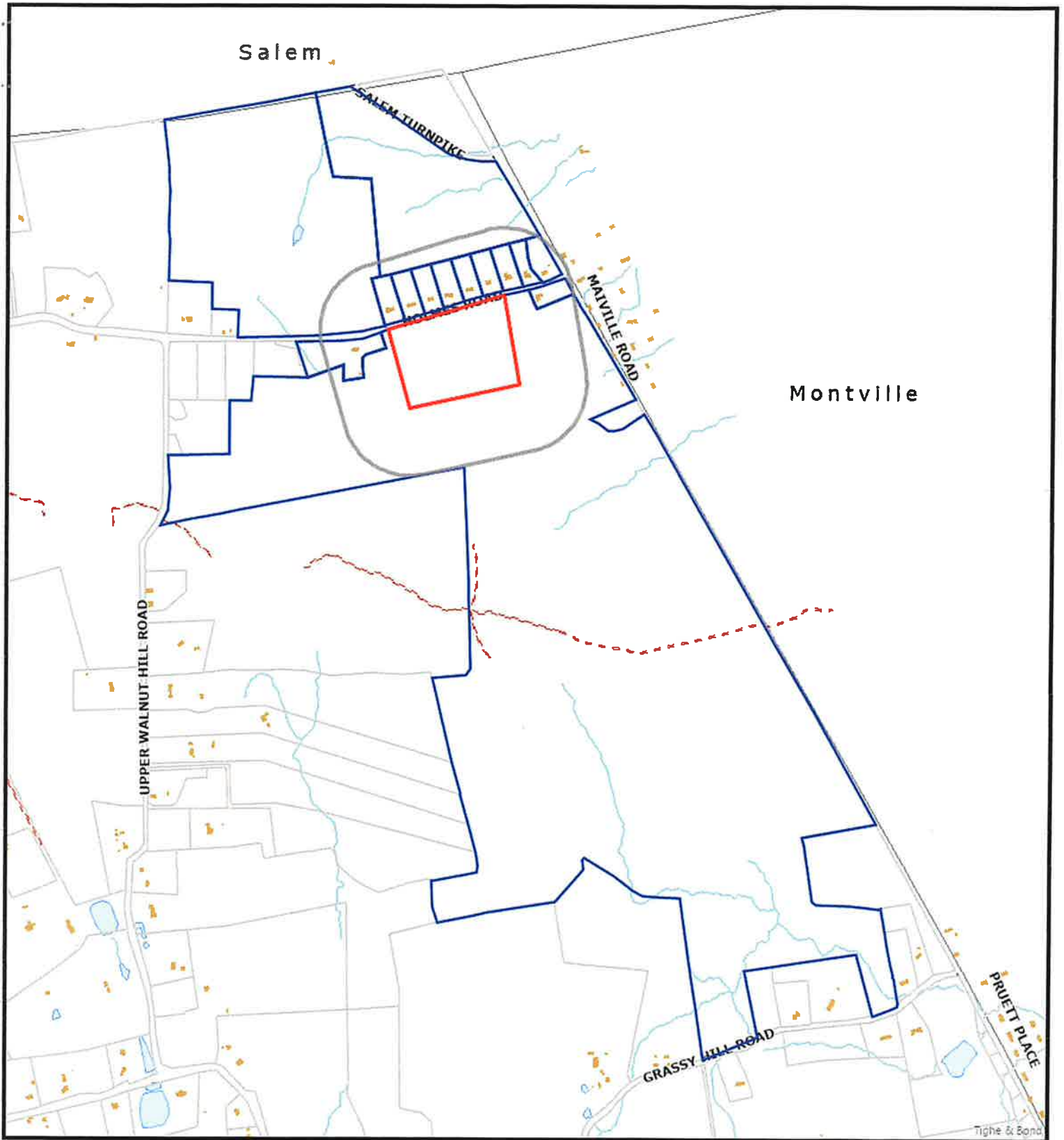
Thence running S76°-58'-06"W, 417.12 feet along land now or formerly of the East Lyme Land Trust, Inc. to an iron pin;

Thence continuing S76°-58'-06"W, 411.17 feet to a point marked by an iron pin marking the southwesterly corner of the herein described parcel and an angle point in land now or formerly of the East Lyme Land Trust, Inc.;

Thence running  $N16^{\circ}-56'-21''W$ , 307.63 feet along land now or formerly of the East Lyme Land Trust, Inc. to an iron pin;

Thence running  $N16^{\circ}-56'-23''W$ , 297.30 feet along land now or formerly of the East Lyme Land Trust, Inc. to the point and place of beginning.

# EXHIBIT 4

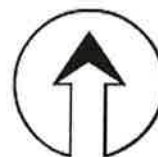


1/23/2025 2:04:59 PM

Scale: 1"=1000'

Scale is approximate

The information depicted on this map is for planning purposes only. It is not adequate for legal boundary definition, regulatory interpretation, or parcel-level analyses.



57.0 16  
BURKE SHEILA OBYRNE TR  
39 ROXBURY RD  
NIANTIC, CT 06357

57.0 25  
CAPOZZA RONALD J TTE &  
19 HOLMES RD  
EAST LYME, CT 06333

57.0 30  
DUVALL PARTNERS LLC  
1101 RED VELNTURES DR  
FORT MILL, SC 29707

55.0 3-1  
EAST LYME LAND TRUST INC  
PO BOX 831  
EAST LYME, CT 06333

57.0 20  
FARLEY DAVID C & MELISSA  
29 HOLMES RD  
EAST LYME, CT 06333

57.0 22  
GRIFFIN JANET D  
25 HOLMES RD  
EAST LYME, CT 06333

57.0 21  
HECKER MATTHEW A  
321 BOSWELL AVE  
NORWICH, CT 06360

57.0 24  
HIRKO JOHN R & VICTORIA L  
21 HOLMES RD  
EAST LYME, CT 06333

57.0 18  
MARIANO STACEY A  
33 HOLMES RD  
EAST LYME, CT 06333

57.0 23  
MASTROIANNI PAUL J &  
23 HOLMES ROAD  
EAST LYME, CT 06333

57.0 17  
MORSE WILLIAM R (L/U)  
16 ALEXANDER RD  
SALEM, CT 06420

57.0 29  
RACICOT LOUISE PHILLIP &  
38 HOLMES RD  
EAST LYME, CT 06333

57.0 28  
SCHULTZ ROBERT W SR &  
20 HOLMES RD  
EAST LYME, CT 06333

57.0 26  
THOMPSON BRIAN & LISA  
1843 NW GARRYANNA ST  
CORVALLIS, OR 97330

57.0 19  
YEFRAIMOVA SEDA  
31 HOLMES RD  
EAST LYME, CT 06333

# EXHIBIT 5

**AFFORDABILITY PLAN**  
**NEHANTIC HIGHLANDS**  
**AFFORDABLE HOUSING DEVELOPMENT**  
**HOLMES ROAD**  
**EAST LYME, CONNECTICUT**  
**FEBRUARY 5, 2025**

This Affordability Plan is prepared in accordance with the requirements of Connecticut General Statutes §8-3-g-7.

**1) Designation of Administrator**

The initial Designee who is qualified and responsible for the administration of the Affordability Plan will be Evergreen Attainable Homes, Inc or its successors or assigns ("Evergreen"). Evergreen will be responsible for providing the Town of East Lyme Zoning Enforcement Officer on an annual basis with a status/compliance report that confirms that Evergreen is in compliance with the following;

- A) Ensuring that households applying for affordable units qualify within applicable maximum income limits;
- B) Assuring the accuracy of sale or resale prices or rents, and providing documentation where necessary to buyers, sellers, lessors, lessee's and financing institutions;
- C) Maintaining minimum percentages in a set-aside development;
- D) Reporting compliance to the municipality; and
- E) Executing the affirmative fair housing marketing plan.

**2) Homes Designated for Affordable Housing**

- A) A minimum of thirty (30) percent of the homes will be designated as affordable as defined by Connecticut General Statute §8-30g.
- B) The affordable homes shall designated as affordable for forty (40) years commencing on the date a certificate of occupancy has been obtained from the Town of East Lyme Building Inspector.
- C) The affordable homes shall be provided on a pro rata basis. A total of fourteen (14) residences will be designated affordable in the neighborhood developed. Six (6) Single Family Lots to be determined by discussions between the applicant and the Town of East Lyme Planning Commission will be designated affordable.
- D) The affordable homes shall be built in comparable size, quality, and appearance to each of the market rate homes.

- E) Proforma Calculations of Rental Rates of both 60% and 80% of Area Median Income are attached hereto as Exhibit A.

**3) Affirmative Fair Housing Marketing Plan**

The provisions of sections 8-37ee-301 and 302 of the Connecticut State Agencies shall serve as the basis for this plan. Collection and dissemination of information about available price restricted and market rate dwellings shall include;

- A) Analyzing census and other data to identify racial and ethnic groups least represented in the population;
- B) Announcements/advertisements in publications and other media that will reach minority populations;
- C) Announcements to social service agencies and other community contacts serving low-income minority families in the region (includes churches, civil rights organizations, housing authorities, and legal service organizations);
- D) Assistance to minority applicants in processing applications;
- E) Marketing efforts in geographic area of high minority concentrations within the housing market area;
- F) Beginning marketing efforts prior to general marketing of units, and repeating again during initial marketing, at fifty percent (50%) completion, and thereafter at reasonable period intervals with respect to resales or re-rentals; and
- G) Collection of basic racial and ethnic information for all residents and persons on the wait list for the development.

All Notices shall comply with the Fair Housing Act.

**4) Affordability Plan/Affirmative Fair Housing Marketing Plan Restrictions**

No preferences in application procedures or occupancy for existing residents of the subject municipality shall be utilized unless members of racial and ethnic groups identified as least likely to apply receive equally-weighted preferences.

**5) Maximum Sale Price, resale price or rent**

The maximum sale price, resale price or rent of any affordable unit shall be determined as set forth in section 8-30g-8 of the Regulations of Connecticut State Agencies.

**6) Projected Sequence**

As identified in paragraph 2 C) herein we have identified the process in which lot's will be designated affordable. The single family homes will be constructed beginning with lot 1 and will continue in sequential order. This sequence demonstrates compliance with the set-aside requirements of Section 8-30g of the Connecticut General Statutes and Section 8-30-g-1 through 11 inclusive of the Regulations of Connecticut Agencies.

## **7) Application Process**

A family or house old seeking to rent one of the affordable homes must complete an application to determine eligibility. The application must comply with the Fair Housing Act.

### **A) Application Form-The application**

The application form shall be provided by the Administrator and shall include an income pre-certification eligibility form and an income certification form. In general, income for purposes of determining an Applicant's qualification shall include the Applicant family's total income from all sources for the twelve (12) month period following the date the application is submitted ("Application Date"). If the Applicant's financial disclosures indicate that the Applicant may experience a significant change in the Applicant's future income during the twelve month (12) month period, the Administrator shall not consider this change unless there is a reasonable assurance that the change will in fact occur.

### **B) Applicant Interview**

The Administrator shall interview an Applicant upon submission of the completed application. Specifically, the Administrator shall, during the interview, undertake the following:

1. Review with the Applicant all the information provided on the application.
2. Explain to the Applicant the requirements for eligibility, verification procedures, and the penalties for supplying false information.
3. Verify that all sources of family income and family assets have been listed in the application. The term "family" shall be as defined by the Connecticut Agency Regulations, Connecticut General Statutes §8-37ee-1, as amended.
4. Request the Applicant to sign the necessary release forms to be used in verifying income. Inform the Applicant of what verification and documentation must be provided before the application is deemed complete.
5. Inform the Applicant that a certified decision as to eligibility cannot be made until all items on the application have been verified.
6. Review with the Applicant the process and restrictions regarding re-sale.

**C) Verification of Applicant's Income**

Where it is evident from the income verification form provided by the Applicant that the Applicant is eligible, additional verification procedures shall not be necessary. However, if the Applicant appears to be eligible, the Administrator shall issue a pre-certification letter. The letter shall indicate to the Applicant and the Administrator that the Applicant is income eligible, subject to the verification of the information provided in the Application. The letter will notify the Applicant that he/she will have thirty (30) days to submit all required documentation.

**8) Prioritization of Applicants for Initial Occupancy**

If, after publication of the Notice of Initial Sale as described herein, the number of qualified Applicants exceeds the number of Affordable Homes, then the Administrator shall establish a list of Applicants, selected by a random lottery of all eligible Applicants, for the initial rental of Affordable Homes. The initial rentals of Affordable Homes will be offered according to the Applicant's lottery ranking. Following the initial sales of the Affordable Homes, if the number of qualified Applicants exceeds the number of available Affordable Homes, The Administrator shall establish a priority list of applicants based on a "first come first served" basis, subject to the applicant's income pre-certification eligibility and the preferences as established in this Section. The Affordable Homes will then be offered according to the applicant's numerical listing. The administrator shall retain the established priority list of Applicant's for a period of two (2) years subsequent to the date of determination of eligibility. This priority list shall be utilized for any Affordable Homes which become available within said two (2) year period.

**9) Deed Restrictions**

For each designated lot or dwelling unit that is sold or resold;

*"This home/lot is an affordable housing dwelling unit and is therefore subject to a limitation at the date of purchase on the maximum annual income of the household that may purchase the home/lot, and is subject to a limitation on the maximum sale or resale price. These limitations shall be strictly enforced, and may enforced by the zoning enforcement authority of the Town of East Lyme.*

*For the duration of this covenant and restriction, this home/lot may be sold only to a household or family whose annual income is equal to or less than 80 percent (80%) of the median income as defined in subsection 8-30g-1 (10) of the Regulations of Connecticut State Agencies, and may be sold or resold and only at a price equal to or less than the price determined using the formula stated in section 8-30g-8(a) of the Regulations of Connecticut State Agencies."*

**NOTE: The above stated deed restriction will be amended for the three (3) homes/lots that require their sale to households or family's whose income is equal to or less than sixty percent (60%) of the median income.**

**PRO FORMA CALCULATION OF RENTAL RATE OF A THREE  
BEDROOM HOME FOR A HOUSEHOLD EARNING  
80% OF AREA MEDIAN INCOME:**

**SAMPLE COMPUTATIONS  
BASED ON FY 2022 DATA**

1.	Determine lower of area or stateside median income for a family of four	\$145,853.00
2.	Determine the adjusted income for a household of 3.0 bedrooms by calculating 104 percent of item 1.	\$151,687.12
3.	Calculate 60 percent of item 2.	\$121,349.70
4.	Calculate 30 percent of item 3 representing the maximum portion of a family's income that may be used for housing.	\$ 36,404.91
5.	Divide item 4 by 12 to determine the Maximum monthly outlay.	\$ 3033.74
6.	Determine reasonable estimate expenses, including utilities, (\$300) and Homeowners Insurance (\$100).	\$ 400.00
7.	Subtract item 6 from item 5 to determine the amount available for rent.	\$ 2633.74

**PRO FORMA CALCULATION OF RENTAL RATE OF A THREE  
BEDROOM HOME FOR A HOUSEHOLD EARNING  
80% OF AREA MEDIAN INCOME:**

**SAMPLE COMPUTATIONS  
BASED ON FY 2022 DATA**

1.	Determine lower of area or stateside median income for a family of four	\$145,853.00
2.	Determine the adjusted income for a household of 3.0 bedrooms by calculating 104 percent of item 1.	\$151,687.12
3.	Calculate 80 percent of item 2.	\$121,349.70
4.	Calculate 30 percent of item 3 representing the maximum portion of a family's income that may be used for housing.	\$ 36,404.91
5.	Divide item 4 by 12 to determine the Maximum monthly outlay.	\$ 3033.74
6.	Determine reasonable estimate expenses, including utilities, (\$300) and Homeowners Insurance (\$100).	\$ 400.00
7.	Subtract item 6 from item 5 to determine the amount available for rent.	\$ 2633.74

**PRO FORMA CALCULATION OF RENTAL RATE OF A THREE  
BEDROOM HOME FOR A HOUSEHOLD EARNING  
60% OF AREA MEDIAN INCOME:**

**SAMPLE COMPUTATIONS  
BASED ON FY 2025 DATA**

1.	Determine lower of area or stateside median income for a family of four	\$145,853.00
2.	Determine the adjusted income for a household of 3.0 bedrooms by calculating 104 percent of item 1.	\$151,687.12
3.	Calculate 60 percent of item 2.	\$ 91,012.27
4.	Calculate 30 percent of item 3 representing the maximum portion of a family's income that may be used for housing.	\$ 27,303.68
5.	Divide item 4 by 12 to determine the Maximum monthly outlay.	\$ 2275.30
6.	Determine reasonable estimate expenses, including utilities, (\$300) and Homeowners Insurance (\$100).	\$ 400.00
7.	Subtract item 6 from item 5 to determine the amount available for rent.	\$ 1875.30



## Connecticut State Median Income: 2024-2025

Categories : [Energy Assistance/Utilities](#), [Income Assistance](#)

State Median Income is established by the U.S. Department of Health and Human Services. These guidelines are used to determine income eligibility for various local, state, and federal programs.

<b>Family size</b>	<b>100% State Median</b>	<b>30% State Median</b>	<b>50% State Median</b>	<b>60% State Median</b>	<b>75% State Median</b>
1	75,843	22,752	37,921	45,505	56,882
2	99,180	29,753	49,589	59,507	74,384
3	122,516	36,754	61,257	73,509	91,886
4	145,853	43,755	72,926	87,511	109,389
5	169,189	50,755	84,594	101,512	126,891
6	192,525	57,756	96,262	115,514	144,393
7	196,901	59,069	98,450	118,139	147,675
8	201,277	60,381	100,637	120,765	150,956

*SOURCE: Connecticut Department of Social Services*

*PREPARED BY: 211/tb*

*CONTENT LAST REVIEWED: September2024*