

EAST LYME PLANNING COMMISSION

Regular Meeting of April 8, 2025, 7:00PM

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

PLANNING DIRECTOR: Gary Goeschel II
RECORDING SECRETARY: Janet Sutherland

I. CALL TO ORDER 7:01PM

II. ROLL CALL + PLEDGE OF ALLEGIANCE

Present: Richard Gordon, Brian Bohmbach, Nick Menapace, Timothy LaDucer, Alt., Thomas Fitting, Cindy Collins

Absent: Kirk Scott, Sandy Gignac Alt., Sam Sims, Alt.

Also Present: G. Goeschel, Planner, Don MacKenzie, BOS, Janet Sutherland, Recording Secretary.

LaDucer was seated.

The Pledge was recited.

III. CALL FOR ADDITIONS TO THE AGENDA - None

IV. CALL FOR PUBLIC DELEGATIONS - None

V. REPORTS

A. Communications: None

B. Zoning Liaison: Menapace attended the March 20th Zoning Commission meeting and highlighted Proposed Text Amendment to create a new Section 12B SU-EMC floating special use district. DEEP and the Planning Commission gave referrals against. The Zoning Commission voted against the text amendment.

C. Ex - Officio: Don MacKenzie stated a presentation was made for the Board on short-term rentals.

D. Planning Director: Gary A. Goeschel II - none

E. Subcommittees: no report

F. Chairman: Rich Gordon - no updates

VI. APPROVAL OF MINUTES

MOTION: (Laducer / Menapace) To approve the minutes of March 11, 2025 as presented.

VOTE: APPROVED unanimously 6;0;0

VII. PUBLIC HEARINGS

A. Application of Kristen Clarke, P.E. PTOE, Applicant; Duval Partners, LLC, Owner; Application for a 20-Lot Subdivision of approximately 12.67 acres of land Zoned RU-80 on property located on the South side of Holmes Road between 20 and 38 Holmes Road, East Lyme, Connecticut, Assessor's Map #57.0, Lot #30.

Paul Geraghty referenced an April 2nd letter for a continuance of the Public Hearing [Attachment A]. The Commission decided to allow public comment, to which Geraghty stated his objection.

Terry Casey, 55 Holmes Rd - stated concerns about potential new residents safety, siting hunting on the nature preserve and Eversource lines, recommended a fence around the subdivision.

Paul Mastroianni, 23 Holmes Rd - noted the property owners changed zoning previously. Submitted photos of survey ties on neighboring property, implied trespassing. [Attachment B] Also noted irrigation pond would be inadequate without a water source, added a dry system requires diesel backup [Attachment C], questioned solar panels on houses. Maserati detailed several errors in the deed, including the Schedule A. Additionally suggested Geraghty made incorrect statements to the CT Superior Court [Attachment D].

Lou Racicot, 38 Holmes Rd - stated the proposed area was not made for this level of development. Suggested fire pond would not work, and asked if neighboring residents would also have access. Additionally noted the pond size necessary would be much larger than that proposed.

Geraghty responded to some of the statements made, noting hunting requires permission from the East Lyme Land Trust, added locals must respect property rights. Added surveyors have a statutory right to cross boundary lines to complete surveys. Stated the irrigation pond would be addressed at the next meeting. And regarding suggested lies to the court, the comments were regarding a separate 8-30g application on Boston Post Rd.

Collins asked for clarification on Montville approval, Geraghty stated Montville gave written approval to widen the road to 22ft. Gordon asked about a traffic study, Goeschel replied this was a low volume road but would discuss with Town Engineer. There was further discussion regarding the road and previous discussion with Montville.

Collins asked whether rentals or owned, Geraghty replied owned. Collins asked septic or well, Geraghty replied both. Collins asked about the affordability plan, Geraghty replied six total would be affordable. Menapace asked why this area was chosen, Geraghty replied it was the most suitable piece after discussions with DEEP, it's level with almost no ledge to speak of. Goeschel noted the affordability plan needs clarification.

Heather Racicot, 38 Holmes Rd - asked if the town would provide seismic meters for residents once drilling and blasting begins, noting this could affect nearby foundations, Goeschel replied no.

Bohmbach asked whether the affordable housing formula had been used to calculate the price of each house, Geraghty replied the State's formula was used as based on the area. Goeschel referenced the affordability plan submitted with that breakdown included.

MOTION: (Collins / Laducer) To continue the Public Hearing to the May 13th Regular Meeting.

Vote: APPROVED unanimously 6;0;0

VIII. SUBDIVISIONS / RESUBDIVISIONS

- A. Application of Stephen Harney Applicant; Portside Holdings, Inc. & English Harbour Capital Partners, LLC, Owner; Application for a 3-Lot Subdivision of approximately 6.0 acres of land Zoned RU-40 on property located at Heritage Road, East Lyme, Connecticut, Assessor's Map #35.0, Lot #23-1.**

Goeschel reviewed a Memorandum for the Commission [Attachment E], but noting typos: Section 5-6 Pesticide Report, Section 6-2-5(B) Lot Access, Section 6-7 Open Spaces, and Section 6-9 Requirements Regarding Flooding, all applied to different projects. Section 5-6 Pesticide Report should read Exhibit "IV" Design Report, and not number "V". Section 6-2-5(B) should read Exhibit "XXX" Drainage Report by May Engineering, and not Exhibit "EE". Section 6-7 should read Exhibit "IV" Design Report, and Exhibit "XXVI" draft Conservation Easement address Open Space, not Exhibit "A".

Menapace asked for clarification on the Construction Sequence and Bond Estimates [Attachment F], Goeschel replied he suggested an Erosion & Sedimentation Control Bond for the private road of \$7,500. The Commission discussed the private road. Goeschel noted the Town Engineer recommended the homeowners adopt an Operations & Maintenance Plan for the road [Attachment G], added town and homeowners association would enforce this. LaDucer noted concern for a fire apparatus access.

Geraghty addressed the Open Space through two points of access from Scott Road and Hathaway Road, and distributed the Declaration of Common Easement and Maintenance [Attachment H]. Geraghty invited Mr. Torrence to further clarify.

Jeffrey Torrence, 197 Upper Pattagansett Rd- assisted the East Lyme Land Trust on Open Space projects, worked with DEEP in writing grants, noted Land Trust space along the lake is for preservation purposes. Distributed a Conservation Easement [Attachment I] addressing lake access.

MOTION: (Laducer / Collins) To approved the application the application known as Application of Stephen Harney, Applicant; Portside Holdings, Inc. & English Harbour Capital Partners, LLC, Owner; Application for a 3-Lot Subdivision of approximately 6.0 acres of land Zoned RU-40 on property located at Heritage Road, East Lyme, Connecticut, Assessor's Map #35.0, Lot #23-1 which, is further subject to the following administrative requirements and required modifications to the site plan and/or other materials submitted in support of this application:

- 1) An Erosion & Sedimentation Control bond in an amount of \$2,500 dollars per lot**

shall be posted with the Town in a form acceptable to the Town of East Lyme Planning Commission prior to the start of any site work including but not limited to exploratory test pits, clearing, grubbing, filling, and grading.

2) The applicable items above shall be accomplished prior to the filling of the subdivision on the land records, or other documentation of planning approval and no site work shall commence until all applicable conditions are satisfied.

3) Adopt an Operation and Maintenance Plan for Homeowners as outlined by the Town Engineer.

This approval is specific to the subdivision plan submitted as the application known as the Application of Stephen Harney, Applicant; Portside Holdings, Inc. & English Harbour Capital Partners, LLC, Owner; Application for a 3-Lot Subdivision of approximately 6.0 acres of land Zoned RU-40 on property located at Heritage Road, East Lyme, Connecticut, Assessor's Map #35.0, Lot #23-1. Any changes in the subdivision plan shall require prior approval from the Commission and/or the Director of Planning. Any change in the development plan layout other than those identified herein shall constitute a new application. The owner/applicant shall be bound by the provisions of this Application and Approval.

Vote: APPROVED, unanimously, 6;0;0

- B. Application of Kristen Clarke, P.E. PTOE, Applicant; Duval Partners, LLC, Owner; Application for a 20-Lot Subdivision of approximately 12.67 acres of land Zoned RU-80 on property located on the South side of Holmes Road between 20 and 38 Holmes Road, East Lyme, Connecticut, Assessor's Map #57.0, Lot #30.

Application had been continued earlier.

VIII. ZONING REFERRALS

- A. Application of the East Lyme Zoning Commission, for a Proposed Zone and Map Change to rezone all of the existing RU-80 Zoning District, as delineated on the East Lyme Zoning Map and northerly of I-95, to a new RU-200 Zoning District. (Z.C. P.H. Scheduled for 4/24/2025)

Goeschel addressed both the Proposed Zone & Map Change and Proposed Text Amendment in a Memorandum to the Commission [Attachment J]. Menapace expressed concern that proposal may encourage more applications under C.G.S. 8-30g to circumvent Zoning Regulations, added more septic tanks would impact the aquifer. Goeschel referenced input from the Conservation of Natural Resources Commission to up-zone around tributaries, but noted surrounding towns trend was to reduce residential lot size and setbacks. LaDucer noted it was also inconsistent with the Affordable Housing Plan. Goeschel recommended Aquifer overlay district around Powers Lake, or support agricultural uses.

MOTION: (Menapace / Collins) to find the proposal inconsistent with the POCD for the reasons described in the Memorandum from Mr. Goeschel.

Vote: APPROVED, unanimously, 6;0;0

- B. Application of the East Lyme Zoning Commission, for a Proposed Text Amendment to the East Lyme Zoning Regulations by adding a new Section 2A RU-200 and updating the Section identifiers as necessary. (Z.C. P.H. Scheduled for 4/24/2025)**

It was noted the Commission should clarify and reference both RU-200 referrals in the motion(s).

MOTION: (Menapace / Collins) to reject both the first Application of the East Lyme Zoning Commission for a Proposed Zone and Map Change to rezone all of the existing RU-80 Zoning District, as delineated on the East Lyme Zoning Map and northerly of I-95, to a new RU-200 Zoning District, and the Application of the East Lyme Zoning Commission for a Proposed Text Amendment to the East Lyme Zoning Regulations by adding a new Section 2A RU-200 and updating the Section identifiers as necessary, as INCONSISTENT with the Plan of Conservation and Development and cite the Memorandum from Gary Goeschel.

Vote: APPROVED, unanimously, 6;0;0

- C. Proposed Text Amendment to modifying Section 8.2.2 Mixed Use Commercial CA Zone.**

Goeschel had not yet reviewed this referral. Menapace noted the Commission would have to decide as the ZC Public Hearing will be prior to the next Planning meeting. The Commission discussed and found it consistent with the POCD.

MOTION: (Menapace / Collins) to find the Proposed Text Amendment to the East Lyme Zoning Regulations by modifying Section 8.2.2 Mixed Use Commercial CA Zone and updating the Section identifiers as necessary CONSISTENT with the East Lyme 2020 Plan of Conservation and Development.

Vote: APPROVED, unanimously, 6;0;0

- D. Application of William R Sweeney, Esq., for a Proposed Text Amendment to the East Lyme Zoning Regulations by modifying Sections 9.2.3 and 9.3.1 to permit Mixed Use Development in the CB Zone.**

Goeschel had not yet reviewed this referral, recommended tabling to next meeting.

MOTION: (Menapace / Collins) to table the Proposed Text Amendment to the East Lyme Zoning Regulations by modifying Sections 9.2.3 and 9.3.1 to permit Mixed Use Development in the CB Zone and updating the Section identifiers as necessary to the next May 13th meeting.

Vote: APPROVED, unanimously, 6;0;0

X. MUNICIPAL REFERRALS - None

XI. OLD BUSINESS

A. Subdivision Regulations - Section 4; Application Submission Procedure

Goeschel noted Town Attorney Tim Bleasdale's large workload has contributed to the delay in a review.

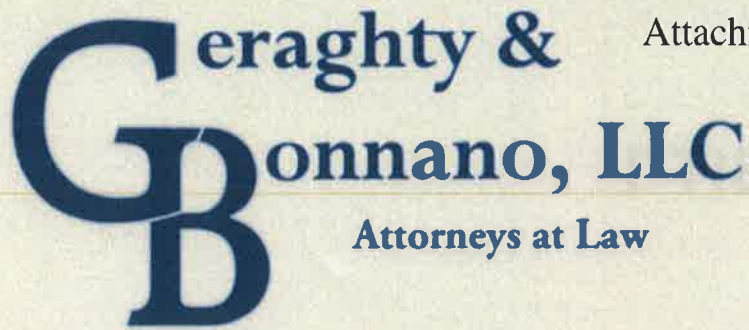
XII. NEW BUSINESS - None

XIII. ADJOURNMENT

MOTION: (Laducer / Collins) to adjourn the meeting.

Vote: APPROVED, unanimously, 6;0;0

Respectfully submitted,
Janet Sutherland
Recording Secretary



Attachment A

MICHAEL S. BONNANO
JOHANNA McCORMICK
PAUL M. GERAGHTY*
MARK A. DUBOIS*
WILLIAM J. RIORDAN

*Also Admitted in New York
† Board Certified, Trial Advocate

April 2, 2025

Via email

Via Email: ggoeschel@eltownhall.com
Gary Goeschel, Director of Planning
Rich Gordon, Chairman
Town of East Lyme Planning Commission
108 Pennsylvania Avenue
Niantic, CT 06357

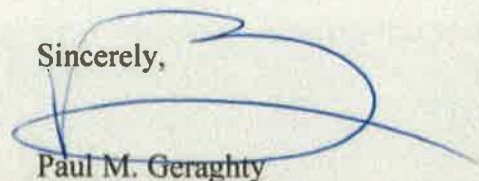
Re: Duval Partners LLC/Kristen Clarke P.E.
8-30g Subdivision Application
Holmes Road/Assessors Map 57.0 Lot 30

Gentlemen,

Please accept this correspondence as my clients' request for a continuation of the April 8, 2025 Planning Commission hearing on the above referenced application until and including the May 13, 2025, regularly scheduled Planning Commission meeting. This shall also serve as the consent to the extension of time to conclude the Public Hearing and the decision deadlines of this application. These actions are each allowed by Conn. Gen. Statute 8—7d (a).

These requests and consents are necessitated by the delays by Ledge Light Health District in the processing of our site testing application submitted to them on November 11, 2025 to which my clients only received final data on March 27, 2025, see Exhibit 1, which will require a significant undertaking by my client as evidenced by the Memorandum to Katie Baldwin (Ledge Light Health District) from my client Kristen Clarke P.E. dated March 30, 2025 which is attached as Exhibit 2.

Sincerely,



Paul M. Geraghty

Enc

Cc: clients

38 GRANITE STREET, PO BOX 231, NEW LONDON, CT 06320

WWW.GERAGHTYBONNANO.COM TELEPHONE (860) 447-8077 / FAX (860) 447-9833

EXHIBIT 1

SITE INVESTIGATION FOR A SUBSURFACE SEWAGE DISPOSAL SYSTEM

Property Address: Holmes Rd (57.0 30) Town: East Lyme

DEEP TEST PIT DATA/SOIL DESCRIPTIONS

DATE: 2-7-2025

(Record all Test Pits)

TEST PIT: 16A	TEST PIT: 16B	TEST PIT: 17A	TEST PIT: 17B
0-11" TS 11-35" Orange, Br fine-med sandy loam 35-79" - Grey, brown fine sand & gravel with cobbles. Snow on the bottom of TH.	0-16" TS 16-37" Orange, brown fine sandy loam 37-46" - Yellow, Brown fine sandy loam with cobbles 46 - 85" - Grey, brown fine sand & gravel with cobbles Snow on bottom of TH.	0-13" TS 13-38" Orange, brown fine sandy loam with cobbles 38-57" - yellow, grey fine sand with gravel, band 57-80" - Grey, brown fine sand & gravel with cobbles Snow on bottom of TH.	0-10" TS 10-32" Orange, brown fine sandy loam with boulders 32-79" - Grey, brown fine sand & gravel with cobbles and boulders Snow on bottom of TH.
Mottles: None to 79"	Mottles: suspected at 40"	Mottles: none to 80"	Mottles: none to 79"
GW: None to 79"	GW: none to 85"	GW: none to 80"	GW: none to 79"
Ledge: none to 79"	Ledge: none to 85"	Ledge: none to 80"	Ledge: none to 79"
Roots: to 22"	Roots:	Roots to: 26"	Roots to:
Restrictive: 79"	Restrictive: Poss at 40"	Restrictive: 80"	Restrictive: 79"

TEST PIT: 18A	TEST PIT: 18B	TEST PIT: 19A	TEST PIT: 19B
0-12" TS 12-31" Orange, Br fine-med sandy loam with cobbles 31- 40" - Yellow, Brown fine sand & gravel 40- 81" - Grey, brown fine sand & gravel with cobbles. Snow on the bottom of TH.	0-14" TS 14-40" Orange, brown fine sandy loam 40 - 83" - Grey, brown fine sand & gravel with cobbles Snow on bottom of TH.	0-10" TS 10-37" Orange, brown fine sandy loam 37- 75" - Grey, brown fine sand & gravel with cobbles Snow on bottom of TH.	0-9" TS 9-25" Orange, brown fine sandy loam 25-72" - Grey, brown fine sand & gravel with cobbles Snow in TH as high as 43".
Mottles: staining at 79"	Mottles: suspected at 41" water frozen in band between layer changes	Mottles: none to 75"	Mottles: none to 72"
GW: None to 81"	GW: none to 83"	GW: none to 75"	GW: none to 72"
Ledge: none to 81"	Ledge: none to 83"	Ledge: none to 75"	Ledge: none to 72"
Roots:	Roots: 20"	Roots to: 38"	Roots to:
Restrictive: 81"	Restrictive: Poss at 41"	Restrictive: 75"	Restrictive: 72"

TEST PIT: 20A
0-9" TS 9-28" Orange, Brown fine sandy loam 28-78" – Grey, brown fine sand & gravel with cobbles and boulders . Snow on the bottom of TH.
Mottles: None to 78"
GW: None to 78"
Ledge: none to 78"
Roots: to 44"
Restrictive: 78"

GROUNDWATER TABLE (Near max., below max., etc.): below max
 SOIL MOISTURE (High, medium, low, etc.): high

PERCOLATION TEST DATA

DATE: _____
 (Record all Perc Tests)

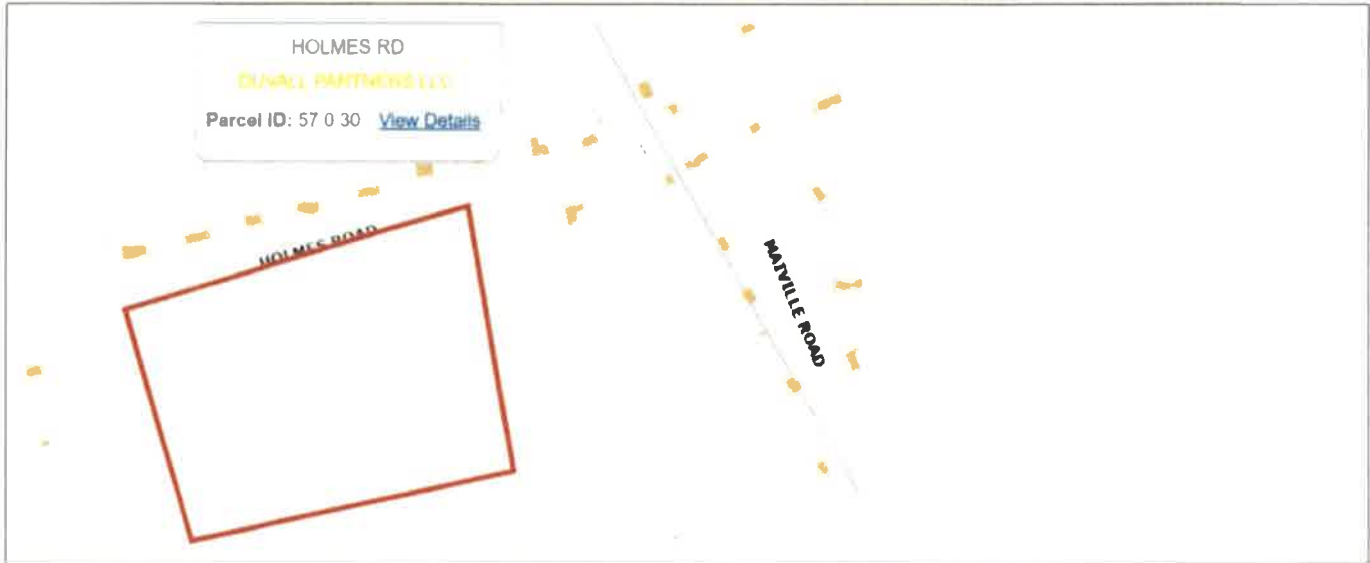
Percs to be conducted by PE

PERC:			PERC:		
DEPTH:			DEPTH:		
PRESOAK:			PRESOAK:		
TIME	READING	Min/in	TIME	READING	Min/in
PERC RATE:			PERC RATE:		

COMMENTS: _____

SPECIAL CONDITIONS		CONCLUSIONS	
Design Flow > 2000 GPD		Suitable for Sewage Disposal	
Public Water Supply Watershed		Unsuitable for Sewage Disposal	
Probable High Groundwater		Additional Investigation Req'd	x
Slope > 25 percent		Wet Season Monitoring Req'd	
Perc Rate < 1 min/inch		Retest During Wet Season	
Perc Rate > 30 min/inch		Licensed Engineer Plan Req'd	
Ledge < 5 feet below grade		Other:	
Limited Suitable Area		Holes have been open for months	**
Open Watercourse or Wetlands			
Flood Plain / Seasonal Flooding			
Max. G.W. < 36 inches below grade	x		

LOCATION DRAWING INCLUDING ALL TEST PITS AND PERCOLATION HOLES



DESIGN RECOMMENDATIONS/COMMENTS

Test pits should be dug and logged on same day

Form completed by: Wendy K. Brown-Arnold, RS, REHS

(Certified Local Health Agent or P.E.)

Accuracy assured by (If P.E. completed form): _____

(Certified Local Health Agent)

Others present for site investigation (Engineer, developer, installer etc.): Katie Baldwin, REHS; Danielle Holmes, REHS

EXHIBIT 2

MEMORANDUM

To: Katie Baldwin
Cc Paul Geraghty, Esq.
Tim May P.E.
J.P. Mereen LS
Steve Harney
Daniel Cunningham, Esq
Gary Goeschel
Duval Partners LLC

From: Kristen Clarke P.E.
Date: March 30, 2025
Subject: Site Testing Application
Duval Partners LLC Property
Holmes Road, East Lyme

Dear Ms. Baldwin,

I write to address the above referenced application submitted on November 11, 2024, the test data received in part on March 7, 2025 and the remainder received on March 27, 2025 and the timing for the additional work necessitated by the untimely review of the 40 test holes dug last November.

As an initial matter as the applicant for this matter I am requesting to be provided with directly from Ledge Light Health District all future data and correspondence(s) regarding this application and all other currently pending and future applications I submit or have submitted.

Secondly, I question the legitimacy of the aforementioned test hole data provided in terms of the data's claimed hole and mottle depth's and "poss. ledge ?" conditions. The reliability of the data questions I raise is due to the fact that each of the 40 holes was dug to a depth of 96" in which no ledge was ever encountered and the claimed "restrictive" depth appears to have been determined by ice and or the partial collapse of the test hole side walls given the extended period, nearly three months, the test holes were left open to winter weather conditions.

Given the impact the claimed and disputed test hole data will have on the system designs required by the Technical Standards for Subsurface Sewage Disposal Systems of the Connecticut Public Health Code, primarily MLSS calculations, as well as the requirements of the Town of East Lyme Subdivision Regulations we will now be forced to address the data provided by Ledge Light Health District by undertaking the following actions;

Test Hole #

- 1 B-Re-dig existing hole to demonstrate no ledge at 57". Review claimed mottle depth of 25".
- 2 A-Re-dig existing hole to demonstrate no ledge at 54". Review claimed mottle depth of 26".
- 2 B-Re-dig existing hole to demonstrate no ledge at 55". Review claimed mottle depth at 28".
- 3 A-Re-dig existing hole to demonstrate no ledge at 55".
- 3 B-Re-dig existing hole to demonstrate no ledge at 54". Review claimed mottle depth at 28".
- 4 A-Re-dig existing hole to demonstrate no ledge at 45". Review claimed mottle depth at 25".
- 4 B- Re-dig existing hole to demonstrate no ledge at 38". Review claimed mottle depth at 22".
- 5 A-Re-dig existing hole to demonstrate no ledge at 29". Review claimed mottle depth at 24"
- 5 B-Re-dig existing hole to demonstrate no ledge at 34". Review claimed mottle depth at 27"
- 6 A-Review claimed mottle depth at 25"
- 6 B-Review claimed mottle depth at 17"
- 7 A-Re-dig existing hole to demonstrate no ledge at 43". Review claimed mottle depth at 20".
- 7 B-Re-dig existing hole to demonstrate no ledge at 36". Review claimed mottle depth at 20".
- 8 A-Re-dig existing hole to demonstrate no ledge at 34". Review claimed mottle depth at 25".
- 8 B-Re-dig existing hole to demonstrate no ledge at 29". Review claimed mottle depth at 24".
- 9 A-Re-dig existing hole to demonstrate no ledge at 35". Review claimed mottle depth at 23".
- 10 A-Re-dig existing hole to demonstrate no ledge at 30". Review claimed mottle depth at 24".
- 10 B-Re-dig existing hole to demonstrate no ledge at 32". Review claimed mottle depth at 28".
- 11 A-Review claimed mottle depth at 24".
- 11 B-Determine mottle depth, if any.
- 12 A-Re-dig hole to 96" ? Review claimed mottle depth at 24".
- 12 B- Re-dig hole to 96".
- 13 A-Review claimed mottle depth at 24"

13 B-Review claimed mottle depth at 28"

14 A-Re-dig Hole to 96" ?

14 B-Re-dig hole to 96" ?

15 A-Re-dig hole to 96" ?

15 B-Re-dig hole to 96". Determine mottle depth, if any.

16 B-Re-dig hole to 96". Determine mottle depth, if any.

18 B-Determine mottle depth, if any.

From a scheduling perspective Gerwick-Mereen will be undertaking the perc testing of the twenty test holes on proposed lots 11 thru 20 beginning on 4/2/2025. We have scheduled our excavator for the week of 4/14 and would request a schedule of a day and time early that week when Ledge Light Health District would be available to be on-site for the re-digging on lots 1 thru 10 as well as the new multi-family application testing for lot 20. I will also arrange to have Tim May and our Soil Scientist present on the day and time of your choosing. Please get back to me regarding scheduling. Thankyou.

Attachment B

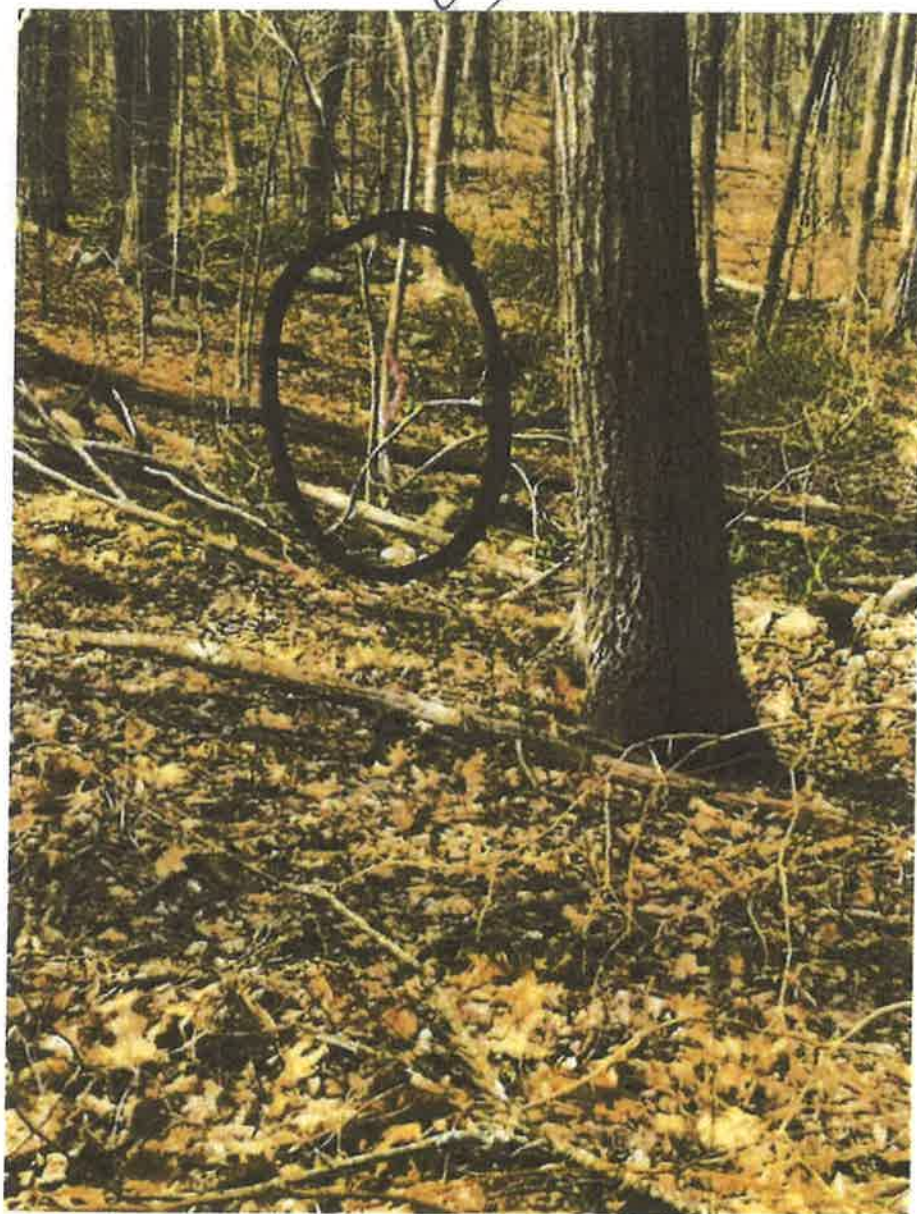
(1)



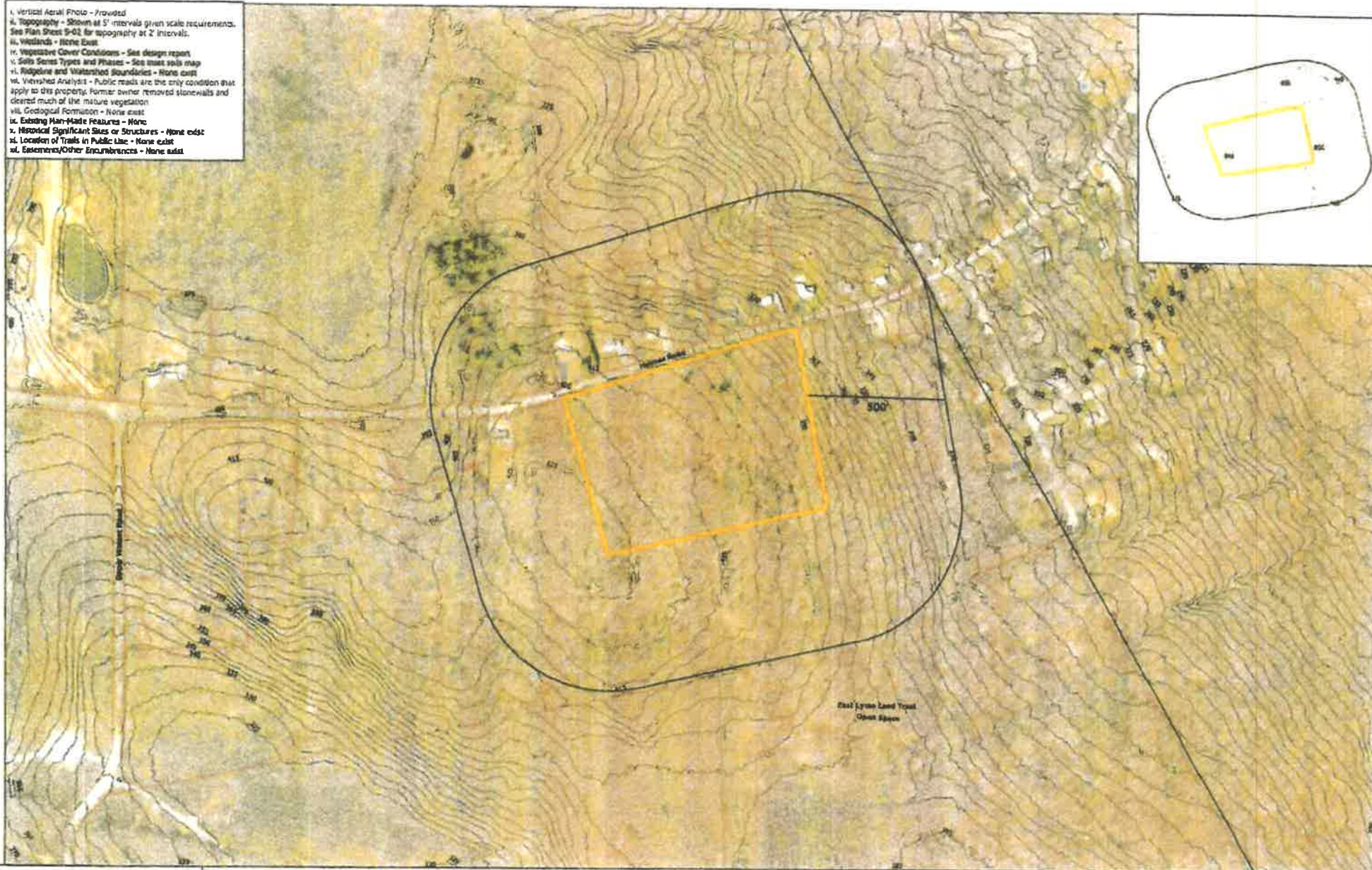
(2)



(3)



i. Vertical Aerial Photo - Provided
 ii. Topography - Shown at 5' intervals given scale requirements. See Plan Sheet 9-B2 for topography at 2' intervals.
 iii. Wetlands - None exist
 iv. Vegetative Cover Conditions - See design report
 v. Soil Series Types and Phases - See inset soils map
 vi. Ridge/line and Watershed boundaries - None exist
 vii. Watershed Analysis - Public roads are the only condition that apply to this property. Former owner removed stone walls and cleared much of the mature vegetation
 viii. Geological formation - None exist
 ix. Existing Man-Made Features - None
 x. Historical Significant Sites or Structures - None exist
 xi. Location of Trails in Public Use - None exist
 xii. Easements/Other Encumbrances - None exist



Property Owner:
 Duval Partners LLC
 1101 Rad Ventures Drive
 Fort Mill, SC 29707

Natural and Cultural Resources Map
 Pehantik Highlands Holmes Road
 Scale: 1" = 200'
 Area: 6.5 Acres

"A"

Legend
 ■ Boundary
 ■ 5' Contour
 ■ 10' Contour
 ■ 20' Contour
 ■ 50' Contour



Yes, a surveyor can enter your property in East Lyme, CT, but only under specific conditions, including being licensed, acting at the direction of a licensed surveyor, and providing at least seven days' advance written notice, while also avoiding entering railroad property within 50 feet without permission.

Here's a more detailed explanation:

- **Licensed Surveyor:** The surveyor must be licensed under [Chapter 391](#) of the Connecticut General Statutes.
- **Acting under a Licensed Surveyor:** The surveyor can also be acting at the direction of a licensed surveyor.
- **Advance Notice:** The property owner must be given at least seven days' advance written notice.
- **Railroad Property:** The surveyor cannot enter land owned by a railroad company within 50 feet of a railroad track without written permission from the railroad company.
- **Liability:** The surveyor is still liable for any actual damages caused by the entry.
- **Trespass:** Similar to residential properties, surveyors must respect trespass laws and obtain necessary permissions unless acting under a legal easement or for public interest projects.
- **Court Order:** If a surveyor needs to enter the property to complete their work, the Land Court can order that they do so without hindrance.
- **Penalties:** Violations can result in sanctions of \$250 per incident.
- **Identification:** When requested, the surveyor needs to show proper identification that confirms they are a registered land surveyor or work for one.
- **Damages:** The right to enter properties does not exempt the land surveyor from liability or costs that could be incurred for any damages that occur in the property.
- **Property Line Disputes:** If you disagree with a survey, you should first try to resolve the issue with the surveyor. If the problem remains unresolved, you can hire a different land surveyor to conduct a separate boundary survey.

**IRRIGATION/FIRE POND & STORMWATER DISCHARGE
ACCESS RIGHTS EASEMENT**

TO ALL PEOPLE TO WHOM THESE PRESENTS SHALL COME, GREETING:

KNOW YE, that the **East Lyme Land Trust, Inc.** (hereinafter jointly referred to as "Grantor"), for \$1.00 and other good and valuable consideration paid, the receipt and sufficiency of which is hereby acknowledged, hereby grants to Duval Partners LLC, a company formed under the laws of the State of North Carolina, with an address of 207 Clarendon Ave., Southport, N.C. ("Grantee"), its successors and/or assigns, a permanent easement to construct an irrigation/fire pond two (2) Acres in size, or such additional size mandated by NFPA 1142 "Standard on Water Supplies for Suburban and Rural Firefighting" 2022, (or most current edition) together with the right to use the well(s) located within the easement area for re-charge purposes in grantee's in favor of property identified on a Map recorded on January 3, 2022 at Drawer 8 #227 of the Town of East Lyme, Connecticut Land Records titled "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 prepared by James Bernardo Land Surveying LLC Dated September 2, 2021 Revised to 12/5/2021". Grantor further grants grantee the right to discharge and infiltrate stormwater including but not limited to use of the Fire/Irrigation Pond and or construction and maintenance of additional stormwater structures within the easement area. Said easement is further identified as follows; commencing at a point on the northerly/southerly common boundary of the Grantor and Grantee off Holmes Road totaling 828.29' in width and continuing 300' in length as is identified on the Map attached hereto as Schedule A (the "Easement Area") for the purposes of constructing, re-constructing, repairing, and maintaining an IRRIGATION/FIRE POND over the area, constructing a non-pressurized Dry Hydrant and utilizing the well(s), and providing electrical power thereto, if necessary, located in the easement area for re-charge of the pond purposes.

The Grantor hereby grants to the Grantee, a permanent easement (the "Area") over that area shown in Schedule "A" hereof.

Grantee, by accepting and recording this Easement, hereby agrees on its behalf and on behalf of its successors, assigns and grantees as follows:

1. Grantee, its successors and/or assigns shall at all times from this date forward be solely responsible for the payment of all costs, expenses and charges relating to the use and maintenance of the Easement Area and the construction, re-construction, repair, replacement, maintenance and installation of any existing or future improvements or replacements thereof. It is agreed by Grantee that Grantor shall have no liability or responsibility therefore without limitation.
2. The Grantee, its agents, employees, successors and assigns shall, as soon as practicable after construction of said Pond, Dry Hydrant, and Electrical Connection

DRAFT

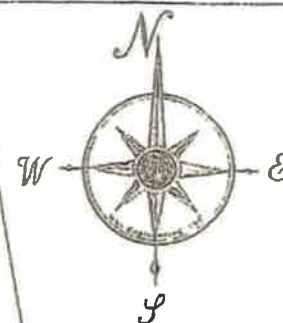
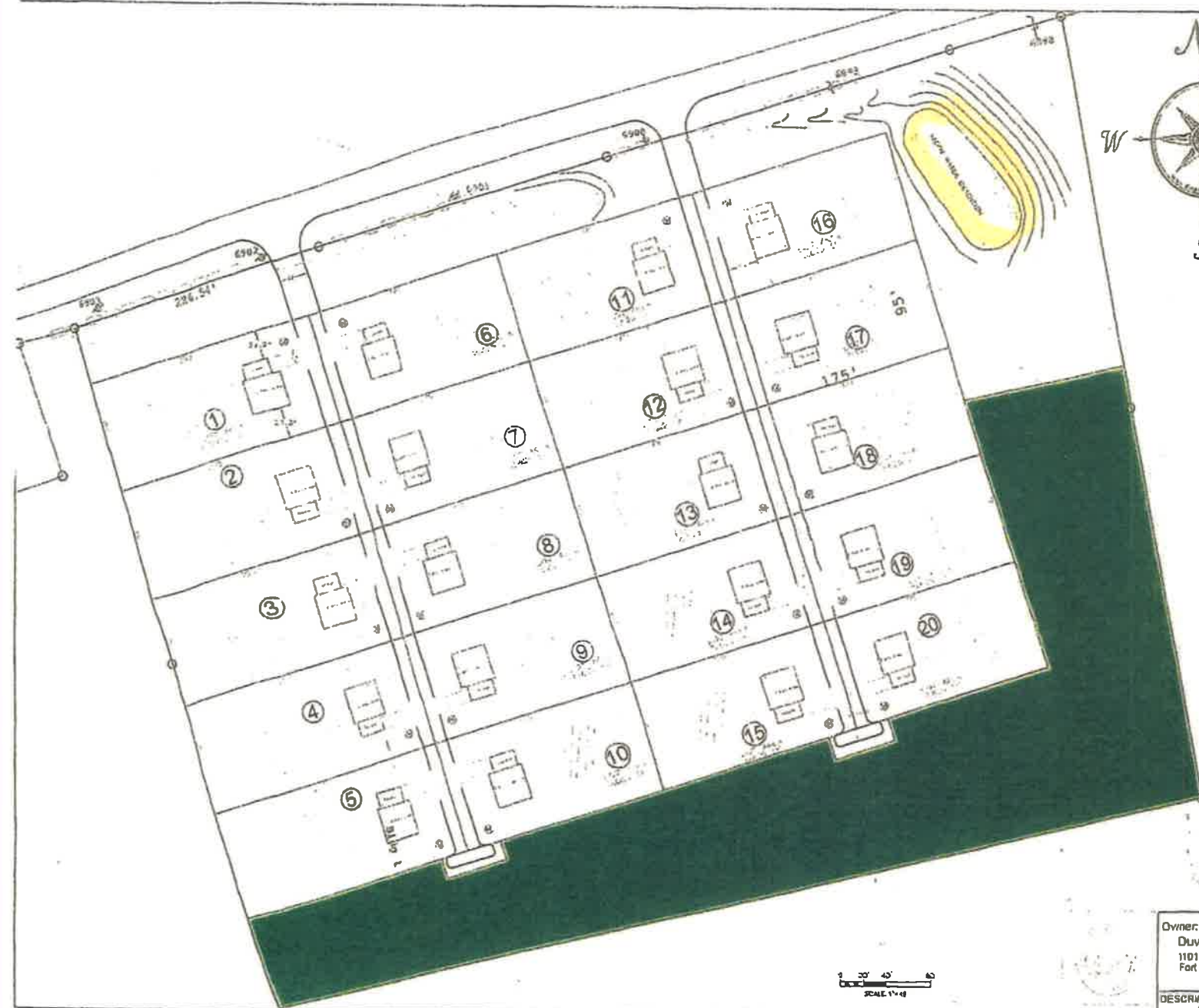
3. Each of said lots shall share equally the obligation to maintain said Private Road including, but not limited to snowplowing, repairing and/or replacement of pavement, and landscaping and maintaining the landscaped area adjacent to the paved portion of the driveway and within such drainage facilities or structures as may be required by the Town of East Lyme as is referenced in paragraph 1 herein.
4. Each lot owner shall have one vote in determining the nature and extent of a required maintenance, repair and/or replacement, and the vote, either in person or by consent, of the majority of lot owners shall be sufficient to bind all lot owners with regard to any common expenses needed for the repair, replacement and/or maintenance of said private street and or drainage facilities or structures.
5. The successful party of any litigation regarding the obligations hereunder shall be entitled to all costs including reasonable attorney's fees.
6. The Private Road will not be owned by the Town of East Lyme. All maintenance, repair, and services such as snow removal, sanding and sweeping of the Private Road will be the responsibility of the lot owners identified herein.
7. The Town of East Lyme shall not be responsible for the initial cost, maintenance fees or utility bills associated with all street sign or street lights located on the or adjacent to the private Road.
8. THIS COMMON EASEMENT AND MAINTAINENCE AGREEMENT SHALL NOT BE AMENDED WITHOUT THE APPROVAL OF THE TOWN OF EAST LYME PLANNING COMMISSION

The rights, responsibilities and benefits and burdens shall inure to the benefit of all of the above-referenced lots, and shall bind the Declarant, its successors and assigns, and shall be deemed a real covenant which shall run with the land.

ENERGY EFFICIENCY and CONSERVATION STATEMENT

Per Section 6-2-6 of the Subdivision Regulations the applicant's Final Site Plans for each home will;

- Provide south facing roof surfaces to allow the placement of unobstructed solar energy systems.
- Insure that the abutting Open Space and its vegetation will not interfere with the solar energy systems reflected in this statement by locating the homes outside of the shade line setback required by the proposed solar energy systems.



The proposed site development is for the parcel located along the south side of Holmes Road in East Lyme, CT. The 12.66 acre parcel is a wooded site currently owned by the State of Connecticut. The site is located on the east side of the road and is adjacent to the road. The site is located on the east side of the road and is adjacent to the road. The site is located on the east side of the road and is adjacent to the road.

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May Engineering LLC

Civil Engineering and Site Planning

1207 RT 183 Oakdale, CT 06370
860 854-0011

Applicant:

Kristen Clarke P.E.
20 Ringwood Dr.
Brew, NH 03304

**HOLMES ROAD
EAST LYME, CT**

SCALE: 1"=40'

DATE: 15 May 2024

JOB NUMBER

SHEET

Owner:

Duval Partners LLC
1101 Red Ventures Dr.
Fort Mill, SC 29707

DESCRIPTION:

Colet Mediation & 30g Site Plan

1 of 1

Drawn by 11/10/21

Schedule A

UPPER WALNUT HILL ROAD

HOLMES ROAD

RECORD MAP 35 2152 33

828.29
Easement Area
300'
828.29
300'

RECORD MAP 35 2152 33

MATCH TO SHEET 3

GRAPHIC SCALE



- 1. All measurements are in feet and inches.
- 2. All bearings are true bearings.
- 3. All distances are in feet and inches.
- 4. All angles are in degrees and minutes.
- 5. All areas are in square feet.
- 6. All volumes are in cubic feet.
- 7. All weights are in pounds.
- 8. All lengths are in feet.
- 9. All widths are in feet.
- 10. All heights are in feet.

FILED
JAN 14 2021
COUNTY OF LOS ANGELES
SURVEY CERTIFICATION

[Signature]
12/27/2021

SEE SHEET 1 FOR NOTES AND
SURVEY CERTIFICATION

PROPERTY SURVEY - LOT LINE ADJUSTMENTS
DUVAL PARTNERS LLC
HOLMES ROAD, WALNUT HILL ROAD
& GRASSY HILL ROAD
HOLMES ROAD, WALNUT HILL ROAD
& GRASSY HILL ROAD



NO.	REVISIONS	DATE
1	Initial Survey	12/27/2021
2	Final Survey	12/27/2021

Sheet No.
S-02

SHEET 2 OF 4

1" = 150'

DATE
SEPTEMBER 8, 2021
PROJECT NO.
E1040-2



State of Connecticut Judicial Branch Superior Court Case Look-up



Superior Court Case Look-up
Civil/Family
Housing
Small Claims

HHD-CV23-6177383-S

DUVAL PARTNERS LLC Et Al v. TOWN OF EAST LYME ZONING COMMISSION

Prefix: LND

Case Type: A05

File Date: 08/16/2023

Return Date: 08/22/2023

Case Detail

Notices

History

Scheduled Court Dates

E-Services Login

Screen Section Help



[To receive an email when there is activity on this case, click here.](#)

Attorney/Firm Juris Number Look-up

Case Look-up

By Party Name

By Docket Number

By Attorney/Firm Juris Number

By Property Address

Information Updated as of: 03/12/2025

Case Information

Case Type: A05 - Appeals - Affordable Housing

Court Location: HARTFORD JD

List Type: No List Type

Trial List Claim:

Last Action Date: 03/10/2025 (The "last action date" is the date the information was entered in the system)

Court Events Look-up

By Date

By Docket Number

By Attorney/Firm Juris Number

Disposition Information

Disposition Date:

Disposition:

Judge or Magistrate:

Legal Notices

Pending Foreclosure Sales

Party & Appearance Information

Understanding

Display of Case Information

Contact Us

Party

No
Fee
Party
Category

P-01 DUVAL PARTNERS LLC

Attorney: GERAGHTY & BONNANO LLC (425524)
38 GRANITE STREET
P.O. BOX 231
NEW LONDON, CT 06320

File Date: 08/16/2023

Plaintiff

P-02 KRISTEN T CLARKE

Attorney: GERAGHTY & BONNANO LLC (425524)
38 GRANITE STREET
P.O. BOX 231
NEW LONDON, CT 06320

File Date: 08/16/2023

Plaintiff

D-01 TOWN OF EAST LYME ZONING COMMISSION

Attorney: SUISMAN SHAPIRO WOOL BRENNAN GRAY & GREE (062114) File Date: 08/21/2023
2 UNION PLAZA/SUITE 200
PO BOX 1591
NEW LONDON, CT 06320

Defendant



Comments

Viewing Documents on Civil, Housing and Small Claims Cases:

If there is an [e](#) in front of the docket number at the top of this page, then the file is electronic (paperless).








- Documents, court orders and judicial notices in electronic (paperless) civil, housing and small claims cases with a return date on or after January 1, 2014 are available publicly over the internet.* For more information on what you can view in all cases, view the [Electronic Access to Court Documents Quick Card](#).
- For civil cases filed prior to 2014, court orders and judicial notices that are electronic are available publicly over the internet. Orders can be viewed by selecting the link to the order from the list below. Notices can be viewed by clicking the **Notices** tab above and selecting the link.*
- Documents, court orders and judicial notices in an electronic (paperless) file can be viewed at any judicial district courthouse during normal business hours.*
- Pleadings or other documents that are not electronic (paperless) can be viewed only during normal business hours at the Clerk's Office in the Judicial District where the case is located.*
- An Affidavit of Debt is not available publicly over the Internet on small claims cases filed before October 16, 2017.*

*Any documents protected by law Or by court order that are Not open to the public cannot be viewed by the public online And can only be viewed in person at the clerk's office where the file is located by those authorized by law or court order to see them.

Motions / Pleadings / Documents / Case Status

Entry No	File Date	Filed By	Description	Arguable
----------	-----------	----------	-------------	----------

	08/21/2023	D	APPEARANCE	Appearance	
100.30	08/16/2023	P	SUMMONS		No
100.31	08/16/2023	P	COMPLAINT		No
100.32	08/16/2023	P	RETURN OF SERVICE		No
101.00	09/28/2023	D	REQUEST TO REVISE		No
102.00	10/02/2023	P	MOTION FOR DEFAULT FOR FAILURE TO FILE RECORD		No
103.00	10/02/2023	D	CERTIFIED LIST OF PAPERS IN THE RECORD PB 14-7A(b)/14-7B(b)		No
104.00	10/02/2023	D	RECORD Record - Part 1		No
105.00	10/02/2023	D	RECORD Record - Part 2		No
106.00	10/02/2023	D	RECORD Record - Part 3		No
107.00	10/02/2023	D	RECORD Record - Part 4		No
108.00	10/06/2023	P	OBJECTION TO REQUEST TO REVISE		No
109.00	10/11/2023	P	MOTION FOR CHANGE OF VENUE RESULT: Granted 11/30/2023 HON JOSEPHINE GRAFF		No
109.01	11/30/2023	C	ORDER RESULT: Granted 11/30/2023 HON JOSEPHINE GRAFF		No
110.00	11/08/2023	D	CERTIFIED LIST OF PAPERS IN THE RECORD PB 14-7A(b)/14-7B(b) UPDATED		No
111.00	11/08/2023	D	RECORD PART 5		No
112.33	11/30/2023	C	TRANSFERRED FROM SUPERIOR COURT JUDICIAL DISTRICT OF NEW LONDON		No
113.33	11/30/2023	C	TRANSFERRED TO SUPERIOR COURT JUDICIAL DISTRICT OF HARTFORD		No
114.00	12/05/2023	C	ORDER re: transfer to land use docket RESULT: Order 12/5/2023 HON EDWARD OHANLAN		No
115.00	01/03/2024	P	MOTION FOR ORDER to Supplement the Record and Conduct Discovery RESULT: Continuance 4/3/2024 HON EDWARD OHANLAN		No
115.10	04/03/2024	C	ORDER RESULT: Continuance 4/3/2024 HON EDWARD OHANLAN		No
116.00	01/16/2024	P	REQUEST FOR ADJUDICATION COMPLEX LITIGATION (JD-CL-77) Motion 115.00		Yes
117.00	01/22/2024	D	OBJECTION TO MOTION OBJECTION TO MOTION TO SUPPLEMENT THE RECORD AND TO CONDUCT DISCOVERY (115.00)		No
118.00	03/15/2024	P	REPLY MEMORANDUM to Objection to Motion to Supplement the Record [Entry 117.00]		No
119.00	08/21/2024	P	MOTION FOR ORDER to Compel Defendant to Submit the Entire Record of Proceeding in List of Papers in the Record		No
120.00	09/03/2024	P	MOTION FOR DEFAULT-FAILURE TO PLEAD		No
121.00	09/03/2024	D	OBJECTION TO MOTION OBJECTION TO MOTION TO COMPEL		No
122.00	09/11/2024	D	ANSWER		No
123.00	09/30/2024	P	REQUEST TO REVISE Plaintiff Request to Revise Answer 122.00		No
124.00	10/04/2024	P	REPLY MEMORANDUM to Objection to Motion to Compel 121.00		No
125.00	10/16/2024	P	REQUEST FOR ADJUDICATION COMPLEX LITIGATION (JD-CL-77) Re Mtn for Order to Compel 119.00 / Objection 121.00 / Reply Memorandum 124.00		Yes
126.00	10/29/2024	D	OBJECTION TO REQUEST TO REVISE		No
127.00	11/18/2024	P	TRANSCRIPT September 4, 2024 hearing		No

128.00	11/18/2024	C	ORDER  partial scheduling order re: jurisdiction RESULT: Order 11/18/2024 HON EDWARD OHANLAN	No
129.00	12/06/2024	D	BRIEF 	No
130.00	12/20/2024	P	MEMORANDUM OF LAW IN OPPOSITION TO MOTION TO DISMISS PB 10-31  Brief Entry 129.00	No
131.00	01/10/2025	D	BRIEF  Reply Brief	No
132.00	02/24/2025	P	CASEFLOW REQUEST (JD-CV-116)  Request for status conference per Court instruction	No
133.00	03/10/2025	P	TRANSCRIPT   NEW Hearing 2-6-2025	No

Scheduled Court Dates as of 03/12/2025				
HHD-CV23-6177383-S - DUVAL PARTNERS LLC Et Al v. TOWN OF EAST LYME ZONING COMMISSION				
#	Date	Time	Event Description	Status
No Events Scheduled				

Judicial ADR events may be heard in a court that is different from the court where the case is filed. To check location information about an ADR event, select the **Notices** tab on the top of the case detail page.

Matters that appear on the Short Calendar are shown as scheduled court events on this page. The date displayed on this page is the date of the calendar.

The status of a Short Calendar matter is not displayed because it is determined by markings made by the parties as required by the calendar notices and the [civil](#) standing orders. Markings made electronically can be viewed by those who have electronic access through the Markings History link on the Civil/Family Menu in E-Services. Markings made by telephone can only be obtained through the clerk's office. If more than one motion is on a single short calendar, the calendar will be listed once on this page. You can see more information on matters appearing on Short Calendars by going to the [Civil/Family Case Look-Up](#) page and [Short Calendars By Juris Number](#) or [By Court Location](#).

Periodic changes to terminology that do not affect the status of the case may be made.

This list does not constitute or replace official notice of scheduled court events.

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In accordance with the Federal Violence Against Women Act of 2005, cases involving relief from physical abuse (restraining orders), civil protection orders, foreign protective orders, and motions that would be likely to publicly reveal the identity or location of a protected party may not be displayed and may be available only at the courts.

Pursuant to section 47a-26j of the Connecticut General Statutes, certain eviction cases will be removed from this website 30 days after disposition or other final activity of the case.

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Page Created on 3/12/2025 at 8:32:52 PM

1 THE COURT: Right. But we don't assume in
2 courts. We -- you need the approval of the
3 government of the Town of Montville.

4 ATTY. GERAGHTY: Correct.

5 THE COURT: And that would require probably an
6 8-24 hearing?

7 ATTY. GERAGHTY: No, they own the existing -- it
8 would just -- I assume it almost would be done
9 administratively to widen the road.

10 THE COURT: Okay.

11 ATTY. GERAGHTY: It's an existing road and right
12 of way. So it needs to be -- go from 18 feet of
13 paved road to 22 feet of paved road.

14 THE COURT: Okay. What else do you need?

15 ATTY. GERAGHTY: The -- well, review by the town
16 engineer, although that would seem to me to be very
17 light in this particular case.

18 THE COURT: You know, I don't want to hear what
19 you think it is.

20 ATTY. GERAGHTY: Okay.

21 THE COURT: I want it -- I don't want this to
22 wind up like the last transcript. I just want to
23 know factually --

24 ATTY. GERAGHTY: Factually --

25 THE COURT: -- and not with any gloss, not with
26 any opinion about it, factually what do you need to
27 submit for a final site plan approval from the --

1 on that. That there's some widening of the road that
2 we believe is gonna have to be done actually in the
3 town of Montville, so we would have to have that
4 approval.

5 THE COURT: What do you mean widening of the
6 road?

7 ATTY. GERAGHTY: The main -- the existing town
8 road as it goes -- this project is right on the town
9 border of Montville and East Lyme and it goes through
10 Montville to get to Route 85 there -- the road next
11 down right at the town line. And on a previous
12 application for this very site, which got approved by
13 the Town for a golf course and et cetera, the Town of
14 Montville said we're good with the application so
15 long as you widen the road to a minimum of 22 feet,
16 which we're fine with doing. The other --

17 THE COURT: So you would need an approval from
18 the Town of Montville --

19 ATTY. GERAGHTY: Correct.

20 THE COURT: -- to widen that road.

21 ATTY. GERAGHTY: Right. It's a stretch of about
22 20 feet that needs to be widened from about 18 to 22.

23 THE COURT: Whose property is it on?

24 ATTY. GERAGHTY: It's Town property. And based
25 on a prior application from a different developer we
26 assumed they would grant it because they granted it
27 for him too.

1 ATTY. GERAGHTY: Drainage would be storm water
2 management.

3 THE COURT: Storm water.

4 ATTY. GERAGHTY: All subsumed under that.

5 THE COURT: Is -- and that's not -- that's town
6 engineer, that's not Ledge Light, Ledge Light
7 is --

8 ATTY. GERAGHTY: That's town engineer, correct,
9 Your Honor.

10 THE COURT: Okay. And what about the other --
11 what about the other --

12 ATTY. GERAGHTY: The English Harbour
13 application, Your Honor?

14 THE COURT: English Harbour.

15 ATTY. GERAGHTY: On that we would need -- so
16 there is public water available to the site, the
17 question is whether or not we could -- we would need
18 Town approval to connect to that, so that would be
19 public works.

20 THE COURT: So what is -- what's involved in
21 that? Is that water pollution control authority
22 or --

23 ATTY. GERAGHTY: No, it's -- I think it's the
24 Public Works Department, or Water and Sewer, so it
25 might be their Water Pollution Control Authority, I'm
26 not exactly sure how the WPCA set up their -- but
27 that would just be paying the connection fee cause

1 the pipe is literally at the end of the street from
2 where we are and bringing it onto the site.

3 THE COURT: This is just water, not sewer --

4 ATTY. GERAGHTY: That's correct.

5 THE COURT: Okay.

6 ATTY. GERAGHTY: Septic -- the site would be
7 dealt with by septic, so we would need Ledge Light's
8 approval for that. There was a design that was
9 submitted by the engineer; wasn't, as my recollection
10 serves me, it wasn't approved by Ledge Light at that
11 point in time, it was a conceptual design but
12 according to the engineer's testimony it met the
13 state standards for that.

14 THE COURT: Whose engineer?

15 ATTY. GERAGHTY: The engineer is Tim May.*

16 THE COURT: Not who, whose --

17 ATTY. GERAGHTY: Oh.

18 THE COURT: -- engineer?

19 ATTY. GERAGHTY: Our engineer.

20 THE COURT: Okay.

21 ATTY. GERAGHTY: Okay.

22 THE COURT: I mean, I assume that your engineer,
23 you don't submit these unless it meets their --

24 ATTY. GERAGHTY: No, hopefully not.

25 THE COURT: Okay. So you need the septic to be
26 okayed by the town's engineering --

27 ATTY. GERAGHTY: Septic would be Ledge Light but

1 THE COURT: Well, they won't require anything.
2 But for a final site plan do you need a traffic
3 study?

4 ATTY. GERAGHTY: We would need one for the Town
5 more than likely, yes.

6 THE COURT: Okay. Well, I'm asking you for the
7 Town final site plan --

8 ATTY. GERAGHTY: Right.

9 THE COURT: -- what do you need?

10 ATTY. GERAGHTY: So if required, cause the
11 traffic study is not automatic, this -- there -- this
12 is on the state roads so the Town doesn't have
13 jurisdiction, but if they were to ask for a traffic
14 study I'm sure we could provide one. What we did was
15 the sight line, submitted that information to them,
16 and that's what DOT approved, the entrance and exit
17 was good for exiting onto a state highway as far as
18 they were concerned.

19 THE COURT: Okay. So you need a public water
20 connection, you need Ledge Light approval, you need
21 the internal roadways, you need storm water
22 management, and you need a traffic -- likely --

23 ATTY. GERAGHTY: Correct.

24 THE COURT: -- gonna need a traffic study.
25 Anything else?

26 ATTY. GERAGHTY: I think that's it, Your Honor.
27 Oh, well, obviously the affordability plan and so

What is the oath of attorneys in CT?

You solemnly swear or solemnly and sincerely affirm, as the case may be, that you will do nothing dishonest, and will not knowingly allow anything dishonest to be done in court, and that you will inform the court of any dishonesty of which you have knowledge; that you will not knowingly maintain or assist in ...

What happens if a lawyer lies under oath?

planned perjury. A lawyer who would so cooperate would be at risk of prosecution for suborning perjury, and disciplinary proceedings, including suspension or disbarment.” Id. As such, a criminal defendant does not have a right to testify falsely on his own behalf or have the assistance of counsel in doing so.

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: East Lyme Planning Commission

From: Gary A. Goeschel II, Director of Planning

Date: April 8, 2025

RE: **Application of Stephen Harney, Applicant; Portside Holdings, Inc. & English Harbour Capital Partners, LLC, Owner; Application for a 3-Lot Subdivision of approximately 6.0 acres of land Zoned RU-40 on property located at Heritage Road, East Lyme, Connecticut, Assessor's Map #35.0, Lot #23-1. (Submitted 1/15/2025, Date of Receipt 2/11/2025, 65-days to render a decision 4/16/2025)**

Upon review of the above referenced application, supporting documentation, and proposed subdivision plans (7 Sheet Plan Set, Exhibit xxiii) entitled "Lakeside Point Subdivision, A Conservation Design Development (CDD), Property of Port Side Holdings, Inc. and English Harbour Capital Partners, LLC, Tenants in Common, East Lyme, CT, dated March 22, 2023" by John Paul Mereen, L.S. of Gerwick – Mereen, LLC, 191 Boston Post Road, PO Box 565, East Lyme Connecticut, and Timothy May, P.E. of May Engineering, LLC, 1297 RT 163 Oakdale, Connecticut 06370, I have the following comments:

FINDINGS

Whereas: The Commission received an Application for a 3-Lot Subdivision of Land on February 11, 2025 and has 65-days (April 20, 2025) to render a decision.

Whereas: The Commission has reviewed the application and received testimony from the applicant, their professionals, representatives, and Town staff who has provided the Commission with comment concerning this application's compliance with local requirements and regulations.

Whereas: As evidenced by Exhibits "XXXIX" and "XL", the property being proposed to be re-subdivided does not involve land regulated as an inland wetland or watercourse under the Provisions of chapter 440 of the Connecticut General Statutes as there are no inland wetland on the parcel of land being subdivided and there is no proposed activity occurring in an inland wetland or a watercourse.

Whereas: The proposed Subdivision is found to meet the requirements of the East Lyme Subdivision Regulations and the East Lyme Plan of Conservation and Development (POCD) as demonstrated by the following:

Section 3-4 Plan of Development: The parcel of land constituting the property subject to this application is zoned RU - 40 Rural Residential and the properties abutting the site to the north and east and west are zoned RU-40. The property to the south, is Pattagansett Lake which is also zoned RU – 40 Rual Residential. The property to the northwest is approximately 117-aces owned by the Town and designated as open space which, is surrounded by single family homes. Therefore, as the proposed Subdivision is located within a RU-40 zoning district adjacent to existing residential lots and open space zoned RU-40. The proposed subdivision continues following the pattern of development characteristic of the existing residential development. As such, the proposed subdivision conforms to

the comprehensive Plan of Development for the Town of East Lyme (POCD) as adopted by the East Lyme Planning Commission.

Section 5-4 Sanitation Report: As indicated in Exhibit "XXXIV" review comments from Danielle Holmes, RS, dated March 26, 2025, indicates proposed Lots 1-3 are recommended generally suitable to be served by on-site septic and well.

Section 5-5 Water Supply Report: As indicated in Exhibit "XXXIV" review comments from Danielle Holmes, RS, dated March 26, 2025, indicates proposed Lots 1-3 are recommended generally suitable to be served by on-site septic and well.

Section 5-2-2(E) and 6-8 Stormwater Management Plan: As indicated in Exhibit "XLVIII", Letter to G. Goeschel II, Director of Planning & Wetlands Enforcement Officer, from Alex Klose, P.E., Town Engineer, dated April 7, 2025, indicates he found the drainage analysis acceptable. As such, the proposed site development will not adversely affect the water quality of the receiving aquifer, wetlands, nor watercourse nor exacerbate downstream flooding.

Section 5-2-2(G) Erosion and Sedimentation Control Plan: As evidenced by Exhibit "XXX" Revised Subdivision Drainage Erosion Control Plan, the Erosion & Sedimentation Control Plan meets the requirements pursuant to Section 5-2-2 (G) of the East Lyme Subdivision Regulations.

Section 5-6 Pesticide Report: As evidenced by Exhibit "V" which includes the Application and Design Report, the existing lot has already been reviewed during the Nottingham Hills Phase 3 Subdivision approval. As such, there are no known regular applications of pesticides on the subject site.

Section 5-8 Archeological Survey: As evidenced by Exhibit "V" Phase 1b Archeological Reconnaissance Survey, there are no known significant archaeological resources on the subject site.

Section 6-2 Lot Design Specifications: The proposed subdivision complies with all applicable Zoning Regulations for the purposes of the subdivision of land as evidenced by Exhibit "IX" correspondence from William Mulholland, Zoning Official, dated January 27, 2025.

Section 6-2-5 (B) Lot Access: As evidenced by Exhibit "EE", the proposed shared paved driveway has a slope of 15% which was previously approved in Nottingham Hills Phase 3 Subdivision approval. However, pursuant to Section 6-2-5 (B) of the East Lyme Subdivision Regulations shared driveways may not exceed 10% or more on the shared portion of driveway. As such, the proposed driveway must either be redesigned to achieve a 10% slope on the shared portion of the driveway or constructed to the design standards of a private road.

Section 6-7 Open Spaces: As demonstrated by Exhibit "A" which includes the Application and Design Report, indicates no additional Open Space is required for this Phase of the Subdivision based on the findings of fact by the Planning Commission on or about January 11, 2021, Exhibit 3 of this application, a total of 79.34 acres of Open Space had been provided to date. In addition, a copy of correspondence from Paul Geraghty, Esq. to Gary Goeschel, Director of Planning, dated January 6, 2021, Exhibit 4 of this application, provided further detail regarding Open Space in the Nottingham Hills Subdivision. As such, dedication of open space has already been provided.

Section 6-9 Requirements Regarding Flooding: As indicated in Exhibit "Z", E-mail correspondence from Alex Close, P.E., Town Engineer, dated July 11, 2022, to Gary Goeschel, Director of Planning, indicates he found the drainage analysis acceptable. As such, the proposed site development will not adversely affect the water quality of the receiving aquifer, wetlands, nor watercourse nor exacerbate downstream flooding. As such, the proposed design meets the intent of the East Lyme Subdivision Regulations stormwater requirements.

WHEREAS: Pursuant to Section 4-4-5 of the Subdivision Regulations, the Commission after the public hearing, if any, shall give approval to the application if it finds that the application, plans and documents conform to the requirement of these Regulations. Such approval shall be conditioned upon presentation

of suitable easement and deeds as applicable, as specified in Section 10 of the Regulations, and shall be conditioned upon completion of all required subdivision improvements. In granting approval, the Commission may attach such conditions that it deems necessary to modify the subdivision map, plans, or documents, and to preserve the purpose and intent of these Regulations. As such, I offer the following language for such a resolution:

RESOLUTION FOR APPROVAL OF THE PROPOSED SUBDIVISION:

SUBDIVISION APPLICATION

NOW THEREFORE, I hereby Move to APPROVE the application known as **Application of Stephen Harney, Applicant; Portside Holdings, Inc. & English Harbour Capital Partners, LLC, Owner;** Application for a 3-Lot Subdivision of approximately 6.0 acres of land Zoned RU-40 on property located at Heritage Road, East Lyme, Connecticut, Assessor's Map #35.0, Lot #23-1 which, is further subject to the following administrative requirements and required modifications to the site plan and/or other materials submitted in support of this application:

1. An Erosion & Sedimentation Control bond in an amount of \$2,500 dollars per lot shall be posted with the Town in a form acceptable to the Town of East Lyme Planning Commission prior to the start of any site work including but not limited to exploratory test pits, clearing, grubbing, filling, and grading.
2. The applicable items above shall be accomplished prior to the filling of the subdivision on the land records, or other documentation of planning approval and no site work shall commence until all applicable conditions are satisfied.

This approval is specific to the subdivision plan submitted as the application known as the **Application of Stephen Harney, Applicant; Portside Holdings, Inc. & English Harbour Capital Partners, LLC, Owner;** Application for a 3-Lot Subdivision of approximately 6.0 acres of land Zoned RU-40 on property located at Heritage Road, East Lyme, Connecticut, Assessor's Map #35.0, Lot #23-1. Any changes in the subdivision plan shall require prior approval from the Commission and/or the Director of Planning. Any change in the development plan layout other than those identified herein shall constitute a new application. The owner/applicant shall be bound by the provisions of this Application and Approval.

Attachment F

May

Engineering, LLC

Civil Engineering, Site Planning, and Consulting

1297 RT 163 Oakdale, CT 06370 cell 860 884-9671 Fax 860 367-0244

04/07/2025

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

Re: Lake Side Point Subdivision

Dear Mr. Goeschel,

Please accept this correspondence as the Construction Sequence and Bond Estimates for the proposed Private Road and lots identified in the above referenced subdivision application.

CONSTRUCTION SEQUENCE

1. Secure all required permits from the Town of East Lyme.
2. Post Erosion and Control Bond in the amount identified in the Subdivision Approval.
3. Install Erosion & Control.
4. Have Erosion & Control inspected by the Director of Planning/Wetlands Enforcement Officer.
5. Complete remaining excavation and grading.
6. Install drainage pipe and structures identified as is on the approved plans.
7. Install and compact 12" road sub-base gravel as is identified on approved plans.
8. Install, compact & grade 5" process gravel as is identified on approved plans.
9. Install and compact 3" of bituminous as is identified on the approved plans.
10. Hydro-seed all disturbed slopes and shoulders adjacent to the private road.

BOND ESTIMATE-ROAD

• Erosion & Sedimentation Control-		\$ 5,000.00
• Excavation/Grading- Bulk price		\$ 35,000.00
• Drainage-Pipe- 90' x 15" HDP Installed \$35/ft		\$ 3,150.00
-Rip Rap- 48 TONS @ 28.00 per TON		\$ 1,344.00
• Bank Run Gravel (Sub-base) 850 TONS @ 21.50 per TON		\$ 18,275.00
• Process Gravel 350 TONS. @ \$22.00 per TON		\$ 7,700.00
• Bituminous- 130 cubic yds. @ \$145 per CY.=		\$ 18,850.00
• Hydro-Seed 22,500 s.f (0.53 AC)@\$3000 per AC.	= \$	1,585.00
	Subtotal	
• Contingency @ 10%	= \$	9,090.00

TOTAL =\$ 99,994.00

Lots-Erosion & Sedimentation Control Bond

- \$2500 per Lot due prior to any construction activities commence.

Sincerely,
Timothy May, PE
May Engineering, LLC



Timothy May, PE

Digitally signed by Timothy May, PE
DN: cn=Timothy May, PE,
email=timothy.may@mayeng.com,
c=US, o=May Engineering, LLC
Reason: I am the author of this document
Date: 2025.04.07 10:08:01
EastmanPDF Version: 9.7.5

Town of

P.O. Drawer 519

Deputy Public Works Director
Alexander T. Klose, P.E.



East Lyme

108 Pennsylvania Ave
Niantic, Connecticut 06357

Phone: (860) 691-4112
AKlose@eltownhall.com

To: Gary Goeschel II, Director of Planning & Wetlands Enforcement Officer
From: Alex Klose P.E., Deputy Public Works Director & Acting Town Engineer
Date: April 7, 2025
Re: Heritage Road, Lake Shore Point Subdivision
Planning Commission Subdivision Application

Mr. Goeschel,

After the initial application material for the proposed Heritage Road subdivision was received, I requested additional information from the applicant, regarding stormwater runoff management. The applicant's engineer Timothy May, P.E. of May Engineering LLC provided a response to my questions as well as revised plans dated March 31, 2025 and a revised drainage report dated March 28, 2025.

The revised plans and calculations provided by the applicant, prepared by May Engineering, LLC, address and satisfy my comments regarding the site's proposed stormwater management efforts for a private "roadway" (functioning as a driveway for three homes with an exception of slope, which exceed the driveway standard). One item to note is that much of the stormwater treatment and attenuation for the proposed development is provided through the use of "Permeable Interlocking Concrete Pavers (PICPs)". These pavers require regular maintenance to maintain their functionality. I would recommend an operation and maintenance plan clearly describing the roles and responsibilities of the property owner(s) in proper maintenance of the rain gardens, PICPs, lawn areas, etc. which contribute to the treatment and attenuation of stormwater, be produced and filed.

I also note that the roadway will be a private drive and it will be the owner(s) responsibility to maintain the driveway, and garbage and recycling pickup will only occur on Heritage Road in a method deemed acceptable by the Public Works Director and Superintendent.

I have no further comments from my review.

Sincerely yours,

Alex Klose, P.E.
Deputy Public Works Director
Acting Town Engineer

Received

APR 7 2025

Town of East Lyme
Land Use

Received

7 2025

Town of East Lyme
Land Use

DECLARATION OF COMMON EASEMENT AND MAINTENANCE

This Declaration executed this ____ day of January, 2025 by **PORT SIDE HOLDINGS, INC** and **ENGLISH HARBOUR CAPITAL PARTNERS LLC**, hereinafter referred to as "Declarant",

WHEREAS, THE Declarant is the owner of that certain piece or parcel of land shown as Lots 1, 2 & 3 on a map or plan entitled "LOCATION COVER SHEET LAKE SIDE POINT SUBDIVISION, A CONSERVATION DESIGN DEVELOPMENT (CDD), PROPERTY OF PORT SIDE HOLDINGS, INC and ENGLISH HARBOUR CAPITAL PARTNERS LLC prepared by GERWICK-MEREEEN LLC, 191 BOSTON POST ROAD, EAST LYME, CONNECTICUT 06333 which maps have been filed in the land records of the Town of East Lyme on or about this date.

WHEREAS, said lots are to be served by Private Road as more particularly shown on said plans as "Private Road & Utility Easement Area" and;

WHEREAS, said Private Road is for the benefit of all of the specifically referenced lots described herein

WHEREAS, any drainage facilities or structures required in the future by the Town of East Lyme in the easement area would be for the benefit of the specific lots referenced as follows;

Easement Map Depicting Easement Area to be Granted to THE CONNENICUT LIGHT AND POWER COMPANY dba EVERSOURCE ENERGY ACROSS THE PROPERTY OF PORT SIDE HOLDINGS, INC. and ENGLISH HARBOUR CAPITAL PARTNERS, LLC OFF HERITAGE ROAD Scale: 1"= 40' File Number E24116 Date: August 22, 2024 prepared by Gerwick-Mereen LLC, 191 BOSTON POST ROAD, EAST LYME, Connecticut 06333". Said map is recorded in the Land Records at Drawer ____ #____.

NOW THEREFORE, the following shall be the rights, responsibilities and burdens of each of said lots with regard to said private street;

1. Each of said lots shall be burdened and benefitted by the Private Road and storm water drainage facilities and or structures as shown on the above-referenced plan or added hereafter as a requirement by the Town of East Lyme in conjunction with the issuance of building permit(s).
2. Said Private Road shall be used by the respective lot owners for access to each of the individual lots and for the purposes of installation and maintenance of utilities serving such lots, and no individual lot may interfere

with, block or otherwise impede the access to any other lot over said Private Street. Said drainage facilities shall be used by respective lot owners for drainage of impervious surfaces.

3. Each of said lots shall share equally the obligation to maintain said Private Road including, but not limited to snowplowing, repairing and/or replacement of pavement, and landscaping and maintaining the landscaped area adjacent to the paved portion of the driveway and within such drainage facilities or structures as may be required by the Town of East Lyme as is referenced in paragraph 1 herein.
4. Each lot owner shall have one vote in determining the nature and extent of a required maintenance, repair and/or replacement, and the vote, either in person or by consent, of the majority of lot owners shall be sufficient to bind all lot owners with regard to any common expenses needed for the repair, replacement and/or maintenance of said private street and or drainage facilities or structures.
5. The successful party of any litigation regarding the obligations hereunder shall be entitled to all costs including reasonable attorney's fees.
6. The Private Road will not be owned by the Town of East Lyme. All maintenance, repair, and services such as snow removal, sanding and sweeping of the Private Road will be the responsibility of the lot owners identified herein.
7. The Town of East Lyme shall not be responsible for the initial cost, maintenance fees or utility bills associated with all street sign or street lights located on the or adjacent to the private Road.
8. THIS COMMON EASEMENT AND MAINTAINENCE AGREEMENT SHALL NOT BE AMENDED WITHOUT THE APPROVAL OF THE TOWN OF EAST LYME PLANNING COMMISSION

The rights, responsibilities and benefits and burdens shall inure to the benefit of all of the above-referenced lots, and shall bind the Declarant, its successors and assigns, and shall be deemed a real covenant which shall run with the land.

_____, 2025

PORT SIDE HOLDINGS, INC

By Shelly Harney, President

STATE OF NEW HAMPSHIRE)

COUNTY OF _____) ss:

Personally, appeared Shelly Harney, President of Port Side Holdings, Inc., Signer and Sealer of the foregoing instrument, and acknowledged the same to be his free act and deed and the free act and deed of said limited liability company, before me.

**Commissioner of the Superior Court
Notary Public**

ADDITIONAL SIGNATURE ON THE FOLLOWING PAGE

Signed this ____ of January, 2025.

WITNESSED BY:

ENGLISH HARBOUR CAPITAL PARTNERS LLC

DRAFT

By: _____

Kristen T. Clarke, its Manager
DULY AUTHORIZED

STATE OF NEW HAMPSHIRE)

COUNTY OF _____)

ss: _____

On this ____ day of January 2025, personally appeared, Kristen T. Clarke, Manager of English Harbour Asset Management LLC, signer and sealer of the foregoing instrument, and acknowledged the same to be her free act and deed and the free act and deed of said limited liability company, before me.

Notary Public

My Commission Expires: _____

CONSERVATION EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS, that **ENGLIH HARBOUR CAPITAL PARTNERS LLC and PORT SIDE HOLDINGS, INC** ("Grantors") for the consideration of One Dollar (\$1.00) and other valuable consideration received to our full satisfaction of the **EAST LYME LAND TRUST, INC.**, ("Grantor"), do give, and grant, and convey unto the Grantee, it's successors and assigns forever, the following;

A Conservation Easement to have all the force and effect for a "Conservation Easement" as defined by Section 47-42a of the Connecticut General Statutes for the purpose of retention of the hereinafter described land predominantly in its present natural and open condition in perpetuity.

The land subject to this Conservation Easement consists of those portions of the land located in the Town of East Lyme, County of New London, and State of Connecticut, which is designated as "Conservation Easement Area" consisting of 1.42 ± acres/61,800 ± S.F. on a map entitled "**LAKE FRONT POINTE SUBDIVISION**", East Lyme, Connecticut sheet 2 of 4", prepared by **GERWICK-MEREEEN LAND SURVEYORS**, and dated _____, revised _____ and to be filed in the East Lyme Land Records. **THERE SHALL BE NO PUBLIC ACCESS RIGHTS WHATSOEVER TO THE PROPERTY SUBJECT TO THIS CONSERVATION EASEMENT.**

1. There shall be no buildings, camping accommodations, mobile homes, patios, decks, porches, or other structures except as specifically permitted below;
2. There shall be no filling, excavating, dredging, mining or drilling, removal of topsoil, sand, gravel, rock minerals or other materials, nor any change in the topography of the land in any manner, except as specifically permitted below;
3. There shall be no removal, destruction of cutting of trees or plants, spraying with biocides, herbicides, or their agents inimical to plant, animal or insect life, grazing of domestic or farm animals, or disturbance of change in the natural habitat in any manner, except as specifically permitted below;
4. There shall be no dumping of ashes, trash, garbage, other unsightly or offensive material, and no changing of the topography through the placing of soil or other substances of material such as land fill or dredging spoils, except as specifically permitted below;

5. There shall be no manipulation nor alteration of natural water courses, shores, marshes, or other water bodies or activities or uses detrimental to water purity, except as specifically permitted below;
6. There shall be no operation of motorized vehicles, including snowmobiles, dune buggies and all-terrain vehicles; and
7. There shall be no construction, improvement, or upgrading of roads, driveways, paring areas, cart paths, or footpaths except as necessary to maintain existing footpaths in the current condition or specifically permitted below.

The provisions of the preceding restrictions notwithstanding, the following uses and activities by Grantors, and their heirs, successors and assigns, and any work or activity otherwise prohibited by the preceding restrictions which is reasonably necessary or appropriate in connection with such uses or activities otherwise not be prohibited by this Conservation Easement or considered inconsistent with the intent of this grand and are specifically permitted;

- a. The removal of dead, diseased, or damaged trees or other vegetation when such removal is necessary for reasons of safety, to control the spread of disease, or to control obnoxious plant growth such as cat brier, poison ivy, wild grape, oriental bittersweet, or other invasive species, and when such activities are conducted in a manner which will otherwise not be harmful to the remaining plant life; and
- b. Activities associated with an approved inland wetlands permit, such as, but not limited to, wetland mitigation or enhancement, stormwater management, or stormwater discharges.
- c. The use of the area for drainage and drainage structures.
- d. The Placement of "Reserve Leaching Areas" for onsite septic system(s) provided that to the extent such area is required to be put into service an alternative area of a like amount will be required to be dedicated to the East Lyme Land Trust or their successors subject to the Conservation Easement Protections identified herein.
- e. Hand Cutting and removal of brush, Mountain Laurel and similar vegetation and trees with 6" or less caliper provided no stump removal shall occur.

- f. The construction and use of a pathway to the Pattagansett Lake shoreline provided;
- The pathway shall not exceed ten (10) feet in width.
 - The pathway shall be covered in pervious pavers or washed stone
 - The proposed pathway location shall be examined by an environmental consultant who will certify in writing that no protected species will be impacted by the pathways construction and use.
 - The proposed pathway will require a permit from the East Lyme Inland Wetland Agency.

Reserving to the grantor the right to use the servient tenements for any purposes not inconsistent with the restrictions herein granted.

This grant for Conservation Easement is intended to encompass the powers and rights granted pursuant to Sections 47-42a through 47-42c of the Connecticut General Statutes as they may be amended from time to time, and the Grantee is hereby granted the right, in a reasonable manner and at reasonable times, to enforce by proceedings of law or in equity the covenants herein above set forth, including, but not limited to, the right to require restoration of the Conservation Easement area substantially to its condition immediately prior to any violation of the restrictions herein contained. The failure of the Grantee to act in any one or more instances to enforce such rights shall not act as a waiver or forfeiture of its rights to take action as may be necessary to insure compliance with the covenants and purposes of this grant; provided, however, nothing herein shall be construed to entitle the Grantee to institute any enforcement proceedings against the Grantors or the owners of the servient tenements for any changes to the Conservation Easement area due to causes beyond the control of the Grantor's or the owners of the servient tenements, such as changes caused by fire, flood, storm, earthquake, insect infestation, wildlife damage, or the unauthorized wrongful acts of third parties.

In the event that the Grantee becomes aware of an event or circumstance of noncompliance with the terms and conditions herein set forth, the Grantee shall give notice of such event or circumstances of noncompliance by certified mail, return receipt requested, to the owner of the servient tenement of the property involved at his last known address, such notice to contain a request for corrective actions reasonable required to abate such even or circumstances of noncompliance and restore the conservation Easement area to substantially its previous condition.

Failure by the owner of the servient tenement to whom notice has been given to cause discontinuance or abatement or to undertake such other action as may be reasonably requested by the Grantee within thirty (30) days after receipt of notice shall entitle the Grantee to bring an action at law equity in a court of competent jurisdiction to enforce the terms of the conservation Easement to require the restoration of the Conservation Easement area to substantially its previous condition, to enjoin such noncompliance by appropriate temporary or permanent injunction and/or to seek to

recover damages arising from such noncompliance. Such damages, when and if removed shall be applied by the Grantee first to any necessary corrective action on the Conservation Easement area, then to other damages incurred by the Grantee and arising from such noncompliance. Such damages, when and if recovered shall be applied by the Grantee first to any necessary corrective action of the Conservation Easement area, then to other damages incurred by the Grantee and arising from such noncompliance.

If a court of competent jurisdiction determines that an owner of the servient tenement has failed to comply with the terms and conditions of this Conservation Easement, the owner shall reimburse the Grantee for any reasonable cost of enforcement, including court costs and reasonable attorney's fees. If such court determines that such owner was in compliance with the terms and conditions of this Conservation Easement the Grantee shall reimburse such owner for court costs and reasonable attorney's fees, in addition to any other payments ordered by such court. The Grantors, for themselves, their heirs, successors and assigns, hereby waive any defense of laches with respect to any delay by the Grantee, its successors and assigns, in actions to enforce any restriction to exercise any rights under this grant.

This instrument shall be recoded on the land records to the Town of East Lyme and shall be governed by the laws of the State of Connecticut. In the event that any provisions of clause of this instrument conflicts with any applicable law, such conflict shall not affect other provisions of this instrument which can be given effect without the conflicting provision, and, to this end, the provisions hereof are declared to be severable

_____, 2025

PORT SIDE HOLDINGS, INC

By Shelly Harney, President

STATE OF NEW HAMPSHIRE)
) ss:
COUNTY OF _____)

Personally, appeared Shelly Harney, President of Port Side Holdings, Inc., Signer and Sealer of the foregoing instrument, and acknowledged the same to be his free act and deed and the free act and deed of said limited liability company, before me.

**Commissioner of the Superior Court
Notary Public**

ADDITIONAL SIGNATURE ON THE FOLLOWING PAGE

Witnessed by:

**ENGLISH HARBOUR CAPITAL PARTNERS
LLC**

By: _____

Kristen T. Clarke
Its Manager, duly authorized

STATE OF NEW HAMPSHIRE

COUNTY OF _____

)
) **ss:**
)

On this ___ day of March, 2025, before me, the undersigned officer, personally appeared Kristen T. Clarke, as Manager of English Harbour Capital Partners LLC, known to me (or satisfactorily proven) to be the persons whose name is transcribed to the foregoing document and acknowledged same to be her free act and deed, and the free act and deed of the company, before me.

Notary Public

My Commission Expires _____

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: East Lyme Planning Commission; and
William Mulholland, Zoning Official**

FROM: Gary A. Goeschel II, Director of Planning

DATE: April 8, 2025

Re: Zone Change and Text Amendment; RU-80 Rural Districts to RU 200 Rural Districts

The proposed application proposes to rezone the entire RU 80 Rural District, as delineated on the Zoning Map and northerly of I-95, to a new RU 200 Rural Zoning District. Upon review of the above referenced Zoning Referral with the 2020 Plan of Conservation and Development, I offer the following:

Existing Conditions:

In the existing RU 80 Rural District as currently delineated on the Zoning Map, northerly of I-95, there are approximately 6,313.5-Acres of land. Of the 6,313.5-Acres, approximately 1,775.11-Acres are classified as existing open space which includes Powers Lake (approximately 143-acres), 452-acres within the RU 80 are occupied by the Stone's Ranch Military Reservation, and approximately 1,758-Acres are occupied by the Yale University Outdoor Education Center. This leaves approximately 4,086.39-Acres of potentially developable land including inland wetlands, watercourses, flood plains, or steep slopes in excess of twenty-five percent (25%) slope. As one (1) acre of land is equal to 43,560-square feet, under the current RU 80 Zoning District which requires the minimum lot size not be less than 80,000-square feet (just under 2-acres), the 4,086-acres of potentially developable land could potentially yield approximately 2, 225-lots plus or minus.

Under the current Subdivision Regulations, the Conservation Design Development (CDD) provisions shall be required in the subdivision of any parcel of 10-acres or more if the parcel is located in the RU-40, RU-80, and RU-120. In addition, the Planning Commission may require the CDD provisions in the subdivision of land less than 10-acres or less than 4-lots. The CDD Zoning Regulations require within the RU-80 Zoning District a minimum of 50% of the land being subdivided to be set aside as open space in areas on individual Septic systems. In areas within the RU-80 Zoning District where public sewer is available the open space allocation is 75% of the land being subdivided in order to take advantage of the dimensional flexibility offered by the regulations. Currently, sewer service is not available in the RU-80 Rural District northerly of I-95.

Proposed Conditions:

Under the proposed RU 200 Zoning District, the minimum lot size increases from 80,000-square feet approximately 1.8-acres per lot to 200,000-square feet or approximately 4.591-acres per lot. As such,

under this Zoning designation, the 4,086-acres of potentially developable land could yield approximately 890-lots plus or minus.

Under the current Zoning Regulations Section 23.6 B, approximately 30% (open space) of the potentially buildable 4,086-acres equals approximately 2,043-acres of open space. Whereas, under the proposed RU-200 there is no proposed change to Section 23.6 B of the Zoning Regulations to specify the percentage of open space that would be required in a CDD subdivision within the RU 200 District. As such, a minimum of 10% would most likely be required pursuant to the Connecticut General Statutes (CGS). Therefore, under the proposed zone change to RU 200, only 10% percent of the land being subdivided would be preserved as open space totaling approximately 408.6-acres.

The Purpose of Section 23 Conservation Design Development is to “provide more flexible standards to permit residential lots on specific districts to be reduced in dimension and designed to occupy less than total tract of land to be subdivided.” It is the intent of these standards to direct developments to the land areas most suitable for development and that will achieve several objectives including the preservation of natural or agricultural open space, protection of the local ecology and the quality and quantity of underground and surface water, the preservation of vistas, steep slopes, ridge lines, archeological or historic sites, stone walls, significant geological features, wetlands, watercourses, and other areas of environmental and aesthetic value;....

2020 Town of East Lyme POCD Compatibility:

Section 7.1.2 Housing Stock, indicates the Economic Overview prepared by the Southeastern Connecticut Enterprise Region (SeCTer) for East Lyme, shows there are a total of 8,739 housing units within the town. Since the printing of the 2020 POCD, I estimate approximately another 100-150 units have been constructed. According to the POCD, “On average, nationwide, the median cost per dollar of revenue raised to provide public services for commercial and industrial lands was \$0.30, for working and open space lands was \$0.37, and for residential lands was \$1.16. (source: American Farmland Trust Cost of Community Services Studies 2016).

The research conducted by the American Farmland Trust cited the costs of different land uses in many Connecticut towns. A sampling is included below for reference:

- Hebron: 9,500 residents – the residential cost is \$1.06 for every dollar of tax revenue
- Colchester: 16,000 residents – the residential cost is \$1.14 for every dollar of tax revenue
- Farmington – 25,000 residents – the residential cost is \$1.33 for every dollar of tax revenue

Despite the common misconception, more residential space does not necessarily equal more tax revenue. In fact, it is the opposite – more residential space typically equates to greater costs as they require public services such as educational costs, water, sewage, trash and snow removal. The deficit generated by residential cost for services versus tax revenue gained are often made up in the form of commercial development, agricultural lands and open space. In this regard the increase in lot area would be consistent with the POCD as it would reduce the number of residential units thus reducing the cost of services to the Town.

However, Section 7.3 of POCD the Recommends the following:

1. Evaluate the options for reducing future impact on water and soil resources, particularly in the northern end of town where there are larger remaining tracts of undeveloped land. Consider adjusting agricultural regulations that better encourage and support the preservation of agricultural land. (i.e. expand allowable uses in agricultural zones such as events, B&Bs etc.)

2. Continue to promote cluster residential development as a means of creating permanent open space, preserving environmentally sensitive areas and encouraging creative subdivision design. Revisit Conservation Design Development (CDD) Zoning Regulations (Section 23) to improve the configuration and connectivity of open spaces within residential areas. Consider increasing open space requirements for subdivisions. Encourage the Planning Commission to utilize CDD Regulations whenever appropriate for applications and require subdivisions of less than 10-acres and/or 4-lots or less to abide by conservation design requirements.
3. As commercial zoning space occupies approximately 5-6% of East Lyme's zoning map, and population studies have indicated that East Lyme's existing housing stock is sustainable for the future, residential use of currently commercially zoned property is strongly discouraged, except in the case of mixed-use development.
4. Consider additional protections in residential development areas near watersheds and aquifer recharge areas to ensure future development has minimal impact to the watershed/aquifer. Highest priority should be placed on maintaining undeveloped woodlands (particularly those surrounding Powers Lake, Bride Lake, Dodge Pond, Pattagansett Lake, Darrow Pond, Gorton Pond, Oswegatchie Hills, Stone's Ranch and the Yale property) and maintaining and expanding wetlands particularly those adjacent to Pattagansett Marsh.
5. Improve resiliency of existing and future residential development by adopting zoning regulations for 100-year stormwater collection, retention, and quality on any new development or redevelopment.
6. Improve resiliency of existing and future residential development by adopting zoning regulations for 100-year stormwater collection, retention, and quality on any new development or redevelopment.
7. Evaluate permitted (either outright or by special permit) commercial uses within residential areas including:
 - a. Additional appropriate home business uses in residential districts abutting commercial districts, creating visually a transitional zone from commercial to residential.
 - b. Increased permissible agricultural uses in residential zones especially in cases where doing so will increase resiliency of food supply or support environmental health
8. Allow the construction of accessory apartments (attached or detached) on single-family lots to diversify housing offering without contributing to sprawl or reducing space available for commercial use, provided it does not change or compromise existing neighborhood character.
9. Consider a moratorium on sewer line extensions to new developments in residential zones beyond what has already been committed to.

Based on these recommendations, the proposed zone change would not be consistent with the 2020 POCD in that it does not recommend decreasing the density of any of the Zoning Districts. Rather, the Section recommends adopting regulations that will ensure future development has minimal impact to the watershed/aquifer, with the highest priority being placed on maintaining undeveloped woodlands (particularly those surrounding Powers Lake, Bride Lake, Dodge Pond, Pattagansett Lake, Darrow Pond, Gorton Pond, Oswegatchie Hills, Stone's Ranch and the Yale property) and maintaining and expanding wetlands particularly those adjacent to Pattagansett Marsh.

The adoption of an RU 200-Rural District will not prevent the future development of the nearly 4,000 developable acres in the current RU 80 Zone.

In addition, according to the East Lyme Affordable Housing Plan “academic research has shows that multi-family development, which is most often of a higher density than single-family residential development, either has no impact or a positive impact on adjacent and proximate single f-family residential property values.” Further, the findings of the housing needs assessment show the greatest need for Owner-Occupied housing are those households with incomes of \$74,999.00 (-460)- demand outpaces supply demonstrating the housing affordability need for Owner-Occupied housing.

Moreover, the East Lyme Affordable Housing Plan, Appendix of the POCD, recommends the utilization of duplex and tri-plex units in lower density developments and subdivisions. Provided the number of bedrooms does not exceed 16, multiple units can exist on a single septic system and not be considered a community system. As such, this creates opportunities for the missing-middle housing by adding density to conservation developments. The Plan suggests the Zoning Commission consider a provision that would allow 20% or more of the units in a CDD to be duplex units. Therefore, the proposed increase in minimum lot area would not be consistent with promoting increased densities to address the affordability need for Owner-Occupied housing.

Therefore, based on the Findings in the Memorandum from Gary A. Goeschel II, Director of Planning to the East Lyme Planning Commission, dated April 7, 2025, I hereby move the East Lyme Planning Commission FINDS the proposed text amendment referenced above **CONSISTENT / INCONSISTENT** with the East Lyme 2020 Plan of Conservation and Development for the following reasons:

- 1.
- 2.
3.

