

Received

Town of East Lyme

DEC 3 2025

APPLICATION FOR SPECIAL PERMIT

Town of East Lyme
Land UseDate of Application: July 7, 2025 Zone: SU-E Email: jlokken@eltownhall.comApplicant's Name: East Lyme Parks and Recreation, Jerry LokkenApplicant's Address: 41 Society Rd Telephone: 860-256-4050Business Name (if applicable): East Lyme Parks and RecreationLocation of Affected Premises: 16 Mostowy Rd Assessor's Map/Block/Lot: Map 40, Lot 5Owner of Record: Town of East Lyme Volume/Page: 705/202Owner's Address: 108 Pennsylvania Ave, Niantic, Ct 06357 Telephone: 860-256-4050**DESCRIPTION OF SPECIAL PERMIT REQUESTED** {Requires compliance with Zoning Regulations 24, 25 & 9 and all other applicable Zoning Regulations of the Town of East Lyme; also state which sections of Zoning Regulations Special Permit is subject to}:

Construction of ADA accessible trail, improvements to existing trails and enhanced parking area on the property

Signature of Owner:

Signature of Applicant:

Attach a true copy of the Deed and a Site Plan {10 copies required}. A copy of the deeds for all affected properties and a site plan demonstrating compliance with all applicable zoning code requirements must accompany this application.**Proof of posting of Special Permit Application public notice sign (Section 25.3.3-1).** Proof of posting of the Special Permit Application for Public Notice must be submitted.

Below this line for Office Use Only:

Deed Copies Attached: YES NO

PERMIT FEE: SPECIAL PERMIT FEE \$150.00

OUTDOOR DINING RENEWAL \$20.00

Site Plan Attached: YES NO N/A

SITE PLAN FEE \$300.00

STORM WATER \$300.00

STATE FEE: \$60.00

TOTAL DUE: \$

CHECK #: _____

Date Approved: _____ Date Denied _____ Publication Date _____ Effective Date: _____

Approval subject to conditions below:

1. _____

2. _____

Approval to become effective upon publication and date of entry into the land records of the Town of East Lyme affecting the premises as described in this application.

Date: _____ Attest _____

East Lyme Zoning Commission Chair



LEGEND

- NEW TRAILS
- EXISTING TRAILS
- GOODWIN TRAIL
- 100 ACRES NOT COVERED BY EASEMENT
- TOWN OWNED 300 ACRES
- WETLAND
- AREA OF SPECIAL CONCERN
- EDUCATION ELEMENT
- CONSERVATION ELEMENT
- RECREATION ELEMENT
- 1 NEW ENGLAND COTTON TAIL CONSERVATION AREA
 - EDUCATIONAL SIGNAGE
- 2 ACCESSIBLE PATH
 - COMFORTABLE, ACCESSIBLE FOR PEOPLE WITH MOBILITY CHALLENGES
- 3 EXPANDED PARKING AREA
 - PARKING FOR VISITORS, EVENT SPACE
- 4 NATURE BASED PLAY GARDEN
 - NATURE EDUCATION ELEMENTS AND ACTIVITIES
- 5 PITCH PINE CONSERVATION AREA
 - EDUCATIONAL SIGNAGE
- 6 DISC GOLF
 - DISC GOLF COURSE
- 7 BOARDWALK THROUGH WETLANDS
 - NATURE EDUCATION ELEMENTS AND ACTIVITIES
- 8 MEADOW CONSERVATION AREA
 - EDUCATIONAL SIGNAGE
- 9 AQUATIC EDUCATION CENTER
 - PLATFORM WALKWAY, BOARDWALK, PLATFORM, SHED, LOUNGE, STOCK POND FOR FISHES, OUTLOOK QUADRANT
- 10 ELEVATED BOARDWALK
 - ELEVATED PLANTING, NATURE STUDY, EDUCATIONAL SIGNAGE
- 11 PLATFORM EXTENDING INTO WATER
 - EDUCATIONAL SIGNAGE
- 12 JUMP LINE
 - MOUNTAIN BIKING PRACTICE / TRAINING AREA
- 13 POLLINATOR GARDEN
 - BUTTERFLY, BEE, & SONGBIRD ENHANCEMENT
- 14 EXISTING TRAILS
 - IMPROVE AND REPAIR
- 15 NEW LOOP TRAILS
 - CREATE NEW LOOP TRAILS THROUGHOUT THE POND, NATURE EDUCATION ELEMENTS
- 16 POND VIEWING AREA
- 17 LEGACY TREES
 - TREES WITH PROTECTIVE CLEAR CUT RADIUS FROM TRAILS

Master Plan DARROW POND EDUCATION, CONSERVATION & PASSIVE RECREATION PLAN



July, 2023

2874

MUTUAL USE AND MAINTENANCE EASEMENT AGREEMENT

WHEREAS, NEW ENGLAND NATIONAL, LLC, ("New England") a limited liability company organized under and pursuant to the laws of the State of Connecticut with a principal place of business in the Town of East Lyme, County of New London and State of Connecticut, is the owner in fee simple of a portion of Darrow Pond which is situated in the Town of East Lyme, County of New London and State of Connecticut, which said pond is contained within a parcel of land owned by it; and

WHEREAS, NIAN TIC REAL ESTATE LIMITED LIABILITY COMPANY ("Niantic") a limited liability company organized under and pursuant to the laws of the State of Connecticut with a principal place of business in East Lyme is the owner in fee simple of remaining portion of the said Darrow Pond which said pond is contained within a parcel of land owned by it; and

WHEREAS said properties are shown on a map or plan entitled "Plan showing parcels of NEW ENGLAND NATIONAL, LLC and NIAN TIC REAL ESTATE LIMITED LIABILITY COMPANY subject to Mutual Use and Maintenance Easement Mostow Road, East Lyme, Connecticut Scale 1" = 250' dated July 15, 2004 J. Robert Pfanner & Associates, P. C., which map or plan will be recorded on the East Lyme Land Records simultaneously with this Easement; and

WHEREAS, the parties hereto desire to provide for the mutual use of the entire pond by both parties,

NOW, THEREFORE, the parties hereto agree as follows:

1. Each party hereby grants and conveys to the other the permanent and perpetual non-exclusive right and easement to use the other's ownership area of the pond area for the purposes of swimming, fishing and non-motorized boating together with such other recreational activities which will not interfere with the water quality of the pond, or result in objectionable noise. In addition, each party may wharf out into the other's ownership area not more than thirty (30') feet. In addition it shall be the sole and exclusive responsibility of the party that constructs the wharf to be liable to pay all fees, costs and expenses incurred in both the construction of the wharf and the maintenance, repair, reconstruction and/or replacement of the said wharf. Said constructing party shall at all times carry general comprehensive public liability insurance and property damage insurance insuring the interests of both the constructing party and the other owner in fee simple of the other portion of the pond. Insurance coverage shall be in such amounts and in such form and content as shall be acceptable to both parties to this agreement. Said insurance coverage shall at all times provide for 30 days prior written notice to the other party to this agreement before any cancellation, modification or amendment shall be effective relative to the said

NO CONVEYANCE TAXES COLLECTED

Esther B. Williams

TOWN CLERK OF EAST LYME

LAW OFFICES

STEVEN E. HARRIS & GUERNSEY, P.C.

361 MAIN STREET • R. D. DRAWER 660 • NIAN TIC, CONNECTICUT 06357 • JURY NUMBER 65685 • (860) 788-0906

disbursements) the said other party may incur or suffer as a result of the use of the easement area by the other party to this agreement.

8. This Agreement is intended to be a permanent easement which shall run with the land as shown on said Plan and to the benefit and burden of the respective parties, their successors and assigns and such benefits and burdens may be assigned by either or both parties to a homeowners and/or condominium association or any other entity or record title holder which shall acquire by assignment the rights and obligations as herein described. Said entity and/or homeowners association and/or condominium association shall have the right to further assign all the rights and obligations herein described to third parties. Such unit owners and/or lot owners and/or homeowners association and/or condominium association and/or other entity may be assigned the rights and obligations herein described.

9. Each of the parties hereto hereby covenant and agree that neither shall permit or grant a right of public access to Darrow Pond, it being the intent that each party shall maintain its private access rights to the pond. ~~###~~

IN WITNESS WHEREOF the parties have hereunto set their hand and seals this 29th day of July, 2004.

Signed, sealed and delivered
in the presence of

[Handwritten signatures and initials]

NEW ENGLAND NATIONAL, LLC

By: *[Signature]*

NIANTIC REAL ESTATE LIMITED LIABILITY
COMPANY

By: *[Signature]* Manager

Its Member, duly authorized

LAW OFFICES

STEVENS, HARRIS & GUERINSEY, P.C.

351 MAIN STREET • P.O. DRAWER 660 • NANTIC, CONNECTICUT 06387 • JURY NUMBER 5688 • (860) 739-6800

WARRANTY DEED

KNOW ALL PERSONS BY THESE PRESENTS THAT:

THE TRUST FOR PUBLIC LAND, d/b/a The Trust for Public Land (Inc.), a California public benefit corporation with a place of business in Connecticut at 101 Whitney Ave, 2nd Floor, New Haven, CT 06510 (the "Grantor"), for the consideration of TEN DOLLARS (\$10.00) and other good and valuable consideration received to its full satisfaction from THE TOWN OF EAST LYME, CONNECTICUT, a body politic and corporate, organized and existing under the laws of the State of Connecticut, (the "Grantee") does by these presents give, grant, bargain, sell and confirm unto the Grantee, its successors and assigns forever, WITH WARRANTY COVENANTS that certain piece or parcel of land, with the improvements thereon and appurtenances thereto, situated in the Town of East Lyme, County of New London, and State of Connecticut and more particularly described in Schedule A (the "Real Property") attached hereto and made a part hereof.

TO HAVE AND TO HOLD such real property, unto the Grantee, its successors and assigns forever, to the only use and behoof of the Grantee, its successors and assigns forever with Warranty Covenants.

And also, the Grantor does for itself and its successors and assigns, covenant with the Grantee, and with its successors and assigns, that at and until the ensembling of these presents, it is well seized of the Real Property, as a good indefeasible estate in FEE SIMPLE; and it has good right to bargain and sell the same in manner and form as is above written; and that the same is free from all encumbrances whatsoever, except as herein mentioned. Grantee assumes payment of all current real property and personal property taxes.


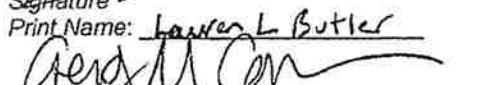
The Real Property is conveyed to Grantee subject to (a) lien for real estate taxes not yet due and payable on the Real Property for the current assessment year and all subsequent assessment years, (b) general and special assessments not yet due and payable affecting the Real Property, (c) zoning laws, regulations and ordinances and any other laws, regulations or ordinances restricting or regulating the use, occupancy or enjoyment of the Real Property, (d) all of the liens, encumbrances, easements, covenants and restrictions of record listed in Schedule B attached hereto and made a part hereof.

And furthermore, Grantor does by these presents bind itself and its successors and assigns forever to WARRANT AND DEFEND the above granted and bargained Real property to it the Grantee and its successors and assigns, against all claims and demands whatsoever, except as hereinbefore mentioned.


IN WITNESS WHEREOF the Grantor has caused this Warranty Deed to be executed this 30 day of November 2011.

WITNESSED BY:

GRANTOR:


 Signature
 Print Name: Lauren L. Butler

 Signature
 Print Name: GERALDYN C. MEAN

THE TRUST FOR PUBLIC LAND

By: 
 Name: Denise K. Muller
 Title: COUNSEL

SCHEDULE A

Legal Description

A certain tract or parcel of land located in the Town of East Lyme, County of New London and more particularly described as follows:

Beginning at a point on the westerly side of Mostowy Road, and the southeast corner of land now or formerly of Niantic Real Estate, LLC, formerly Savitsky, said point being the northeast corner of the herein described parcel; thence running the following courses in a clockwise direction:

S 01° 33' 08" E, a distance of 122.10 feet to a point;
S 69° 42' 50" W, a distance of 67.84 feet to a point;
S 65° 37' 55" W, a distance of 60.16 feet to a point;
S 12° 24' 29" W, a distance of 149.87 feet to a point;
S 46° 22' 23" W, a distance of 220.59 feet to a point;
S 54° 41' 34" W, a distance of 168.52 feet to a point;
S 11° 18' 45" E, a distance of 470.21 feet to a point;
S 88° 51' 46" E, a distance of 188.42 feet to a point;
S 88° 51' 46" E, a distance of 203.61 feet to a point;
S 13° 18' 35" W, a distance of 162.80 feet to a point;
S 13° 28' 09" W, a distance of 112.40 feet to a point;
S 02° 07' 09" W, a distance of 108.06 feet to a point;
S 00° 56' 30" E, a distance of 145.58 feet to a point;
S 16° 29' 33" E, a distance of 90.30 feet to a point;
S 07° 50' 13" W, a distance of 102.69 feet to a point;
S 17° 23' 02" W, a distance of 120.74 feet to a point;
S 20° 48' 03" W, a distance of 151.51 feet to a point;
S 21° 11' 03" W, a distance of 170.85 feet to a point;
S 22° 14' 04" W, a distance of 96.02 feet to a point;
S 33° 26' 10" W, a distance of 109.32 feet to a point;
S 23° 26' 02" W, a distance of 141.57 feet to a point;
S 35° 30' 49" W, a distance of 45.53 feet to a point;
S 18° 58' 27" W, a distance of 166.43 feet to a point;
S 03° 38' 58" E, a distance of 51.10 feet to a point;
S 21° 29' 00" W, a distance of 91.03 feet to a point;
S 02° 53' 53" E, a distance of 125.17 feet to a point;
S 38° 35' 15" W, a distance of 129.26 feet to a point;
S 56° 21' 37" W, a distance of 68.97 feet to a point;
S 38° 53' 15" W, a distance of 66.46 feet to a point;

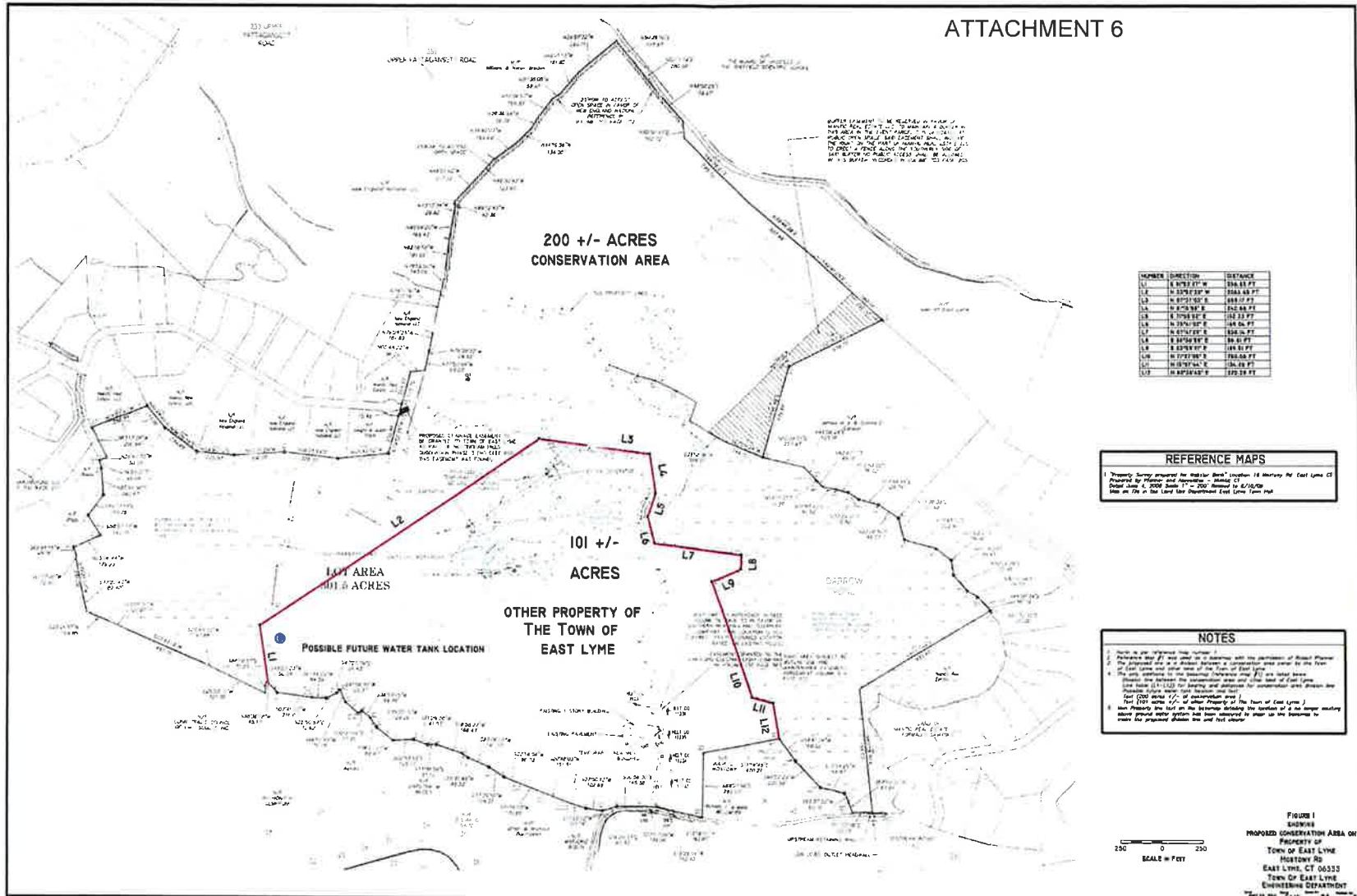
N 79° 29' 25" W, a distance of 161.89 feet to a point;
 N 79° 11' 56" W, a distance of 217.18 feet to a point;
 N 78° 19' 50" W, a distance of 143.05 feet to a point;
 N 82° 18' 10" W, a distance of 181.05 feet to a point;
 N 80° 28' 20" W, a distance of 165.43 feet to a point;
 N 73° 13' 34" W, a distance of 29.82 feet to a point;
 N 89° 12' 43" W, a distance of 42.36 feet to a point;
 N 46° 01' 40" W, a distance of 217.22 feet to a point;
 N 46° 30' 40" W, a distance of 123.50 feet to a point;
 N 35° 40' 03" W, a distance of 169.69 feet to a point;
 N 44° 19' 56" W, a distance of 134.00 feet to a point;
 N 59° 36' 54" W, a distance of 56.76 feet to a point;
 N 51° 34' 57" W, a distance of 159.35 feet to a point;
 N 31° 38' 08" W, a distance of 59.45 feet to a point;
 N 49° 05' 13" W, a distance of 181.85 feet to a point;
 N 39° 57' 32" W, a distance of 299.11 feet to a point;
 N 50° 26' 10" E, a distance of 177.97 feet to a point;
 N 52° 11' 19" E, a distance of 280.28 feet to a point;
 N 48° 00' 25" E, a distance of 178.97 feet to a point;
 N 85° 50' 40" E, a distance of 103.72 feet to a point;
 N 44° 39' 51" E, a distance of 545.55 feet to a point;
 N 39° 46' 38" E, a distance of 507.48 feet to a point;
 N 42° 41' 25" E, a distance of 580.14 feet to a point;
 S 27° 02' 20" E, a distance of 639.72 feet to a point;
 S 73° 46' 46" E, a distance of 575.68 feet to a point;
 N 12° 54' 21" E, a distance of 257.97 feet to a point;
 N 45° 58' 28" E, a distance of 103.56 feet to a point;
 N 54° 11' 31" E, a distance of 13.98 feet to a point;
 N 42° 42' 11" E, a distance of 49.18 feet to a point;
 N 10° 45' 40" E, a distance of 80.58 feet to a point;
 N 12° 58' 32" E, a distance of 76.02 feet to a point;
 N 33° 29' 55" E, a distance of 76.82 feet to a point;
 N 14° 48' 44" E, a distance of 126.74 feet to a point;
 N 33° 28' 50" E, a distance of 148.07 feet to a point;
 N 74° 38' 38" E, a distance of 137.68 feet to a point;
 N 15° 43' 57" E, a distance of 202.40 feet to a point;
 N 37° 23' 21" E, a distance of 116.50 feet to a point;

SCHEDULE B

List of Encumbrances

1. Conveyance of rights in and to streams and waters by Albert R. Darrow to the City of New London by deed dated July 13, 1901 and recorded in Volume 13, Page 277 of the East Lyme Land Records.
2. Pole permit from A. R. Darrow in favor of Southern New England Telephone Company dated August 2, 1905 and recorded in Volume 16, Page 23 of the East Lyme Land Records.
3. Utility easement by William Mostowy dated October 14, 1926 and recorded October 27, 1926 in Volume 27, Page 167 of the East Lyme Land Records.
4. Pole line easement by William M. Mostowy and Julius Mostowy in favor of The Hartford Electric Light Company dated May 28, 1971 and recorded in Volume 130, Page 563 of the East Lyme Land Records.
5. Easement from J.C. Penney Company, Inc. to The Southern New England Telephone Company dated May 5, 1972 and recorded in Volume 136, Page 125 of the East Lyme Land Records.
6. Subject to common law rights of upper and lower riparian owners in and to natural watercourses flowing through or adjoining the premises, the statutory rights of others in and to any such watercourse, including the right to regulate and control the use of the land adjacent to the watercourse as contained in Volume 584, Page 624 and 626 of the East Lyme Land Records.
7. Subject to being flowed or covered by water from the raising of the dam of Darrow's Pond by the owner thereof to a height of ten feet or more from the bed of the brook at the west end of the old flume now near the old road leading from Flanders to Chesterfield as contained in Volume 584, Page 624 and 626 of the East Lyme Land Records.
8. Slope Easement from Niantic Real Estate Limited Liability Company to the Town of East Lyme dated August 14, 2003 and recorded in Volume 633, Page 341 of the East Lyme Land Records.
9. A Development and Open Space Covenant by Niantic Real Estate, LLC dated December 19, 2003 and recorded December 23, 2003 in Volume 653, Page 355 of the East Lyme Land Records.
10. Special permit for elderly housing issued by the East Lyme Zoning Commission dated June 17, 2004 and recorded July 27, 2004 in Volume 678, Page 353 of the East Lyme Land Records.
11. An Access Easement by and between New England National LLC and Niantic Real Estate Limited Liability Company dated and recorded July 29, 2004 in Volume 678, Page 628 of the East Lyme Land Records.
12. A Mutual Use and Maintenance Easement Agreement by and between New England National LLC and Niantic Real Estate Limited Liability Company dated and recorded July 29, 2004 in Volume 678, Page 632 of the East Lyme Land Records.
13. Preliminary Special Permit for Elderly Housing recorded May 10, 2005 in Volume 705, Page 63 of the East Lyme Land Records.
14. Special Permit approval for Elderly Housing recorded October 13, 2006 in Volume 756, Page 489 of the East Lyme Land Records.

ATTACHMENT 6



Return to:
TCORS
43 Broad St.
New London, CT
06320

CONSERVATION EASEMENT

This is a CONSERVATION EASEMENT ("Conservation Easement") granted by the Town of East Lyme, (the "Owner") to the Friends of the Oswegatchie Hills Nature Preserve, Inc., a non-profit corporation organized and existing under the laws of the State of Connecticut (the "FOHNP"). Owner and FOHNP are sometimes collectively referred to herein as the "Parties".

RECITALS:

WHEREAS, Owner purchased approximately 300 acres of real property adjacent to Darrow Pond located at 16 Mostowy Road in East Lyme, Connecticut (the "Property") from the Trust for Public Land;

WHEREAS, such purchase was conditioned on Owner's agreement to commit a portion of the Property to permanent conservation;

WHEREAS, the purchase of the Property and funding therefore was approved by Owner's Planning Commission on August 2, 2011, Owner's Board of Selectmen on August 3, 2011, Owner's Board of Finance on August 17, 2011, and at a Referendum of the Town of East Lyme on September 1, 2011;

WHEREAS, the Owner desires to protect a portion of that property of approximately 200 acres as set forth on the description attached hereto as Exhibit A (the "Protected Property") for conservation purposes by means of the conservation easement described herein;

WHEREAS, the FOHNP desires to hold the conservation easement on the Protected Property in furtherance of its purposes;

AND THEREFORE, the parties hereto agree as follows:

I. CONVEYANCE OF CONSERVATION EASEMENT:

Pursuant to the laws of the State of Connecticut and in consideration of the facts recited above and the mutual covenants contained herein and for good and valuable consideration, the receipt of such which is hereby acknowledged, the Owner hereby conveys and warrants to the FOHNP and its successors and assigns a perpetual conservation easement over the Protected Property.

This conservation easement is subject to all existing easements, encumbrances, or restrictions of record affecting the Protected Property (collectively, the "Existing Easements"), which are described on Exhibit B hereto. This conservation easement consists of the following rights, terms and restrictions:

1. LAND USE RESTRICTIONS. Restrictions imposed upon the Protected Property include the following:

- 1.1. Institutional, Industrial and Commercial Activity. No institutional, industrial or commercial use of the Protected Property is allowed except as permitted in paragraph 2 below.

NO
CONVEYANCE TAXES COLLECTED

Lesley A. Blain
TOWN CLERK OF EAST LYME

- b. Signs. No billboards, advertising display or other signs may be placed or erected on the Protected Property except for small signs for informational, directional, or interpretive purposes.
 - c. Roads. No roads or driveways shall be constructed or established. The paving or otherwise surfacing of paths, roads or driveways with concrete, asphalt, or any other impervious paving material is prohibited.

Unpaved paths or foot trails may be established on the Protected Property by Owner or its designee for uses permitted hereunder.
 - d. Fences. Existing fences may be maintained, improved, replaced or removed. Additional fences may be constructed and maintained, improved, replaced or removed to mark boundaries, to secure the Protected Property or as needed in carrying out activities permitted by this Conservation Easement.
 - e. Tents. In the event Owner permits camping on the Protected Property, tents or lean-tos may be constructed, maintained and improved.
- 1.9. Vegetation Management. No timber harvesting, removal, cutting, pruning, trimming or mowing of any trees, grasses, shrubs or other vegetation, living or dead, and no introduction of non-native species is allowed except as follows:
- a. In conjunction with uses permitted in paragraph 2 below.
 - b. As reasonably required to construct and maintain permitted structures, trails, and other improvements and provided that vegetation shall be restored to the greatest extent reasonably practicable following any construction to a condition consistent with the conservation purposes of this Conservation Easement.
 - c. As reasonably required to prevent or control insects, noxious weeds, invasive vegetation, disease, fire, personal injury or property damage.
 - d. To remove downed or dead timber for firewood for personal use.
 - e. To maintain the character and nature of the habitat and/or ecosystem provided it is in substantial accordance with a forest management plan prepared by a professional forester.
- 1.10. Pesticides. The use of chemical herbicides, pesticides, fungicides, fertilizers and other agents that may have an adverse effect on wildlife, waters, and other important conservation interests to be protected by this Conservation Easement is prohibited, except that organic herbicides, pesticides or fungicides may be used if deemed necessary for management of invasive species.

- b. The Owner will notify the FOHNP of any conveyance within fifteen (15) days after closing and will provide the FOHNP with the name and address of the new owner and a copy of the deed transferring title.

The enforceability or validity of this Conservation Easement will not be impaired or limited by any failure of the Owner to comply with this subparagraph.

- 2.2. Recreational and Educational Uses. The Protected Property may be used for hiking, walking, snowshoeing, cross-country skiing, running, horseback riding, camping, bird watching, nature observation or study, educational activities, and other similar low impact recreational and educational programs or activities.

Biking shall be allowed on the Permitted Property on designated trails that are designed to prevent erosion.

Minor rustic structures such as footbridges, trail barriers, and benches may be placed on the Protected Property in conjunction with these activities. The Protected Property may not be used for more than minimal commercial recreational purposes.

- 2.3. Habitat. The Protected Property may be used to maintain, restore or enhance habitat for wildlife and native biological communities. Agricultural activities for the purpose of maintaining the ecosystem and/or habitat shall be permitted. Incidental revenues from agricultural activities to maintain the ecosystem and/or habitat shall be permitted.
- 2.4. Water. The Owner may use the Protected Property as a drinking water source.
- 2.5. Hunting. The Protected Property may be used for hunting only when recommended by the Connecticut Department of Energy and Environmental Protection (or its successor).
- 2.6. Trail Building. Trails on the Protected Property may be created and maintained by Owner or Owner's designee.

3. FOHNP'S RIGHTS AND REMEDIES. In order to accomplish the purposes of this Conservation Easement, the FOHNP has the following rights and remedies:

- 3.1. Right to Enter. The FOHNP has the right to enter the Protected Property at its sole discretion at reasonable times and in a reasonable manner for the following purposes:
 - a. To inspect the Protected Property and to monitor compliance with the terms of this Conservation Easement.
 - b. To obtain evidence for use in seeking judicial or other enforcement of this Conservation Easement.

on the Protected Property or to become involved in management decisions involving the use, handling or disposal of hazardous substances or to otherwise become an operator of the Protected Property within the meaning of the Comprehensive Environmental Response, Compensation and Liability Act, or other similar successor statutes or laws whether federal, state or local in nature, regarding responsibility for environmental conditions associated with contamination.

4. MARKING; DOCUMENTATION.

- a. Marking. The Owner has or will mark the Protected Property within nine (9) months of the date hereof.
- b. Documentation. The current uses of the Protected Property and the state of any existing improvements are or will be more fully described in a property report on file at the office of the FOHNP and approved by the Owner, such approval not to be unreasonably withheld. The Owner and the FOHNP acknowledge that this property report does or will accurately represent the condition of the Protected Property at the time of this conveyance and may be used by the FOHNP in monitoring future uses of the Protected Property, in documenting compliance with the terms of this Conservation Easement and in any enforcement proceeding. This property report, however, is not intended to preclude the use of other information and evidence to establish the present condition of the Protected Property in the event of a future controversy.

5. HOLD HARMLESS. Owner shall hold harmless, indemnify, and defend FOHNP, its directors, officers, members, agents, and contractors and the heirs, personal representatives, successors, and assigns of each of them (collectively, "Indemnified Parties") from and against all liabilities, penalties, costs, losses, damages, expenses, causes of action, claims, demands, or judgments, including, without limitation, reasonable attorneys' fees, arising from or in any way connected with: (a) injury to or the death of any person, or physical damage to any property, resulting from any act, omission, condition, or other matter related to or occurring on or about the Protected Property, regardless of cause, except to the extent of the adjudicated proportionate fault of any of the Indemnified Parties; and (b) the Existing Easements.

6. GENERAL PROVISIONS.

- 6.1. Assignment. This Conservation Easement may only be assigned or transferred by the FOHNP with the Owner's prior written approval to be given in the Owner's sole discretion.
- 6.2. Amendment. Under appropriate circumstances, this Conservation Easement may be modified or amended.

Any amendment or modification must be in writing and recorded in the same manner as this Conservation Easement.

To the Owner:

Town of East Lyme
P.O. Box 519
108 Pennsylvania Avenue
Niantic, CT 06357
Attn: Paul Formica, First Selectman

To the FOHNP:

Friends of the Oswegatchie Hills Nature Preserve, Inc.
9 King Arthur Drive
Niantic, CT 06357

- b. Timing. Unless otherwise specified in this Conservation Easement, any required notice or request for approval must be delivered at least 30 days prior to the date proposed for initiating the activity in question.
 - c. Content. The notice or request for approval must include sufficient information to allow the other party to make an informed decision on whether any proposed activity is consistent with the terms and purposes of this Conservation Easement.
- 6.8. Binding Effect. This Conservation Easement shall run with and burden the Protected Property in perpetuity. The terms of this Conservation Easement are binding and enforceable against the current Owner of the Protected Property, all successors in title to the Protected Property and all other parties entitled to possess or use the Protected Property.

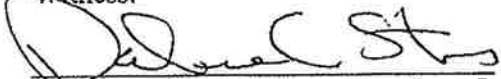
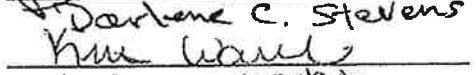
This Conservation Easement creates a property right immediately vested in the FOHNP and its successors and assigns that cannot be terminated or extinguished except as set out herein.

If at any time the FOHNP or other holder of this Conservation Easement becomes the owner of all or a portion of the fee interest in the Protected Property, this Conservation Easement shall not be deemed to merge with the underlying fee interest but shall remain in force and effect unless otherwise terminated or extinguished as set out herein.

- 6.9. Definitions. Unless the context requires otherwise, the term "Owner" includes, jointly and severally, the current owner or owners of the Protected Property identified above and their personal representatives, heirs, successors and assigns in title to the Protected Property. The term "FOHNP" includes the FOHNP's successors or assigns to its interest in this Conservation Easement.

IN WITNESS WHEREOF, the Owner and FOHNP have voluntarily executed this Conservation Easement on the 27th day of November, 2013.

Witness:


Darlene C. Stevens

Kristin Wainright

OWNER:

TOWN OF EAST LYME

By: 

Its First Selectman

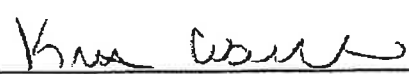
STATE OF CONNECTICUT)

) ss

East Lyme

COUNTY OF New London)

The foregoing instrument was acknowledged before me this 27th day of November, 2013, by Paul Formica, as authorized signatory of the Town of East Lyme, and acknowledged to be the free act and deed of such Town.


Commissioner of the Court
~~My Commission Expires~~

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EXHIBIT A



EXHIBIT B

EXISTING EASEMENTS

1. Conveyance of rights in and to streams and waters by Albert R. Darrow to the City of New London by deed dated July 13, 1901 and recorded in Volume 13, Page 277 of the East Lyme Land Records.
2. Pole Line Permit from A.R. Darrow in favor of the Southern New England Telephone Company dated August 2, 1905 and recorded in Volume 16, Page 23 of the East Lyme Land Records.
3. Utility easement in favor of The Eastern Connecticut Power Company from William Mostowy dated October 14, 1926 and recorded October 27, 1926 in Volume 27, Page 167 of the East Lyme Land Records.
4. Pole line easement in favor of The Hartford Electric Light Company from William M. Mostowy and Julia S. Mostowy dated May 28, 1971 and recorded June 10, 1971 in Volume 130, Page 563 of the East Lyme Land Records.
5. Easement in favor of The Southern New England Telephone Company from J.C. Penney Company, Inc. dated May 5, 1972 and recorded May 16, 1972 in Volume 136, Page 125 of the East Lyme Land Records.
6. Common law rights of upper and lower riparian owners in and to natural watercourses flowing through or adjoining the premises, the statutory rights of others in and to any such watercourse, including the right to regulate and control the use of the land adjacent to the watercourse as set forth in Warranty Deeds from Stephen Sawitski to Niantic Real Estate Limited Liability Company, and from Sonya C. Zaminataro and Joanne McCaffrey to Niantic Real Estate Limited Liability Company, both dated October 1, 2002 and recorded respectively in Volume 584, Page 624 and 626 of the East Lyme Land Records.
7. Subject to being flowed or covered by water from the raising of the dam of Darrow's Pond by the owner thereof to a height of ten feet or more from the bed of the brook at the west end of the old flume now near the old road leading from Flanders to Chesterfield as set forth in said Warranty Deeds recorded in Volume 584, Pages 624 and 626 of the East Lyme Land Records.
8. Slope Easement from Niantic Real Estate Limited Liability Company to the Town of East Lyme dated August 14, 2003 and recorded August 15, 2003 in Volume 633, Page 341 of the East Lyme Land Records.
9. A Development and Open Space Covenant by Niantic Real Estate, LLC dated December 19, 2003 and recorded December 23, 2003 in Volume 653, Page 355 of the East Lyme Land Records.



Tobin • Carberry • O'Malley • Riley • Selinger, P.C.

• Attorneys •

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**CONFIDENTIAL ATTORNEY CLIENT PRIVILEGE
M E M O R A N D U M**

To: Board of Selectmen, Town of East Lyme

From: Robert D. Tobin, Esq.
Kristin Wainright, Esq.

Date: April 20, 2011

Re: J.C. Penney Property-- Mutual Use and Maintenance Easement Agreement

Background

It is our understanding that the town of East Lyme is considering the purchase of a large track of undeveloped land known as the J.C. Penney property that is currently owned by Webster Bank, National Association. As part of our preliminary review of this matter we reviewed two of the easements affecting this property: (i) that certain Mutual Use and Maintenance Easement Agreement by and between New England National, LLC ("NEN") and Niantic Real Estate Limited Liability Company ("Niantic RE"), dated as of July 29, 2004 (the "Mutual Use Easement") and (ii) that certain Access Easement by and between NEN and Niantic RE, dated as of July 29, 2004 (the "Access Easement"). The Mutual Use Easement addresses certain rights and obligations with regards to Darrow Pond, which is situated in part on the J.C. Penney land. We uncovered a clause in the Mutual Use Easement which restricts public access to Darrow Pond (the "Public Use Restriction"). In order to gain a better understanding of the Public Use Restriction and its scope, we conducted a limited review of title on the property containing Darrow Pond and surrounding lands. The Access Easement grants the parties thereto certain rights with regards to roads on the J.C. Penney land and does not appear to interfere with the town's intended use of the property.

Legal Analysis

I. The Access Easement

Land subject to the Access Easement is shown on the "Plan Showing Parcels of New England National, LLC and Niantic Real Estate Limited Liability Company Subject to Access Easement, Mostow Road, East Lyme, Connecticut Scale 1' = 250' dated July 15, 2004 J.

b. Darrow's Ridge

Many of those holding an interest in the Mutual Use Easement are property owners in the Darrow's Ridge subdivision located adjacent to Darrow Pond. We have reviewed a sample of deeds to properties located in Darrow's Ridge. Nearly all explicitly reference the Mutual Use Easement. There is also a reference to a "Pond Easement" in the Declaration of Covenants and Restricts of Darrow's Ridge Subdivision. It is clear that these properties are subject to and benefit from the Mutual Use Easement.

c. Nottingham Hills

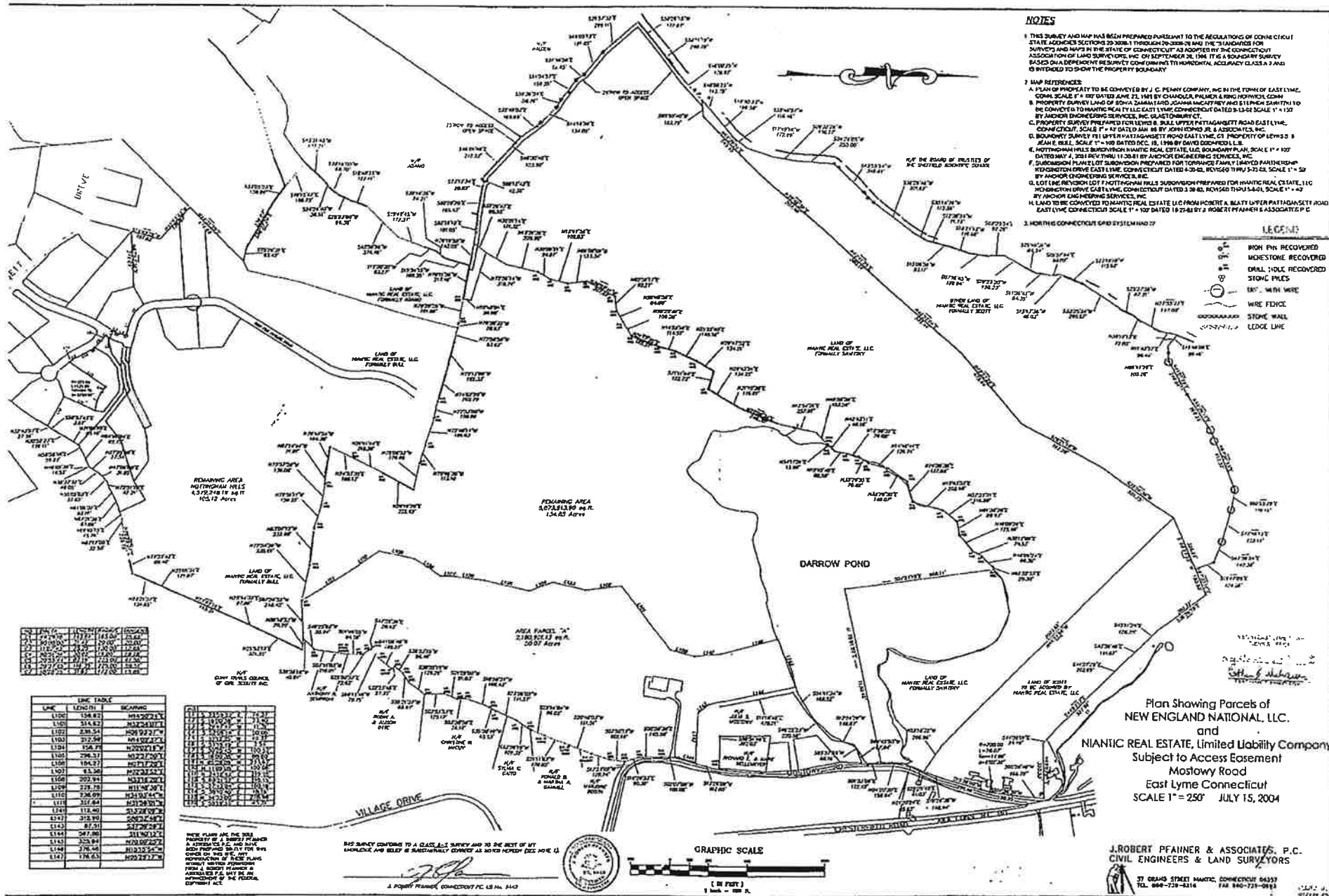
The Plan suggests that property owners in the Nottingham Hills subdivision also hold an interest in the Mutual Use Easement. The Nottingham Hills subdivision is geographically separated from Darrow Pond by the J.C. Penney property. We have reviewed a sample of deeds to properties located in Nottingham Hills and have not found any reference to the Mutual Use Easement. The Declaration of Covenants and Restricts of Niantic Real Estate Limited Liability Company intended to benefit and burden the Nottingham Hills Subdivision and amendments thereto do not reference a pond easement.

Conclusion

The Town must assess the importance of the Mutual Use Easement prohibiting public access to Darrow Pond. It is important to note that restriction does not prohibit public access to the property. In the context of the documents, it prohibits public use of the pond for swimming, fishing, non-motorized boating and other recreational activities. Passive recreational use of the property is not implicated.

If the Town decides to purchase the property and desires to deal with the public use restriction now or in the future, there are several ways to deal with the issue. The simplest solution would be to approach the landowners who have property rights in the easement. Preservation of the property as open space should have substantial appeal to the private lot owners in both subdivisions. Perhaps the Town could agree to give up its rights to connect to roads on the subdivision. In the event that Niantic RE, NEN or others are unwilling to convey their rights to the Town, the Town could extinguish those rights by eminent domain. Under this process, the Town would be required to compensate the landowners, but at first blush it does not seem to be a significantly valuable property right.

In the final analysis, the Town needs to weigh the value of acquiring the property and the difficulties dealing with the public use restriction.



MAP/LOT NO.	STREET ADDRESS	OWNER	MAILING ADDRESS
44.0/8-2	Mostoway Rd., Rear	Town of East Lyme	P.O. Box 519 Niantic 06357
44.0/8-12	Darrows Ridge Rd. Rear	Town of East Lyme	P.O. Box 519 Niantic 06357
44.0/8-26	9 Darrows Court	Pazz Construction LLC	P.O. Box 817 East Lyme 06333
44.0/8-25	7 Darrows Court	Mark & Camille Alberti	7 Darrows Court, East Lyme 06333
44.0/8-20	5 Darrows Court	Pazz Construction LLC	P.O. Box 817, East Lyme 06333
44.0/8-19	3 Darrows Court	Ingrid Ying & Senjie Lin	4 Cranberry Lane, East Lyme 06333
44.0/8-18	1 Darrows Court	Bharti Kadian	1 Darrows Court, East Lyme 06333
44.0/8-17	9 Darrows Ridge Rd.	Faisal Hasan & Ayesha Cheema	9 Darrows Ridge Road, East Lyme 06333
44.0/8-16	7 Darrows Ridge Rd.	Nathaniel D. Dueker	7 Darrows Ridge Road, East Lyme 06333
44.0/8-15	5 Darrows Ridge Rd.	Charles & Carmen Mebus	5 Darrows Ridge Rd. East Lyme 06333
44.0/8-14	3 Darrows Ridge Rd.	Christopher Gianakos	15 Freedom Way #99, Niantic 06357
44.0/8-1	72 Mostoway Rd	Pazz Construction	297 Boston Post Road, East Lyme 06333
44.0/8	70 Mostoway Rd.	Jill Walter	P.O. Box 1219 Norwich 06360
44.0/8-13	1 Darrows Ridge Rd.	Freeman Enterprises, LLC	14 Butter Jones Rd., Chester 06412
44.0/7-1	2 Darrows Ridge Rd.	Sigurdur Olafsson	2 Darrows Ridge Rd. East Lyme 06333
44.0/7-2	4 Darrows Ridge Rd.	Eric & Laura Greenstein	4 Darrows Ridge Rd. East Lyme 06333
44.0/8-3	6 Darrows Ridge Rd.	Jocelyne C. Salame Trust	3 Boxwood Lane, Norwich 06360
44.0/8-4	8 Darrows Ridge Rd.	William & Ellen Seeman	8 Darrows Ridge Rd., East Lyme 06333
44.0/8-5	10 Darrows Ridge Rd.	Wayne & Olga Walker	10 Darrows Ridge Rd., East Lyme 06333
44.0/8-6	12 Darrows Ridge Rd.	Mihkel Poola	12 Darrows Ridge Rd., East Lyme 06333
44.0/8-7	14 Darrows Ridge Rd.	Peter & Christine Comiskey	7 Colonial Dr., Clinton 06413

40.0/29	10 Upper Kensington Dr.	Niantic Real Estate LLC	P.O. Box 452, East Lyme, 06333
40.0/28	12 Upper Kensington Dr.	Niantic Real Estate LLC	P.O. Box 452, East Lyme 06333
40.0/27	14 Upper Kensington Dr.	Niantic Real Estate LLC	P.O. Box 452 East Lyme 06333
40.0/26	16 Upper Kensington Dr.	Boulos & Nagwan Hanna	16 Upper Kensington Dr., East Lyme 06333
40.0/25	18 Upper Kensington Dr.	Niantic Real Estate LLC	P.O. Box 452 East Lyme 06333
40.0/24	20 Upper Kensington Dr.	Ping & Caitlin Wu	20 Upper Kensington Dr., East Lyme 06333
40.0/23	22 Upper Kensington Dr.	Niantic Real Estate LLC	P.O. Box 452 East Lyme 06333
40.0/22	24 Upper Kensington Dr.	Niantic Real Estate LLC	P.O. Box 452 East Lyme 06333
40.0/21	26 Upper Kensington Dr.	Niantic Real Estate LLC	P.O. Box 452 East Lyme 06333
40.0/20	17 Upper Kensington Dr.	Dwight & Judith Staub	12 Uncas Rd., Niantic 06357
40.0/19	19 Upper Kensington Dr.	Niantic Real Estate LLC	P.O. Box 452, East Lyme 06333
40.0/18	11 Upper Kensington Dr.	Niantic Real Estate LLC	P.O. Box 452 East Lyme 06333
40.0/17	9 Upper Kensington Dr.	Niantic Real Estate LLC	P.O. Box 452 East Lyme 06333
40.0/16	5 Upper Kensington	Niantic Real Estate LLC	P.O. Box 452 East Lyme 06333