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& McCormick, LLC

Attorneys at Law

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ELLIE VON OEHSSEN, ESQ.

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

January 13, 2026

Hand Delivered

Brian Brohmbach, Chairman
Town of East Lyme Planning Commission
108 Pennsylvania Avenue
Niantic, CT 06357

Re: Re-Subdivision of Cedar Brook Lane
Assessors Map 36.0 Lot 31-1
Zoning Plan Comments

Dear Chairman Bohmbach,

Please accept this response to the above referenced application comments received by the Town of East Lyme Planning Commission from the Zoning Official William Mulholland dated November 10, 2025.

As will be set forth herein, Mr. Mulholland's ("ZEO") comments are misstate what took place with respect to the Heritage Subdivision of which this parcel is part. In addition, the exhibits submitted together with his plan comments are deliberately and materially misleading.

In the first paragraph of his comments the ZEO identifies a map titled "*Open Space Heritage at East Lyme Subdivision Section 1, Sheet 49B of 130*" and opines, incorrectly, the property is identified on the map as "*Open Space*". As evidenced by the stated map, attached as (Exhibit A), there is no reference on the map that the property subject to the pending re-subdivision application was identified as Open Space nor has the subject property been formally dedicated as Open Space land as is required by Conn. Gen. Statute § 47-5. Additionally, the ZEO ignores the fact, of which he is or should have been aware, that multiple re-subdivisions, lot line revisions and map changes were made subsequent to the initial conditional subdivision approval by the East Lyme Planning Commission. Those re-subdivisions altered the original subdivision plans and locations of the 13.9 acres of Open Space required by the initial conditional approval of December 6, 1988.

Ex "NN"

Next, the zoning officer addresses and attaches a September 3, 1987 letter Planning Commission letter recommending that the Zoning Commission approve the Cluster Zoning **concept** for the subdivision and a October 1, 1987 letter from the Zoning Commission to the Planning Commission which the zoning officer claims, incorrectly, *"the zoning Commission subsequently approved the Cluster Zone with "open space of 144 acres" including the land in the proposed re-subdivision presently before the Planning Commission"*. This claim is materially misleading for the following reasons;

1. a) The Zoning Commission "approved" a **"Conceptual Design"**, (See Exhibit B), that was never approved by the Planning Commission as this Planning Commission approved a different plan on December 6, 1988, some fifteen months later as evidenced by this commissions meeting minutes.(Exhibit C). Approval of the **"conceptual design"** identified in ZEO's memorandum is **non-binding** action by definition. Moreover, our courts have held that conceptual approvals are no more than a shadow lurking in the corner. *Red Maple Props. v. Zoning Comm'n of Town of Brookfield*, 222 Conn. 730, 742, 610 A.2d 1238, 1244 (1992)

b) A conceptual approval gives no rights to an applicant. This is a point Mr. Mulholland adroitly drove home to the author hereof during the application process for an affordable housing application on Holmes Road.

In Paragraph three of the zoning officers comments the zoning officer opines that *"because the land was approved as Open Space, for zoning purposes, it cannot be considered as anything other than Open Space, defined by the 1987 Zoning Regulations"*. This opinion is also incorrect for the following reasons;

2. a) The purported October 1, 1987, approval was **"Conceptual" and non-binding** and was also not the Subdivision Plan eventually approved by the Planning Commission on December 6, 1988.

b) The use of the terminology *".. for zoning purposes"* is at best misleading. Open space is not a zoning issue as it only appears in the subdivision regulations. Hence to suggest the zoning commission has some role in determining open space is both incorrect and misleading.

Next, the zoning officer opines that *"subdivision Cluster Zones are no longer permitted by the Town of East Lyme Zoning Regulations, thus rendering the original subdivision a nonconformity. The Zoning Regulations, in Section 21, specifically prohibit the expansion of a nonconformity, except in compliance with current zoning regulations, which removed Cluster Zoning in 1992. and "in my opinion, the addition of another lot in place of Open Space would constitute an expansion of a nonconformity and contrary to the town approval by both the Planning and Zoning Commissions."*

3. a) Nothing could be further from the truth. The existing subdivision is not a non-conforming use, rather the existing properties are legal non-conforming lots the Cluster Zone having been done a way with. Moreover, the proposed lot conforms to all current zoning regulations. Add to this that the ZEO signed off on my client's development of three other lots using "open space" for the development of its lots.

b) Due to the subsequent changes made to the subdivision and re-location of Open Space to other areas, the subject property was abandoned by the July 13, 1993, re-subdivision approval and other lands were dedicated as Open Space. This is evidenced by the commission's December 7, 1993 meeting minutes, (Exhibit D), the meeting minutes of the Town of East Lyme Board of Selectman on December 15, 1993, (Exhibit E) and the Warranty Deed to the Town of East Lyme for the revised Open Space Location (Exhibit F). Also attached as Exhibit H is a map recorded in the Land Records for the Open Space land conveyed to the Town.

c) The ZEO's opinion ignores the fact that this commission approved several re-subdivisions after 1992 including a July 12, 1993 Re-subdivision, (Exhibit G), a re-subdivision of Heritage at East Lyme Subdivision Lot 25 that created two additional approved on September 12, 1995, (Exhibit H), and a re-subdivision titled Heritage at East Lyme Phase 2 Re-Subdivision of KSK Associates LLC approved on February 2, 2010, (Exhibit I), that importantly utilized a similarly situated former potential Open Space parcel to create 3 new building lots. As the zoning officer well knows there is nothing to prevent a re-subdivision of the subject property and the claimed "non conformity" is both false and misleading given the fact that the Planning Commission had amended their subdivision approval and Open Space location on July 13, 1993, demonstrating further the abandonment of the of several potential Open Space locations considered as part of the original Conditional Approval that were thereafter either retained by the developer, Mr. Kavanewsky, or sold by him to third parties. Moreover, the Planning Commission received an opinion from its own counsel (Mark Block) that the open space could be relocated from the proposed location to a final location so long as the minimum amount was provided.

Finally, the zoning officer opines "*that anyone who purchased a lot in the original subdivision would have had a reasonable expectation that the original approval by the zoning Commission and Planning Commission would include the Open Space, and it would remain in perpetuity protected by the Town's approvals.*" This opinion is totally speculative and devoid of any factual basis to support it.

a) As addressed in the previous paragraph the Town of East Lyme Planning Commission approved a re-subdivision plan on July 13, 1993 that abandoned the potential Open Space use of the pending re-subdivision application property, and others, and shortly thereafter accepted a deed to the Town of East Lyme for the required Open Space land in an alternative location as was addressed previously herein.

b) Any claim of reliance must demonstrate that there was an investigation, that a party changed their position in reliance on the investigation and that such reliance was objectively reasonable. Both the original Conditional Subdivision Approval and 1993 re-subdivision approval by this commission occurred prior to any lot sales in the subdivision occurring making the "reasonable expectation" opinion of the zoning officer unfounded. It should be noted that all the resubdivision and changes are a matter of public record so any purchaser could have learned the status of the parcel in question. In essence what the ZEO is suggesting is there was detrimental reliance and the application should be estopped from pursuing its resubdivision. This simply does not comport with the legal standard for reasonable reliance. See; *Fischer v. Zollino*, 303 Conn. 661, 668, 35 A.3d 270, 275 (2012)

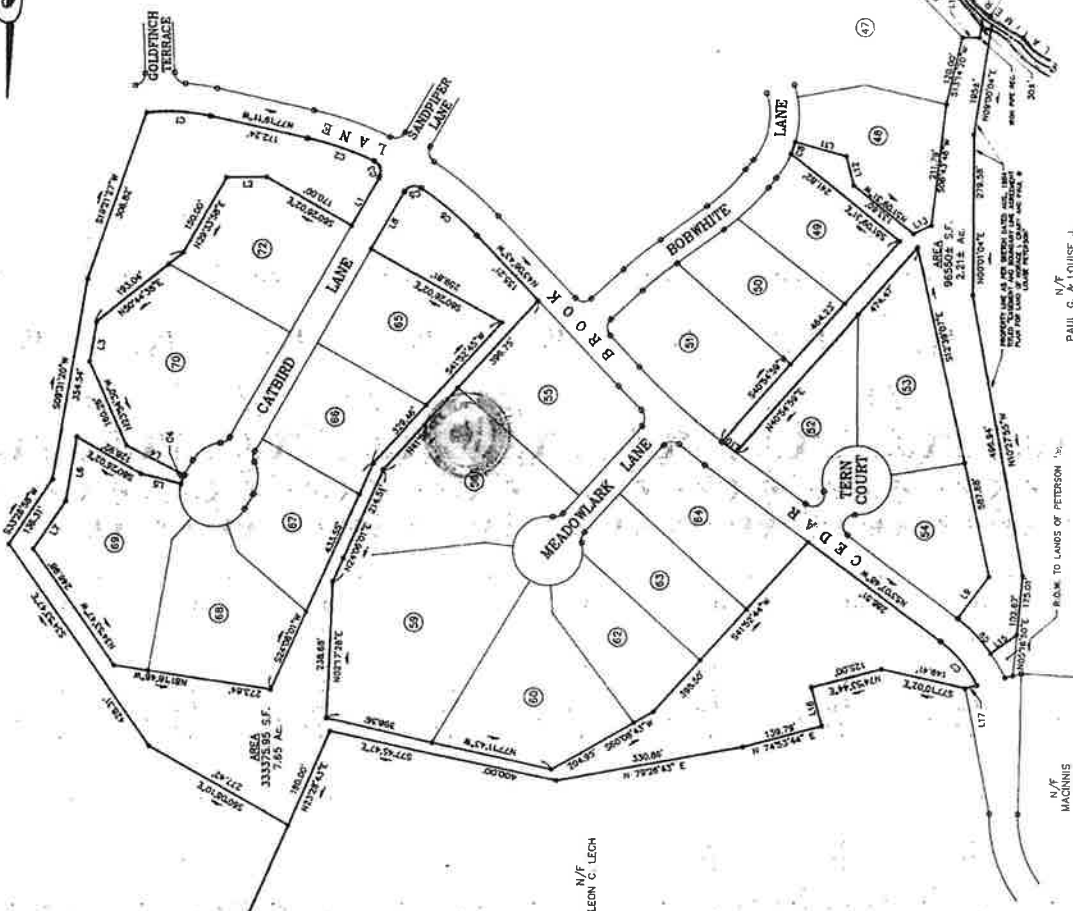
“There are two essential elements to an estoppel: the party [against whom it is asserted] must do or say something which is intended or calculated to induce another to believe in the existence of certain facts and to act upon that belief; and the other party, influenced thereby, must actually change his position or do something to his injury which he otherwise would not have done. Estoppel rests on the misleading conduct of one party to the prejudice of the other. In the absence of prejudice, estoppel does not exist.”

Wherefore it is submitted that the ZEO's correspondence is of no moment.

Sincerely,

Paul M. Geraghty, Esq.

EXHIBIT A



Site	Baseline	Photocopy
L1	487.23.50.7	97.03
L2	487.23.55.2	66.46
L3	489.21.20.2	71.02
L4	489.21.20.2	112.07
L5	489.21.20.2	70.65
L6	489.21.20.2	112.25
L7	489.21.20.2	89.94
L8	489.21.20.2	115.00
L9	489.21.20.2	81.79
L10	489.21.20.2	30.06
L11	489.21.20.2	97.41
L12	489.21.20.2	51.50
L13	489.21.20.2	34.91
L14	489.21.20.2	30.26
L15	489.21.20.2	56.17
L16	489.21.20.2	70.07
L17	489.21.20.2	21.55

INO	Genia	Radius	Arc Length
C1	19.20.03 ^a	375.00	110.81
C2	19.20.03 ^a	375.00	110.81
C3	12.74.08 ^b	375.00	122.78
C4	84.28.03 ^a	300.00	53.04
C5	15.20.53 ^a	600.00	16.25
C6	19.20.03 ^a	20.00	33.04
C8	12.74.07 ^b	375.00	127.16
C7	22.30.15 ^a	225.99	101.10 ^c
C8	07.06.45 ^a	174.00	21.62
C8	17.01.15 ^a	375.00	84.41

EAST LANS PLANNING COMMISSION
CONDITIONAL APPROVAL
GRANTED Indra N. Ganes
DATE December 6, 1987
FILING DEADLINE Jan 2, 1988
TERMINATION DATE 12-6-88

OPEN SPACE
HERITAGE AT EAST LYME
SUBDIVISION SECTION I
PROPERTY OF
THE HERITAGE DEVELOPMENT GROUP, INC.
SOUTHBRURY, CONNECTICUT

SCALE 1" = 100'

SHEET 49B OF 130
NOVEMBER 28, 1988

J. ROBERT PFANNER & ASSOCIATES P.C.
SURVEYING & ENGINEERING
37 GRAND STREET EAST LYME, CONNECTICUT

HERBY CERTIFY THAT THIS MAP AND SURVEY WERE PREPARED IN ACCORDANCE WITH THE STANDARDS OF A CLASS A/2 SURVEY AS DEFINED IN THE CODE OF PRACTICE FOR STANDARDS OF ACCURACY OF SURVEYS AND MAPS, ADOPTED DECEMBER 10, 1975 AS AMENDED BY THE CONNECTICUT ASSOCIATION OF LAND

N/F
PAUL G. & LOUISE J.
PETERSON

N/F

EXHIBIT B

Town of East Lyme

P.O. DRAWER 519

NIANTIC, CONNECTICUT 06357

Zoning Commission

October 7, 1987

Heritage Development Group
P.O. Box 873
Southbury, Ct 06488

Gentlemen:

On October 1, 1987 the East Lyme Zoning Board approved the proposed subdivision referred to it by the East Lyme Planning Commission for the conceptual design for a 200-lot cluster subdivision located on Chesterfield Road and off Cedar Brook Lane consisting of 339.2 acres with a proposed open space of 144 acres. The approval is effective upon publication.

Very truly yours.



Arthur C. Saunders III
Chairman

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

EXHIBIT C

Planning Commission Minutes

December 6, 1988

Brown was elected Chairman of the East Lyme Planning Commission for 1989 by unanimous vote (6-0).

2. Secretary - Mr. McNamara asked for nominations for secretary of the East Lyme Planning Commission.

MOTION: Mr. McIntyre nominated Richard Bonin for Secretary of the East Lyme Planning Commission for 1989. Ms. Johnson seconded the nomination and moved that nominations be closed. This was seconded by Mr. Christensen, and so voted unanimously (6-0). Richard Bonin was elected Secretary of the East Lyme Planning Commission for 1989 by unanimous vote (6-0).

III. Subdivisions

1. Heritage Development Group, Henry Paparazzo, owner and applicant - Formal application for subdivision (91 lots) entitled, "Heritage at East Lyme, Phase I" located on Chesterfield Road (Assessor's Maps 78, lots 40J, 49; Map 77, lots 1, 2 and 5; Map 73, lot 4A; Map 82, lot 8) - Decision Deadline extended to January 13, 1989 - It was noted that the applicants had previously requested a waiver of section 6-9-1-6 of the Subdivision Regulations pertaining to the 1500 foot maximum uninterrupted length of streets between points of intersection with other through streets. Mr. Battles reported that the applicants had submitted revised plans which conform to the block length requirement except for Egret Road and Goldfinch Terrace between Sandpiper Lane and Cedarbrook Lane. He indicated that this would not be a problem assuming that Section II is approved with an extension of Egret Road to Eagle Lane.

MOTION (1): Mr. Bonin moved that with respect to the application of Heritage Development Group, Henry Paparazzo, owner and applicant, for subdivision entitled, "Heritage at East Lyme, Phase I" located on Chesterfield Road, as shown on plans dated revised to December 1, 1988, prepared by J. Robert Pfanner & Associates, the request for waiver of section 6-9-1-6 of the East Lyme Subdivision Regulations, pertaining to the maximum uninterrupted length of streets between points of intersection with other through streets, be approved in that it meets the requirements of Section 4-14 of the Subdivision Regulations. Seconded by Ms. Johnson. Motion passed by unanimous vote (6-0).

It was noted that the applicants had also requested a waiver of section 6-10-2 pertaining to the sidewalk requirements. Mr. Battles noted that the sidewalks were proposed along the full frontage of the development on Route 161 and on the major roads in the subdivision. Sidewalks were not proposed for the roads ending in a cul-de-sac. The commissioners examined a plan dated revised to 12-1-88, prepared by J. Robert Pfanner & Associates which showed the proposed location of the sidewalks.

Planning Commission Minutes

December 6, 1988

MOTION (2): Mr. Bonin moved that with respect to the application of Heritage Development Group, Henry Paparazzo, owner and applicant, for subdivision entitled, "Heritage at East Lyme, Phase I" located on Chesterfield Road, that the requirements for sidewalks in Section 6-10 of the East Lyme Subdivision Regulations be waived for the following streets: Mallard Cir., Oriole Cir., Bluebird Cir., Catbird Lane, Meadowlark Lane, and Tern Court, as shown on plan dated revised to 12-1-88, prepared by J. Robert Pfanner & Associates, in that it meets the requirements of Section 4-14 of the Subdivision Regulations. Seconded by Mr. Lutzen. Motion passed by unanimous vote (6-0).

Mr. Battles stated that Mr. Thumm, Director of Public Works, could not be in attendance and requested that he reiterate his previous comments pertaining to the elimination of Tern Court, Oriole Circle and Mallard Circle. These short cul-de-sacs are not necessary because the lots shown either have access on through streets or could be designed as back lots. Mr. Thumm feels that the Town should not have to bear the additional expense of maintaining and plowing roads that are not needed.

Mr. McIntyre expressed concern about sufficient parking areas for these lots if the roads were not constructed and he felt there could be problems with safety. The commissioners were polled and all agreed that the roads should be improved to town standards as shown on the subdivision plans.

Mr. Battles reported that one other change since last meeting was that the applicants have requested a conditional approval which is reflected on the sheet containing Building Restrictions and Appendix A, items to be completed in this subdivision. This would be a conditional two-year approval and the applicants would be prohibited from marketing or selling lots until all improvements are completed and accepted by the Town or the applicants post a bond. He said that with the possibility that the site could be disturbed during construction and for some reason the construction stops and the conditional approval elapses, they have proposed to immediately post a restoration bond in the amount of \$100,000.00. This would be used to stabilize the site to prevent any damage to the environment and would not relate to construction of roads and improvements. Mr. Battles said he and Mr. Thumm were satisfied that the amount proposed for the restoration bond. He noted that Erosion and Sedimentation Control was included in the Subdivision Regulations. Attorney Marrion would have to approve the actual wording of the restoration bond. Mr. Battles recommended specific wording to be added to Appendix A.

MOTION (3): Mr. Bonin moved that with respect to the application of Heritage Development Group, Henry Paparazzo, owner

and applicant, for subdivision entitled, "Heritage at East Lyme, Phase I" located on Chesterfield Road as shown on subdivision plans dated revised to 12-1-88, that the East Lyme Planning Commission approve a conditional approval of this subdivision with the following modifications: 1.) that the following be added to Appendix A, Index Sheet: "6. An elevated spherical water storage standpipe with a water surface elevation of approximately 332' Mean Sea Level, together with all appurtenances and connections to the subdivision water mains, such standpipe to be located on land adjacent to this subdivision currently owned by the applicant and to be deeded to the Town of East Lyme. An alternative water storage facility proposed by the subdivider may be substituted for the standpipe described if specifically approved by the East Lyme Water and Sewer Commission. 7. Widening of the paved surface and sightline improvements on Connecticut Route 161. 8. Sidewalks." 2.) That the applicant provide, within 30 days of approval by the East Lyme Water and Sewer Commission of the water storage facility design, a bond estimate for all public improvements in a form and amount acceptable to the Director of Public Works. 3.) That the applicant provide to the Town a bond in the form of an irrevocable letter of credit and in the amount of \$100,000.00 for the purpose of restoration and of stabilizing the site against erosion and sedimentation. The bond shall specify the conditions of non-compliance with conditional approval of this subdivision under which the Town may declare the bond to be in default and the bond shall be in a form acceptable to the Town Attorney. Bond shall be submitted within 90 days from date of subdivision approval. Reason for approval is that the subdivision as modified is in accordance with the East Lyme Subdivision Regulations. Seconded by Mr. Lutzen. Motion passed by unanimous vote (6-0).

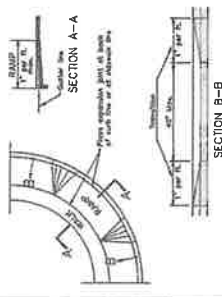
2. "Meriva Acres", Webster Scott, owner and applicant, North Bride Brook Road - Formal application for 7-lot subdivision located on North Bride Brook Road (Assessor's Map 70, Lot 5) (Revised plans received for 5 lots) - Decision Deadline extended to December 20, 1988 - A letter was received from Northeast Utilities to Mr. Scott dated December 5, 1988, relative to the relocation of pole #45 on North Bride Brook Road. The letter indicated that the pole could be relocated "in-line" across North Bride Brook Road and that the utility's easement rights allowed it to make this move as long as the route of the line were not changed and it remained overhead. The existing overhead line on the north side of North Bride Brook Road would remain.

Mr. Battles reported that based on recent court case Mr. Scott was asked to provide open space even though this section of the subdivision was less than 10 acres in size. Revised plans have been received showing a proposed area of open space along the

EXHIBIT D



CONCRETE DRIVEWAY APRON
N.T.S.



TYPE 1
TYPE 2
TYPICAL SIDEWALK RAMP

1. RAMP SLOPE OF 4% IN CURB MUST BE OF CONCRETE. REGRADING OF LATERAL IN REST OF SIDEWALK OR CURB MUST BE OF ASPHALT OR BITUMEN.
2. MUST HAVE 12" WIDE CURB WITH 12" RAMP.



EAST LYME - A. WING, COMPS. P. 10-
10/10/18, 1903 (date of survey)
10/10/18, 1903 (date of survey)
10/10/18, 1903 (date of survey)

RESUBDIVISION
SIDEWALK LOCATION
HERITAGE AT EAST LYME



SHEET 128 OF 130

J. ROBERT PFANNER & ASSOCIATES P.C.
SURVEYING & ENGINEERING
37 GRAND STREET EAST LYME, CONNECTICUT



FILED IN EAST LYME TOWN
CLERK'S OFFICE
10/10/18, 1903 (date of survey)
10/10/18, 1903 (date of survey)

AGENDA
EAST LYME PLANNING COMMISSION
REGULAR MEETING
December 7, 1993

ELECTION OF OFFICERS:

1. Chairman
2. Secretary

Delegations

I. Approval of Minutes:

1. October 19, 1993
2. November 16, 1993

II. Subdivisions

Subdivisions Approved - Action Required:

1. Green Meadow Resubdivision, Fairhaven Road - Formal application of Richard J. Mazzella, owner; J. Robert Pfanner, P.E., applicant, for 4 lot resubdivision (Assessor's Map 15, Lots 8-2 and 8-3) - Approved November 16, 1993.
2. Business Park West Resubdivision, Liberty Way and Freedom Way - Formal application of John Knox, Leonard Suzio, Arthur Moline, Vincent Bruno, owners; Attorney Vincent Bruno, Authorized Agent for Owners, applicant, for 8-lot resubdivision (Assessor's Map 6, Lots 5-9, 5-10, 5-11, 5-12, 5-13) - Approved November 16, 1993. Bond Required.
3. Cranberry Brook Estates, Walnut Hill Road, John Bialowans, Jr., applicant; John Bialowans, Jr. and Kathleen Ann Napert, owners - (Assessor's Map 91, Lots 1 and 1A) - 2 year conditional approval granted 7-14-92 for 8 lots. - Revised Plan Submitted; As-built drawings received - Request Received for final acceptance. Deeds required.
4. Sleepy Hollow Extension, Section I, T.M.K. Associates, George P. Mitchell, et al, owners; George P. Mitchell, applicant; Sleepy Hollow Road and Stone Cliff Drive - (Assessor's Map 63, Lots 1 and 4; Map 67, Lots 6 and 7) - 5 lots - Conditional approval changed to final approval with a bond 7-13-93. - Recommendation forwarded to Board Selectmen for final acceptance.
5. Heritage at East Lyme, Section I, Chesterfield Rd., Nazarko Properties Inc., new owner - Approved 12-6-88 - Request received from Mr. Kavanewsky for acceptance of the open space. Recommendation to be forwarded to Board of Selectmen.
6. Sleepy Hollow Extension, Phase II, Sleepy Hollow Road and Stone Cliff Drive; T.M.K. Associates, George Mitchell, Partner, owner and applicant - Assessor's Map 63, Lot 1) - 2 lots - Two-year conditional approval granted with modifications 10-20-92.
7. Rose Cliff Cluster Subdivision, Poppy Lane and Chris Alan Drive, Laurelwoods Development Corp., owners; Laurelwoods Development Corp., Douglas Cymbala, Project Mgr., applicant; 36 lots - Approved 6-2-92.
8. Tanglewood Estates, Section II, Boston Post Road, Tanglewood Assoc., owner; - (26 lots) - Conditional approval extended to 6-21-93 - (As-built drawings received.)

FILED IN EAST LYME TOWN

CLERK'S OFFICE

Dec 2, 1993 at 2:55 AM
PM

Esther B. Wslaw

EAST LYME TOWN CLERK

Planning Commission Minutes of Regular Meeting December 7, 1993

Milford Partnership, owners, for final approval of the public improvements in the Brookview Subdivision, located on Mayfield Terrace and Chesterfield Road, and that a recommendation be forwarded to the Board of Selectmen that the roads and appurtenances be accepted by the Town. A maintenance bond in the form of a Letter of Credit in the amount of \$16,000.00 shall be submitted by the developers as required by the East Lyme Subdivision Regulations prior to the recommendation being forwarded to the Board of Selectmen. Any existing bond shall be released upon receipt of the maintenance bond.
Seconded by Dr. Johnson. Motion passed by unanimous vote (6-0).

1. Green Meadow Resubdivision, Fairhaven Road - Formal application of Richard J. Mazzella, owner; J. Robert Pfanner, P.E., applicant, for 4 lot resubdivision (Assessor's Map 15, Lots 8-2 and 8-3) - Approved November 16, 1993. - Nothing further.

2. Business Park West Resubdivision, Liberty Way and Freedom Way - Formal application of John Knox, Leonard Suzio, Arthur Mioline, Vincent Bruno, owners; Attorney Vincent Bruno, Authorized Agent for Owners, applicant, for 8-lot resubdivision (Assessor's Map 6, Lots 5-9, 5-10, 5-11, 5-12, 5-13) - Approved November 16, 1993. Bond Required. - Nothing further.

3. Cranberry Brook Estates, Walnut Hill Road, John Bialowans, Jr., applicant; John Bialowans, Jr. and Kathleen Ann Napert, owners - (Assessor's Map 91, Lots 1 and 1A) - 2 year conditional approval granted 7-14-92 for 8 lots. - Revised Plan Submitted; As-built drawings received - Request Received for final acceptance. Deeds required.

4. Sleepy Hollow Extension, Section I, T.M.K. Associates, George P. Mitchell, et al, owners; George P. Mitchell, applicant; Sleepy Hollow Road and Stone Cliff Drive - (Assessor's Map 63, Lots 1 and 4; Map 67, Lots 6 and 7) - 5 lots - Conditional approval changed to final approval with a bond 7-13-93. - Recommendation forwarded to Board Selectmen for final acceptance.

5. Heritage at East Lyme, Section I, Chesterfield Rd., Nazarko Properties Inc., new owner - Approved 12-6-88 - Request received from Mr. Kavanewsky for acceptance of the open space. Recommendation to be forwarded to Board of Selectmen.
Mr. Thumm reported on the existing condition of the cul-de-sac area where the old Cedarbrook Lane connects to the new subdivision. There are three basic situations out there: 1, the driveway to the existing house where slope rights were acquired to build the road. He felt this driveway was a particularly dangerous condition for the homeowner and that some guardrail should be installed along it. He said the road was cut very close to the existing driveway and there had been quite a growth of trees around it. The trees have been removed and the slope has been cut back to the edge of the driveway so that there is a critical need for beam rail. This was not part of the subdivision improvements but was a private property situation

Planning Commission Minutes of Regular Meeting December 7, 1993

between the homeowner and the developer. The person who bought the house claims that he was not aware of the slope rights. The developer has told the town staff that he would take care of this matter. 2. The second situation was the gentleman who came to the last meeting relative to the area in front of his driveway where the pavement and the former cul-de-sac had been removed. He was unhappy that his driveway now terminates on gravel rather than on the road. Mr. Thumm did not see anything particularly dangerous about this and felt there was no safety problem driving over gravel. Ultimately for final acceptance, the developer will have to connect the driveway to the pavement and backfill on either side of the driveway and restore it. 3. The third condition pertained to the area across the street where the other half circle of the cul-de-sac was removed. The house sloped down from the road and there was quite an excavation which must be filled on the West side of Cedarbrook. The Nazarko's have been told more than a month ago to fill this. He felt that action must be taken to get this done.

Mr. Waterman said he looked at it and the pictures taken by staff this morning clearly showed the problems out there. He felt that Mr. Nazarko had had enough time to fill in the roadway which was a dangerous situation. The utility pole sticks out into the road and must be removed. Mr. Thumm noted that the pole had always been there. Mr. Waterman felt that the pole was a big problem. In response to a question, Mr. Thumm indicated that the particular section had a binder course only on it.

Mr. Bonin noted the importance of maintaining control over connections from existing cul-de-sacs to new roads. Ms. Davies said that in discussions with the Town Attorney that if there is work done on the town roads and it creates an unsafe condition, there is a certain liability to the town. Based on inspections by Mr. Thumm it did not appear to present an unsafe condition out there. She felt that for future subdivisions all the interior improvements should be completed prior to the cul-de-sac being torn up.

Mr. Thumm said that the cul-de-sac improvements could not be made at this time since they involved loaming and seeding. He said that the depression would be filled in with gravel and the bill forwarded to Mr. Nazarko if he did not take care of it first.

It was noted that snow removal maintenance bonds have not been received as yet.

Ms. Elam reported that a request had been received by Attorney Genuario on behalf of Mr. Kavanewsky for acceptance of the open space. She explained that many years ago the Planning

Planning Commission Minutes of Regular Meeting December 7, 1993

Commission and the Board of Selectmen adopted a policy of protecting Latimer Brook and the associated wetlands and floodplains. These parcels comprise about 20.5 acres and are in the aquifer protection area. The deeds have been received and reviewed by staff and the Town Attorney who found them to be in proper form.

MOTION (6): Dr. Johnson moved that, consistent with the policy of protecting Latimer Brook and making it accessible for fishing and environmentally sound recreation, a recommendation be forwarded to the Board of Selectmen that the brook front open space area (2 parcels) as shown on sheet 49 of subdivision plans entitled "Heritage at East Lyme, Section I" and described in warranty deeds from Joseph Kavanewsky to the Town of East Lyme, be accepted by the Town. Seconded by Mr. Rebelowski. Motion passed by unanimous vote (6-0).

6. Sleepy Hollow Extension, Phase II, Sleepy Hollow Road and Stone Cliff Drive; T.M.K. Associates, George Mitchell, Partner, owner and applicant - Assessor's Map 63, Lot 1) - 2 lots - Two-year conditional approval granted with modifications 10-20-92.

7. Rose Cliff Cluster Subdivision, Poppy Lane and Chris Alan Drive, Laurelwoods Development Corp., owners; Laurelwoods Development Corp., Douglas Cymbala, Project Mgr., applicant; 36 lots - Approved 6-2-92. - Mr. Thumm reported that the paving of certain areas had been completed before December 1st. Five houses are under construction which they intend to connect to public water. They hope to get the water pressure without having to complete the improvements on the booster pumping station. He did not know if they would be able to get the required 35 psi. They were installing curbing last week and proceeding with the drainage work in the remainder of the subdivision. Ms. Davies reported that they had been working on the drainage improvement in the Ancient Highway area and another access way was completed for the residents to use temporarily until the drainage work is completed.

8. Tanglewood Estates, Section II, Boston Post Road, Tanglewood Assoc., owner; - (26 lots) - Conditional approval extended to 6-21-93 - (As-built drawings received.)

9. Glen Lakes, Section I, Chesterfield Road, Meadow Lakes Realty Company, Angus McDonald, Donald Brodeau, Sr., Peter Locarno, Sr., Dennis Marlowe, Donald Snow, Jr., owners and applicant - Assessor's Map, 87, Lot 9) - 17 lots approved 11-13-90 - Bond required before commencement of work.

10. Grassy Hill Estates, Section II, Grassy Hill and Whistletown Rds., Grassy Hill Assoc. Lim. Partnership, owner and applicant - 7 lots approved 8-2-88

EXHIBIT E

Filed In East Lyme Town
Clerk's Office

TOWN HALL
7:30 pm
Rooms 1 & 2

Dec 10, 1993 AT 12:30 AM (PM)

Lesley Ables
East Lyme Town Clerk

EAST LYME BOARD OF SELECTMEN
MEETING
December 15, 1993

AGENDA

1.
 - a. Pledge Allegiance to the Flag
 - b. Additional Agenda & Consent Calendar Items
 - c. Delegations
 - d. Approval of Minutes Meeting of Nov. 17, 1993
 - e. Consent Calendar
2. OLD BUSINESS
 - a. Harbor Managment Plan/Ordinance
 - b. Town Building Committee Code Report
3. NEW BUSINESS
 - a. Appointment to Economic Development Commission
 - b. Appointments to Wtfd/E.L. Shellfish Commission
 - c. Discussion of Flanders Fire Dept. Parking Lot
 - d. Minority Representation Request
 - e. Parks & Rec. Playground Equipment Project
 - f. St. Matthias Church Tax Reimbursement Request
 - g. Budget Transfer - Final Telephone System Payment
 - h. Sleepy Hollow Ext. Sub-Div. - Accept Improvements
 - i. Acc. Open Space - Heritage at E.L. - Kavanewsky
 - j. Acc. Improvments - Brookview Sub-Div.-Mayfield & Chester.
 - k. Coves and Embayments Program
 - l. Accept Resignation of P. McDonough - EDC
 - m. Appoint E. Hafner - Cons. Comm. Alt.
4. COMMUNICATIONS
 - a. Northeast Corridor Improvement Project
 - b. Grant Agencies - Progress Report Request
 - c. Ref-Fuel Update (SCRRRA)
 - d. Letter from J. Reynolds - Student at E.L. High
 - e. FY 1994/1995 Budget Planning
 - f. Check Registers
5. INFORMATION AND REPORTS
 - a. Ex-Officio Reports
 - b. First Selectman's Report
6. PUBLIC DISCUSSION
 - a.
7. FUTURE BUSINESS
 - a. E. L. Arts League Lease Agreement

East Lyme Board of Selectmen Minutes 12/15/93 page thirteen
proper form.

Ms. Elam presented the plans and drawings to the Board.

MOTION (12)

Mr. Sistare moved to accept on behalf of the Town of East Lyme, as recommended by the Planning Commission, the roads, deeds, and appurtenances in the Sleepy Hollow Extension, Section I, Subdivision, as described in the deeds and easements and approved by Town Counsel.

Seconded by Mr. McNamara. Motion passed unanimously.

3i. Accept Open Space - Heritage at East Lyme - Kavenewsky

Ms. Elam noted that this has been ongoing since 1987. The property includes almost 21 acres, which consists of floodplains and wetlands. The Town is trying to protect Latimer Brook, and we have plans to have open space along the brook. The Planning Commission assured plenty of public access, and there is also access up north for fishing, etc. This area is part of our aquifer protection area.

Ms. Elam showed the plans to the Board.

MOTION (13)

Mr. Sistare moved to accept on behalf of the Town of East Lyme, as recommended by the Planning Commission, the two brook front open space parcels as shown on sheet 49 of subdivision plans entitled "Heritage at East Lyme" and described in warranty deeds from Joseph Kavanewsky to the Town of East Lyme.

Seconded by Mr. Rando. Motion passed unanimously.

3j. Accept Improve.- Brookview Sub.-Div. - Mayfield & Chesterfield

Ms. Elam explained that this area has been a problem since the contractor went bankrupt. They have been working with the FDIC on it. One of the concerns was that they were not able to get the school buses into the area. The property has now been purchased and the unfinished work has been completed. The one year bond is completed, and now we know the buses will be going in. Mr. Thumm also wanted the Board to consider a stop sign in the area also.

Mr. Sistare noted that "appurtenances" included signs, drains, etc.

Ms. Elam said they have not lost a bond yet. The developers had to insure the area.

MOTION (14)

Mr. Sistare moved to accept on behalf of the Town of East Lyme, as recommended by the Planning Commission, the roads, deeds, and appurtenances, including a stop sign at the Rt. 161 intersection, in the Brookview Subdivision as described in the deeds and

Filed In East Lyme Town
Clerk's Office

TOWN HALL
7:30 pm
Rooms 1 & 2

AM

PM

Dec 10, 1993 AT 12:30

Lesley A. Blair
Clerk East Lyme Town Clerk

EAST LYME BOARD OF SELECTMEN
MEETING
December 15, 1993

AGENDA

1.
 - a. Pledge Allegiance to the Flag
 - b. Additional Agenda & Consent Calendar Items
 - c. Delegations
 - d. Approval of Minutes Meeting of Nov. 17, 1993
 - e. Consent Calendar
2. OLD BUSINESS
 - a. Harbor Management Plan/Ordinance
 - b. Town Building Committee Code Report
3. NEW BUSINESS
 - a. Appointment to Economic Development Commission
 - b. Appointments to Wtfd/E.L. Shellfish Commission
 - c. Discussion of Flanders Fire Dept. Parking Lot
 - d. Minority Representation Request
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 - a. E. L. Arts League Lease Agreement

East Lyme Board of Selectmen Minutes 12/15/93 page thirteen
proper form.

Ms. Elam presented the plans and drawings to the Board.

MOTION (12)

Mr. Sistare moved to accept on behalf of the Town of East Lyme, as recommended by the Planning Commission, the roads, deeds, and appurtenances in the Sleepy Hollow Extension, Section I, Subdivision, as described in the deeds and easements and approved by Town Counsel.

Seconded by Mr. McNamara. Motion passed unanimously.

3i. Accept Open Space - Heritage at East Lyme - Kavenewsky

Ms. Elam noted that this has been ongoing since 1987. The property includes almost 21 acres, which consists of floodplains and wetlands. The Town is trying to protect Latimer Brook, and we have plans to have open space along the brook. The Planning Commission assured plenty of public access, and there is also access up north for fishing, etc. This area is part of our aquifer protection area.

Ms. Elam showed the plans to the Board.

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Seconded by Mr. Rando. Motion passed unanimously.

3j. Accept Improve.- Brookview Sub.-Div. - Mayfield & Chesterfield

Ms. Elam explained that this area has been a problem since the contractor went bankrupt. They have been working with the FDIC on it. One of the concerns was that they were not able to get the school buses into the area. The property has now been purchased and the unfinished work has been completed. The one year bond is completed, and now we know the buses will be going in. Mr. Thumm also wanted the Board to consider a stop sign in the area also.

Mr. Sistare noted that "appurtenances" included signs, drains, etc.

Ms. Elam said they have not lost a bond yet. The developers had to insure the area.

MOTION (14)

Mr. Sistare moved to accept on behalf of the Town of East Lyme, as recommended by the Planning Commission, the roads, deeds, and appurtenances, including a stop sign at the Rt. 161 intersection, in the Brookview Subdivision as described in the deeds and

EXHIBIT F

33219

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

KNOW YE, that JOSEPH KAVANEWSKY of Deerfield Beach, Florida, for good and other valuable consideration, received to his full satisfaction of THE TOWN OF EAST LYME, does hereby give, grant, bargain, sell and confirm unto the said THE TOWN OF EAST LYME and unto its heirs and assigns forever:

SEE SCHEDULE "A" ATTACHED HERETO.

TO HAVE AND TO HOLD, the above granted and bargained premises, with the appurtenances thereof, unto it, the said grantee, and unto its heirs and assigns forever, to its and their own proper use and behoof.

AND ALSO, it, the said grantor, does for himself, his successors and assigns, covenant with the said grantee and with its heirs and assigns, that at and until the ensembling of these presents, he is well seized of the premises, as a good indefeasible estate in FEE SIMPLE; and 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 hereinbefore mentioned.

AND FURTHERMORE, the said grantor does by these presents bind himself and his successors and assigns forever to WARRANT AND DEFEND the above granted and bargained premises to it, the said grantee and to its heirs and assigns, against all claims and demands whatsoever, except as hereinbefore mentioned.

IN WITNESS WHEREOF, I have hereunto caused to be set my hand and seal this 14th day of December, 1993.

Signed, Sealed & Delivered
in the presence of:

Almeta Kiett
Almeta Kiett

Joseph Kavanowsky L.S.
JOSEPH KAVANEWSKY

Richard Randall
Richard Randall

100 CONVEYANCE TAXES COLLECTED
Ethel B. Deane
TOWN CLERK OF EAST LYME

STATE OF Connecticut :
COUNTY OF Fairfield : ss.: Norwalk Dec 14, 1993

Personally appeared, JOSEPH KAVANEWSKY, signer and sealer of the foregoing instrument, and acknowledged same to be his free act and deed before me.

Almeta Kiett

Notary Public
ALMETA KIETT
NOTARY PUBLIC
MY COMMISSION EXPIRES MAY 31, 1996

Parcel 1

Southerly Parcel Sheet 49

Beginning at iron pin to be set on the Southerly line of Egret Road at the Northwesterly corner of Lot 15, thence running S 07° 02' 12" W a distance of 170.32', thence S 02° 44' 56" E a distance of 97.84' to an iron pin to be set at the corner of Lots 15 and 16, thence S 05° 05' 56" E a distance of 110.43' to a stone wall and land n/e of William P. & Adrienne E. Tytla thence N 87° 19' 39" W a distance of 29.54' to the centerline of Latimer Brook, thence Southerly along the centerline of Latimer Brook 330' more or less to land n/e of Hale, thence S 72° 28' 08" W a distance of 66.98' to a 30" maple tree, thence S 84° 58' 37" W a distance of 105.16' to a fence post, thence S 89° 42' 35" W a distance of 100.79' to an iron pin recovered thence S 83° 00' 04" W a distance of 22.25' to iron pin to be set at the southeast corner of Lot 14, thence N 03° 13' 50" E a distance of 194.87' to iron pin to be set at the corner of Lots 13 & 14, thence N 02° 57' 06" W a distance of 147.33' to iron pin to be set at the corner of Lots 12 & 13, thence N 30° 55' 31" E a distance of 108.50' to a point, thence N 01° 18' 14" W a distance of 103.21' to iron pin to be set at the corner of Lots 11 & 12, thence N 11° 53' 17" E a distance of 166.44' to iron pin to be set at the corner of Lot 11, thence along the southerly line of Egret Road along a curve having a radius of 200.00' a delta of 11° 53' 17" and a length of 41.50' to monument to be set, thence S 90° 00' 00" E a distance of 182.02' to monument to be set, thence along a curve having a radius of 325.00' a delta of 20° 32' 44" and length of 116.54' to the point and place of beginning. Said parcel being 232,850 ± square feet. Said parcel being the southerly tract of land on a map titled "Map showing property to be granted to the Town of East Lyme at the Heritage at East Lyme subdivision property of the Heritage Development Group, Inc. Southbury, CT. Scale 1" = 100' Sheet 49 of 130 November 17, 1988, rev. 11-29-88 by J. Robert Pfanner & Associates. P.C.

Vol 365 Pg 186 A

Parcel 2

Beginning at monument to be set on the northerly line of Egret Road at the southeasterly corner of Lot 9, thence N 47° 08' 16" E a distance of 110.24' to iron pin to be set, thence N 13° 20' 04" W a distance of 249.55' to iron pin to be set at the corner of Lots 8 and 9, thence N 01° 54' 43" W a distance of 255.39' to iron pin to be set at the corner of Lot 8, thence S 80° 46' 49" W a distance of 170.00' to iron pin to be set at the corner of Lot 4, thence N 10° 40' 42" W a distance of 207.51' to iron pin to be set at the corner of Lots 3 and 4, thence N 03° 50' 10" W a distance of 185.91' to iron pin to be set at the corner of Lots 2 and 3, thence N 17° 18' 45" E a distance of 143.01' to iron pin recovered at land n/e of Mugge, thence S 87° 33' 16" E a distance of 176.81' to iron pin recovered at Land N/F of Thornton, thence S 87° 31' 24" E a distance of 250' more or less to the centerline of Latimer Brook, thence northwesterly along the centerline of Latimer Brook 1,200' more or less to land N/F of Puzas, thence northerly 30' more or less to iron pin recovered, thence S 89° 51' 18" E a distance of 30.26' to iron pin to be set at the corner of open space and Lot 47, thence S 44° 27' 23" E a distance of 191.87' to iron pin to be set at the corner of Lots 46 and 47, thence S 23° 26' 20" E a distance of 146.57' to a point, thence S 19° 41' 59" E a distance of 104.31' to iron pin to be set at the southerly corner of Lot 46, thence N 51° 03' 14" E a distance of 128.02' to a point, thence N 34° 43' 10" E a distance of 95.09' to iron pin to be set at the southerly line of Bobwhite Lane, thence along the southerly line of Bobwhite Lane S 17° 31' 56" E a distance of 60.89' to monument to be set thence along a curve having the radius of 175.00' a delta of 11° 21' 02" and a length of 34.67' to iron pin to be set at the corner of Lot 25, thence S 30° 12' 17" W a distance of 136.83' to a point, thence S 22° 39' 40" W a distance of 123.92' to a point, thence S 20° 11' 18" E a distance of 132.47' to a point, thence S 07° 19' 53" E a distance of 175.03' to a point, thence S 12° 52' 32" E a distance of 180.00' to a point the last 5 courses being bounded by Lot 25, thence S 08' 34' 39" E a distance of 177.71' to a point, thence S 12° 45' 47" E a distance of 186.98' to a point, thence S 00° 24' 38" E a distance of 218.51' to iron pin to be set at the corner of Lots 21 and 23, thence S 35° 31' 16" W a distance of 103.59' to a point, thence S 05° 59' 56" W a distance of 217.25' to iron pin to be set at the corner of Lots 19 and 21, thence S 00° 44' 45" W a distance of 140.97' to a point thence S 36° 12' 34" E a distance of 126.00' to a monument to be set on the northerly street line of Egret Road at the southwest-erly corner of Lot 19, said last two courses being bounded by Lot 19, thence along northerly line of Egret Road along a curve having a radius of 275.00' a delta of 36° 12' 34" and a length of 173.79' to a monument to be set, thence N 90° 00' 00" W a distance of 182.02' to a monument to be set, thence along a curve having a radius of 150.00' a delta of 47° 08' 16" and a length of 123.41' to monument to be set at the point and place of beginning. Said parcel being 669,240± square feet. Said parcel being the tract of land north of Egret Road on a map entitled map showing property to be granted to the Town of East Lyme at the Heritage at East Lyme Subdivision, property of The Heritage Development Group, Inc., Southbury, CT. Scale 1" = 100' Sheet 49 of 130, November 17, 1988, rev. 11-29-88 by J. Robert Pfanner & Associates, P.C.

Rec'd for record Dec 16, 1993
2:27 PM Est B Williams
 East Lyme Town Clerk

EXHIBIT G

EXHIBIT H

Planning Commission Minutes, September 12, 1995 Meeting

II. Subdivisions

1. Resubdivision of Lot 25, Heritage at East Lyme Subdivision, Section I, Sandpiper Lane, off Chesterfield Rd., Formal Application of Nazarko CT Properties Inc., owner, Nazarko Homes, Inc. applicant for a 3 lot resubdivision (Assessor's Map 36.3, Lot 72) - Public Hearing held prior to meeting. It was noted that the application was complete and that the plans had been revised to contain two lots rather than three.

MOTION (2): Dr. Johnson moved that the application of Nazarko CT Properties Inc. for resubdivision of Lot 25, Heritage at East Lyme Subdivision, Section I, located on Sandpiper Lane, off Chesterfield Road, be approved with modifications creating 2 lots instead of 3 lots, as shown on map entitled: "Resubdivision of Lot 25 Heritage at East Lyme Subdivision Sandpiper Lane Prepared for Nazarko Connecticut Properties Inc. May 25, 1995, revised to 9-6-95 and prepared by J. Robert Pfanner & Associates, P.C.," conditioned upon receipt of the mylar within 30 days of tonight's meeting and conditioned upon the report of the test hole results being corrected on the plan in accordance with the report from the Town Sanitarian. This subdivision is approved in that with the modifications listed it meets the requirements of the Subdivision Regulations.

Seconded by Mr. Locarno. Motion passed by unanimous vote (5-0).

2. Subdivision of Property of Clara W. Davis, Robert Davis, applicant, Dean Road and Lovers Lane- Formal application for a 2-lot subdivision (Assessor's Map 25.3, Lot 10) - Application includes request for waiver of the regulations - Public Hearing held prior to meeting. The letter submitted with the application requested a waiver of the minimum square requirement. Although the square fit on the lot it did not touch the 50' front yard setback as required. In order to fit, the square would have to begin 58 feet back instead of 50 feet.

MOTION (3): Dr. Johnson moved that relative to the subdivision of property of Clara W. Davis, Robert Davis, applicant, Lovers Lane and Dean Road, that the request for waiver of Section 6-13-7 regarding the minimum square requirement, be approved in that it is a minor deviation of the regulations and is primarily due to the existing configuration of the property and is in accordance with Section 4-13 of the Subdivision Regulations.

Seconded by Mr. Locarno. Motion passed by unanimous vote (5-0).

MOTION (4): Dr. Johnson moved that the application of Robert Davis for a 2-lot subdivision of property of Clara Davis, Robert Davis, applicant, Dean Road and Lovers Lane, be approved as shown on map entitled: "Subdivision Plan Prepared for Robert Davis Property located at 62 Dean Road East Lyme, CT Scale 1"= 40' June 1995 " prepared by Jerome J. Dempsey LS, conditioned upon receipt of the mylar within 30 days of tonight's meeting and subject to receipt of a properly executed warranty deed to the Town of East Lyme for a portion of land shown on the plan adjacent to Lovers Lane for future highway purposes. This subdivision is approved in that it meets the requirements of the East Lyme Subdivision Regulations.

Seconded by Mr. Locarno. Motion passed by unanimous vote (5-0).

Filed in East Lyme Town
Clerk's Office

Sept 14, 1995 AT *3:25* ^{AM} ~~PM~~
Dorothy A. Blais
Ant East Lyme Town Clerk

TOWN OF EAST LYME
Planning Commission
Notice of Decision
September 12, 1995

Notice is hereby given that at a meeting on September 12, 1995, the Planning Commission of the Town of East Lyme took the following actions:

(1) Approved with modifications the application of Nazarko CT Properties, Inc., owner; Nazarko Homes, Inc., applicant, for a 2-lot resubdivision of lot 25 in Heritage at East Lyme Section I Subdivision, located on Sandpiper Lane, off Chesterfield Road (Assessor's Map 36.3, Lot 72).

(2) Approved the application of Robert Davis, applicant, for a 2-lot subdivision of property owned by Clara W. Davis located on Dean Road and Lovers Lane (Assessor's Map 25.3, Lot 10). Application included request for a waiver of the Subdivision Regulations which was approved.

(3) Approved revisions to the East Lyme Subdivision Regulations (Sections 2, 4, 6, 7, 10) concerning open space/cluster regulations to become effective ten days after publication of this legal notice.

Information regarding the above actions is on file in the Planning Department at Town Hall. Dated at East Lyme, Connecticut, this 14th day of September, 1995.

EAST LYME PLANNING COMMISSION
Alice E. Johnson, Secretary

EXHIBIT I

FILED IN EAST LYME *a*
Feb 8, 2010 AT *10:00* M

**EAST LYME PLANNING COMMISSION
PUBLIC HEARING I
Tuesday, FEBRUARY 2nd, 2010
MINUTES**

L. A. Blair, CTC
EAST LYME TOWN CLERK

The East Lyme Planning Commission held a Public Hearing on the Application of KSK Associates, LLC for a proposed four-lot re-subdivision of 203 acres of land located on and east of Goldfinch Terrace adjacent to and between I-95 to the south and Egret Road to the west and the East Lyme/Waterford Town boundary to the northeast, Assessor's Map 36, Lots 34 & 41 on February 2, 2010 at Town Hall, 108 Pennsylvania Ave., Niantic, CT. Chairman Bowers opened the continued Public Hearing and called it to order at 7:08 PM.

PRESENT: Mike Bowers, Chairman, George McPherson, Secretary, Christopher Sandford, Francine Schwartz, Mike Mangelinkx, Brian Schuch

ALSO PRESENT: Steve Harney, Applicant
Joan Bengtson, Alternate
Gary Goeschel, Planning Director
Jim Liska, Zoning Commission Liaison
Bill Scheer, Town Engineer
Mike Giannattasio, Director of Public Works

ABSENT: Greg Jackson, Alternate, Drew Kenny, Alternate

Pledge of Allegiance
The Pledge was observed.

Public Hearing I

1. Application of KSK Associates, LLC for a proposed four-lot re-subdivision of 203 acres of land located on and east of Goldfinch Terrace adjacent to and between I-95 to the south and Egret Road to the west and the East Lyme/Waterford Town boundary to the northeast, Assessor's Map 36, Lots 34 & 41.

Mr. Schuch said that he would recuse himself from hearing this application and left the table. Chairman Bowers seated Ms. Bengtson, Alternate at the table for this hearing.

Mr. Goeschel noted that Staff had reviewed a revised set of plans and that he had a complete list of Exhibits for them. (Copy attached at end of Minutes) He said that the applicant was here to present the application and to answer any questions.

Steve Harney, 20 Islanda Court, representing KSK Associates said that they had received a letter and email from Ledge Light indicating septic suitability and also one from Bill Scheer, Town Engineer which notes that the plan exceeds the stormwater requirements.

Bill Scheer, Town Engineer went over his memo to them noting that the plan as presented exceeds the stormwater requirements. He also explained the rain gardens that were to be constructed to catch and treat the required water quality volumes. Deed restrictions would incorporate the rain gardens. If there is any conflict between the septic system and the rain garden, the engineering department would work with Ledge light to indicate how the rain garden and septic system could co-exist.

Mr. Goeschel noted Attorney Block's letter indicating that if they put the rain gardens in the approval (should they decide to approve the application) that having them completed on the properties and making the lot owners responsible for their maintenance would be enforceable. He also said that Ledge Light had issued an email update regarding the lots that they had originally thought that the septic system location and location of the rain garden would be in conflict and that Mr. Scheer has also addressed that issue saying that if they are in conflict that they would work out suitable placement of the rain gardens.

Mr. Harney noted that issue was also something that is normally addressed at the building permit stage and not under this, the plan review stage.

Mr. Goeschel also noted that in the previous subdivision, Heritage, that the open space had been dedicated and that they could not ask for it again here. With regard to the easement that was mentioned, a conservation easement in favor of the Town will be dedicated and he suggested that they could add a seventh modification to address that.

Some discussion took place regarding if they could do a conditional approval or an approval with conditions and it was determined that they have, many times done approvals with conditions that would have to be met and that they could do that here should they choose to approve this application. The letter from Attorney Block indicated that they could enforce the modifications.

Mr. Goeschel indicated that he felt that the applicant has met the necessary requirements.
Mr. Scheer also indicated that he felt that the applicant has met and exceeded the stormwater requirements.

Mr. Bowers asked if there were any other questions from the Commissioners –
Hearing none –
He called for any comments from the public regarding this application –
Hearing none –
Mr. Bowers called for a motion to close this Public Hearing –

****MOTION (1)**

Mr. Sanford moved that this Public Hearing be closed.

Mr. Mangelinkx seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Mr. Bowers closed this Public Hearing at 8:22 PM.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary

Heritage at East Lyme
KSK Associates LLC
Exhibit List

Exhibit #	Description	Date
1	Open Space Heritage at East Lyme Subdivision Section 1 Property of The Heritage Development Group Inc, Southbury Connecticut dated November 17, 1988 by J Robert Pfanner & Associates PC, East Lyme, Connecticut	11/17/1988
2	Letter of Review from Nicholas F Bellantoni PhD from UCONN	4/5/2007
3	Letter of evaluation from GEOINSIGHT, INC	6/13/2007
4	Letter of review from Bill Scheer PE LS Town Engineer for the Town of East Lyme RE: Subdivision Goldfinch Terrace & Egret Road dated 1/4/2009	1/4/2009
5	Boundary Survey and Natural and Cultural Resources Map Heritage at East Lyme Resubdivision Phase 2 Goldfinch Terrace & Egret Road East Lyme, Connecticut Applicant/Owner KSK Associates LLC Dated October 2, 2009 by James Bernardo Land Surveying LLC, Waterford, CT	10/2/2009
6	Record Subdivision Plan Heritage at East Lyme Resubdivision Phase 2 Goldfinch Terrace & Egret Road, East Lyme, Connecticut Applicant/Owner KSK Associates, LLC dated October 2, 2009 by James Bernardo Land Surveying LLC, Waterford, CT	10/2/2009
7	Referral letter to Southeastern Connecticut Council of Governments James D Rabbitt sent Certified Mail RE: KSK Associates LLC	11/3/2009
8	Letter of notification of Public Hearing and Notification of Adjacent Property Owners Notice to Applicant/Owner Stephen Harney sent Certified Mail	11/3/2009
9	Referral letter to Robert Nye, Town Clerk for the Town of Waterford sent Certified Mail RE: KSK Associates LLC sent Certified mail	11/5/2009
10	Certificates of Mailing to Property Abutters	11/10/2009
11	Re-Subdivision Application	11/16/2009
12	Letter of review from Southeastern Connecticut Council of Governments Regional Planning Commission James D Rabbitt AICP dated November 16, 2009	11/16/2009
13	Letter of Review from Ledge Light Health District Ryan McCammon dated November 24, 2009	11/24/2009
14	Letter of request for 35 day extension of time to conduct Public Hearing to Planning Commission Chair from Stephen Harney, Applicant/Owner KSK Associates LLC	12/1/2009

2/2/2010

RHI
Attachment

2/2/2010

- 715 -
Heritage at East Lyme
KSK Associates LLC
Exhibit List

Exhibit #	Description	Date
15	Letter of review from Brad Kargl, Municipal Utility Engineer for the Town of East Lyme RE: Heritage at East Lyme Re-Subdivision Phase 2	12/21/2009
16	Boundary Survey and Natural and Cultural Resources Map Heritage at East Lyme Resubdivision Phase 2 Goldfinch Terrace & Egret Road East Lyme, Connecticut Applicant/Owner KSK Associates LLC Dated October 2, 2009 by James Bernardo Land Surveying LLC, Waterford revised to 1/4/2010	1/4/2010
17	Letter of request for 35 day extension of time to conduct Public Hearing to Planning Commission Chair from Stephen Harney, Applicant/Owner KSK Associates LLC	1/5/2010
18	Letter of review from Brad Kargl, Municipal Utility Engineer for the Town of East Lyme RE: Heritage at East Lyme Re-Subdivision Phase 2 dated January 15, 2010	1/15/2010
19	Watershed map Heritage at East Lyme Resubdivision Phase 2 Goldfinch Terrace & Egret Road East Lyme, Connecticut Applicant/Owner KSK Associates, LLC by James Bernardo Land Surveying LLC Waterford, CT dated January 19, 2010	1/19/2010
20	Boundary Survey and Natural and Cultural Resources Map Heritage at East Lyme Resubdivision Phase 2 Goldfinch Terrace & Egret Road East Lyme, Connecticut Applicant/Owner KSK Associates LLC Dated October 2, 2009 by James Bernardo Land Surveying LLC, Waterford revised to 1/21/2010	1/21/2010
21	Storm Drainage Design Report Heritage Subdivision by Jeffrey P Dewey PE Consulting Engineer dated December 8, 2007 Revised January 18, 2010 January 21, 2010	1/21/2010
22	Letter of review from Brad Kargl, Municipal Utility Engineer for the Town of East Lyme, RE: Heritage at East Lyme Re-subdivision Phase 2 dated February 1, 2010	2/1/2010
23	Memorandum to Gary Goeschel, Director of Planning from Mark E Block Esq., RE: Open Space Dedication - Heritage at East Lyme Resubdivision dated February 1, 2010	2/1/2010
24	Letter of review from Ledge Light Health District Ryan McCammon dated February 1, 2010	2/1/2010
25	Email from Ledge Light Health Department Ryan McCammon RE: Clarification of review of Heritage at East Lyme dated February 2, 2010	2/2/2010

26 Plans entitled Boundary Survey... Dated Oct 2, 09 Revised to 2/2/2010.

27 Memo from B. H. Schaefer date 2-2-2010,

2/2/2010

**EAST LYME PLANNING COMMISSION
REGULAR MEETING
Tuesday, FEBRUARY 2nd, 2010
MINUTES**

PRESENT: Mike Bowers, Chairman, George McPherson, Secretary, Christopher Sandford, Francine Schwartz, Mike Mangalinkx, Brian Schuch

ALSO PRESENT: Joan Bengtson, Alternate
Gary Goeschel, Planning Director
Jim Liska, Zoning Commission Liaison
Bill Scheer, Town Engineer
Mike Giannattasio, Director of Public Works

FILED IN EAST LYME TOWN

CLERK'S OFFICE

Feb 5 20 10 at 1:40 (AM/PM)

Esther B. Williams

ABSENT: Greg Jackson, Alternate, Drew Kenny, Alternate

EAST LYME TOWN CLERK

Chairman Bowers called this Regular Meeting of the Planning Commission to order at 8:25 PM after the previously scheduled Public Hearing.

Pledge of Allegiance

The Pledge was previously observed.

I. Additions to the Agenda

Mr. Bowers said that Mr. Goeschel had one item to add to the agenda this evening.

Mr. Goeschel said that he would like to add under Item X. D. #3. Establishment of a subcommittee entitled 'Sustainable Development and Climate Adaptation'.

****MOTION (1)**

Mr. Sandford moved to add Item #3 under Section X. D. Subcommittees – Establishment of a subcommittee entitled 'Sustainable Development and Climate Adaptation', to the agenda.

Ms. Schwartz seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

II. Public Delegations

Public Delegations is the time when members of the public are invited to speak to the Commission about certain matters. Issues or concerns related to approved subdivisions under construction (Item VI) and in-house proposals or general topics of discussion (Item VIII) are open to comment. Items, referrals, or applications subject to a decision by the Commission, a public hearing, or in litigation may not be discussed. The members of the Commission will not directly answer questions or make comment during delegations.

Mr. Bowers called for Public Delegations.

There were none.

**III. Approval of Minutes – Public Hearing I Minutes of January 5, 2010
Regular Meeting Minutes of January 5, 2010**

Mr. Schuch asked that the spelling of his first name be changed to 'Brian'.

Mr. Bowers called for any discussion or corrections to the Planning Commission Public Hearing I Minutes of January 5, 2010.

****MOTION (2)**

Ms. Schwartz moved to approve the Planning Commission Public Hearing I Minutes of January 5, 2010 as presented.

Mr. Mangelinkx seconded the motion.

Vote: 4 – 0 – 2. Motion passed.

Abstained: Mr. Schuch, Mr. Sandford

Mr. Bowers called for any discussion or corrections to the Planning Commission Regular Meeting Minutes of January 5, 2010.

****MOTION (3)**

Mr. Mangelinkx moved to approve the Planning Commission Regular Meeting Minutes of January 5, 2010 as presented.

Mr. McPherson seconded the motion.

Vote: 5 – 0 – 1. Motion passed.

Abstained: Mr. Sandford

IV. Pending Applications

1. Application of KSK Associates LLC, applicant/owner for a proposed four-lot re-subdivision of 203 acres of land located on and east of Goldfinch Terrace adjacent to and between Interstate I-95 to the south and Egret Road to the west and the East Lyme/Waterford Town boundary to the northeast. Tax Assessor's Map 36, Lot 34 & 41.

(Mr. Schuch recused himself from discussion on this application and left the table)

Mr. Bowers seated Joan Bengtson, Alternate at the table for discussion on this item. He then called for discussion on the application.

Mr. Sandford said that they had discussed the application a great deal during the Public Hearing and said that he was ready to synopsize their findings and present a motion. He said that upon review of the above referenced subdivision and supporting documentation that they find the application to be in conformance with the Subdivision Regulations of the Town of East Lyme based on the following findings:

Whereas: The Commission has received a Subdivision Application from KSK Associates LLC, a.k.a Heritage at East Lyme Re-subdivision Phase 2, for the development of a 4 – Lot Subdivision on 203± acres of a parcel of land shown on the Town of East Lyme's Tax Assessor's Map# 36.0 as Lot(s)# 34 and 41 and located on and east of Goldfinch Terrace adjacent to and between Interstate I-95 to the south and Egret Road to the west and the East Lyme / Waterford Town boundary to the northeast. The applicant KSK Associates, LLC, is also the owner of record. The Commission received this application on November 6, 2009 and commenced a Public Hearing and received testimony on November 17, 2009. Subsequently, the Public Hearing was continued to the Commission's Regular Meeting of December 1, 2009, January 5, 2010 and February 2, 2010. The Public Hearing for said application was closed at the Commission's February 2, 2010 meeting. The Commission has reviewed the application, received testimony from the applicant. Town staff also provided the Commission with comment concerning this applications compliance with local requirements and regulations.

Whereas: The parcel of land constituting the property subject to this application is zoned RU-40 Rural Residential. The properties abutting the site are also zoned RU-40 Rural Residential and CA Commercial.

Whereas: The proposed re-subdivision is found to meet the requirements of the East Lyme Subdivision Regulations and more specifically, as demonstrated by the following:

Section 3-4 Plan of Development: The proposed re-subdivision conforms to the comprehensive Plan of Development for the Town of East Lyme (POCD) as adopted by the East Lyme Planning Commission as the proposed re-subdivision is located within a residential zoning district adjacent to existing lots which, were previously approved as part of a cluster subdivision. The proposed re-subdivision continues follow the pattern of development characteristic of the existing residential cluster development. In addition, the proposed subdivision uses creative subdivision design to reduce the potential impacts on water and soil resources by proposing Low Impact Development

(LID) techniques for the treatment of stormwater and Best Management Practices (BMPs) for soil erosion and sedimentation control.

Section 5-5 Sanitation Report: As indicated in Exhibit "24" correspondence dated 2/1/2010 from Ryan McCammon, Senior Sanitarian of the Ledge Light Health District, Lots 1 and 4 are suitable for on-site sewage disposal and Lots 2 and 3 are not suitable. As indicated in e-mail from Ryan McCammon, Senior Sanitarian, Exhibit "25", dated 2/1/2010 Lots 2 and 3 are not suitable as proposed, but could be made suitable by relocating the tank/and or rain garden on Lot 3 and relocating the sewer line and/or rain garden on lot 2. In addition, Exhibit "25" indicates Lots 2 and 3 have sufficient area to meet the separation requirements of the health code, but. As such, the land to be subdivided and subdivision plans are satisfactory for on-site sewage disposal systems provided the plans are modified as indicated in exhibit "24".

Section 5-6 Water Supply Report: The East Lyme Water and Sewer Commission has determined there is sufficient water and sewer capacity to serve the proposed 4-lot development as indicated in Exhibit "22", a Memo from Brad Kargl, Municipal Utility Engineer to Gary Goeschel, Director of Planning, Dated 2-1-2010.

Section 5-7 Stormwater Management Plan: As indicated in Exhibit "21", Storm Drainage Design Report prepared by Jeffrey P. Dewey, P.E., includes a narrative of the objectives, potential impacts resulting from the proposal or activity, and a description of the practices, techniques, structures and facilities proposed to mitigate such impacts. However, a narrative of the proposed designation of the party responsible for the operation, inspection and maintenance of the stormwater management system shall be provided. (note: According to the applicant, it is understood that the owner(s) of each lot in the subdivision, shall be responsible for the stormwater management system (rain gardens)).

Section 5-8 Erosion and Sedimentation Controls: The proposed Soil Erosion and Sedimentation Control Plan as indicated on sheet 5 of 5 of the proposed plan, Exhibit "26", contains proper provisions to adequately control accelerated erosion and sedimentation and reduce the danger from storm water runoff on the proposed site based on the best available technology. As such, The Planning Commission hereby certifies that the Soil Erosion and Sediment Control Plan complies with the requirements and objectives of this Subdivision Regulation.

Section 5-9 CAM Coastal Site Plan Review Required: As the site is not located within the coastal boundary of the Town of East Lyme in accordance with Sections 22a-105 through 22a-109 of the Connecticut General Statutes, a CAM Review is not required.

Section 5-11 Archeological Survey: The Heritage at East Lyme Phase 2 Re-subdivision is located in the uplands and in an area where topographical and environmental features suggest a low-to-moderate sensitivity for archeological resources however, steep embankments of the area provide for outcroppings of bedrock which may contain prehistoric campsites associated with the shelter provided with the overhang as indicated in Exhibit "2", letter from Nicholas F. Bellantoni, PhD, Connecticut State Archaeologist to Stephen Harney dated April 5, 2007. As such, an archeological survey should be conducted prior to any blasting of these ledges should be proposed.

Section 6 – 5 Open Spaces: As the indicated in Exhibit "23", Memo from Mark E. Block, Esq. to Gary Goeschel, Director of Planning, dated 2/1/10, with the original developer having met the open space requirements at the time of the Original Subdivision, and made the dedication of Open Space out of the Original Tract, the Commission can not require an additional dedication from the subject parcel which is a re-subdivision of the Original Tract/Subdivision.

Section 6 – 6 Requirements Regarding Flooding: As demonstrated by the Storm Drainage Design Report in Exhibit "21" and in Exhibit "___" Memo from Bill Scheer, P.E., Town Engineer to Gary Goeschel, Director of Planning, dated, 2/1/10, the proposed subdivision is reasonably safe from flooding.

Section 6 - 9 Streets: As indicated by Exhibit "26", Proposed Heritage at East Lyme Re-subdivision Phase 2 Plan, date October 2, 2009 revised to February 1, 2010, the area to be subdivided has frontage on, and access from, an existing street that is suitably improved and paved. In addition, no new streets are proposed.

Section 6 - 10 Sidewalks: As indicated by Exhibit "26", Proposed Heritage at East Lyme Re-subdivision Phase 2 Plan, date October 2, 2009 revised to February 1, 2010, the proposed subdivision is proposed on an existing cul-de-sac of an abutting subdivision of 10 or more lots in which there are no existing sidewalks along Goldfinch Terrace.

Mr. Sandford then said that based on the above findings that he would make the following Motion:

****MOTION (4)**

- 11 -

Mr. Sandford moved to APPROVE (based on the above Findings) the application known as Heritage at East Lyme Re-subdivision Phase 2, KSK Associates, LLC, applicant, proposed 4 – Lot re-subdivision of 203± acres, Tax Assessor's Map# 36.0 as Lot(s)# 34 and 41; specific to plans entitled "Heritage at East Lyme Re-subdivision Phase 2, Goldfinch Terrace & Egret Road, East Lyme, Connecticut, Applicant/Owner KSK Associates, LLC, Prepared by James Bernardo, L.S. of James Bernardo Land Surveying, LLC of Waterford, Connecticut, dated October 2, 2009 revised to February 1, 2010", and further subject to the following administrative requirements and required modifications to the site plan and other materials submitted in support of this application:

1. Modifications of the drainage infrastructure related to stormwater management on Lot 4 (not including rain gardens) may be revised upon review to the satisfaction of the Town Engineer and approval of the Director of Planning and to be constructed or bonded prior to filing of the Mylar on the land record. Said bond shall be determined and agreed upon by the Town Engineer, Town Planner, and the Applicant.
2. Applicable and properly executed legal documents, including warranty deeds for any transfers of title to the party designated to maintain and operate the stormwater management system, shall be submitted with the final subdivision plan to be filed. All such documents shall be acceptable to the Town Attorney and the Commission and shall be filed with the East Lyme Town Clerk simultaneously with the filing of the approved final subdivision maps.
3. As indicated in Exhibit "24" correspondence dated 2/1/2010 from Ryan McCammon, Senior Sanitarian of the Ledge Light Health District, the tank/and or rain garden on Lot 2 shall be relocated and the sewer line and/or rain garden on lot 3 shall be relocated and on said lots to the satisfaction of the Ledge Light Health District and the Town Engineer.
4. As indicated in Exhibit "27", Memo from Bill Scheer, P.E., Town Engineer to Gary Goeschel, Director of Planning, dated February 2, 2010 a drainage easement over Lot 4 in favor of the Town of East Lyme shall be provided in a form acceptable to the Town of East Lyme and approved by Town Counsel.
5. As indicated in Exhibit "27", Memo from Bill Scheer, P.E., Town Engineer to Gary Goeschel, Director of Planning, dated February 2, 2010 the following notes shall be added to the subdivision plan:
 - a. Rain gardens shall be constructed to catch and treat the required Water Quality Volumes
 - b. Rain gardens shall be positioned to catch the maximum amount possible from developed portions of the lots.
 - c. Rain gardens shall be maintained in a functional manner.
 - d. Footing drains and roof drains (essentially clean water) should be directed away from the rain gardens whenever possible.
 - e. Rain garden locations on the subdivision plan are schematic only. Final locations of the proposed rain gardens must be consistent with the subdivision approval and State Health Code. The Town Planner will review the proposed building plans to ensure that size and location is consistent with the subdivision approval.
6. A revised copy of the Subdivision Plan incorporating the above modifications signed, sealed and certified by a licensed land surveyor in the State of Connecticut shall be submitted to the Department of Planning, Town Engineer and the Ledge Light Health District.
7. A conservation easement in favor of the Town of East Lyme over a portion of the proposed lot, as depicted in the Heritage Phase I subdivision plan dated December 6, 1990 and filed on the land records, shall be submitted with the final subdivision plan to be filed.

The above items shall be accomplished prior to the filing 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 application of KSK Associates, any change in the subdivision plan other than those identified herein shall constitute a new application and the modifications of this approval and 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.

Mr. Mangelinkx seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Town of East Lyme
Planning Commission
P.O. Box 519
Niantic, Connecticut 06357

February 3, 2010

Account #D20604 Planning
Vendor # 55554

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FILED IN EAST LYME
2/5, 2010 AT 1:20 M
L. Blais, Jr.
EAST LYME TOWN CLERK

Please publish the following notice on Wednesday February 10, 2010

**TOWN OF EAST LYME
PLANNING COMMISSION
Notice of Decision**

The East Lyme Planning Commission at its Regularly Scheduled Meeting on February 2, 2010, at 7:00 p.m., at the East Lyme Town Hall, 108 Pennsylvania Avenue, Niantic, CT, took the following action:

APPROVED with MODIFICATIONS: KSK Associates, LLC, Applicant/Owner,
Application for a proposed four-lot re-subdivision of 203±-acres of land located on and east of Goldfinch Terrace adjacent to and between Interstate I-95 to the south and Egret Road to the west and the East Lyme / Waterford Town boundary to the northeast, Tax Assessors Map#36 Lot#(s)34 and 41.

A full copy of the approval is available for public inspection at the East Lyme Town Hall in the Land Use Office

Michael Bowers, Jr.
Michael Bowers, Chairman