

**EAST LYME BOARD OF FINANCE  
SPECIAL MEETING  
Wednesday, AUGUST 17th, 2011  
MINUTES**

The East Lyme Board of Finance held a Special Meeting on Wednesday August 17, 2011 immediately following the previously scheduled Special Meeting which commenced at 7 PM.

**PRESENT:** Robert Kleinhans, Chairman, Steve Larcen, Secretary, Ray Hart,  
Steve Harney, Steve Kelley, Lisa Picarazzi (by Phone)

**ALSO PRESENT:** Paul Formica, First Selectman  
Darci Schofield & Alicia Betty, Trust for Public Land  
Attorney Robert Tobin, Special Counsel  
Attorney Mark Block, Special Counsel  
Anna Johnson, Finance Director

FILED IN EAST LYME TOWN  
CLERK'S OFFICE

Aug 22 20 11 at 10:00 AM  
ESTER B. WILKINS  
EAST LYME TOWN CLERK

**ABSENT:** No One

**1. Call Meeting to Order**

Chairman Kleinhans called this Special Meeting of the East Lyme Board of Finance to order at 8:22 PM immediately following the previously scheduled Special Meeting which commenced at 7 PM. He noted that Ms. Picarazzi would be present by phone.

**2. Pledge of Allegiance**

The Pledge was observed.

**3. Delegations**

Mr. Kleinhans called for delegations. He asked that anyone speaking please state their name and address for the record.

Ken Payne, 12 Spinnaker Drive said that he was speaking in favor of this purchase as it has good long-term value to the Town.

Allan Taylor, 10 Lakeview Circle said that he has read a number of articles in the paper and felt that they left out some important information. A main concern was the purchase price of \$4.1M for 301 acres – that is approximately \$13,000 per acre based on the appraisal on raw land. Nowhere in the articles does it state that there are three (3) wells on the property and that two (2) are functional. When you consider that wells cost around \$1M each and if you were to say that the two functional wells cost \$1.5M - that would bring down the cost considerably. He said that it does not seem understandable to him why two (2) boards voted on this and this one is delaying it. He asked that they let the voters decide as it has been shown that the Town can afford this.

Jackie Curry, 3 Virginia Street said that she is speaking as a citizen; however she is also a member of the Parks & Recreation Commission. She said that she is strongly in favor of purchasing this property and feels that it is in the Towns' best interest to have it and as they have heard, the wells on the property are worth a considerable amount.

Barbara Johnston, 35 Sea Crest Ave. said that she is totally in favor of purchasing this property. Regarding the people living in Darrow's Ridge who were speaking of visual pollution she said that she can't imagine them wanting to see 600 houses and 1200 cars there instead. She said that she hopes that they approve this.

John Strafaci, 16 Darrow's Ridge Road said that he had a couple of concerns. He said that he understands that the Boards' position is to determine the ability to pay however he thinks that they cannot make that determination without a plan. He has heard from the Trust for Public Land that there might be some restrictions on the land. He has heard that there may be no restrictions near Upper Kensington. There are also plans to develop low income housing not far from this area. He said that he thinks that they need to know if this is a conservation project or if there will be things that may have major financial impact to the Town being put on this property. He said that he does not think that they can determine this without a plan. He added that he also thinks that the appraisal is just a guess.

Mark Nickerson, 15 Jean Drive said that he is a member of the Board of Selectmen but is speaking as a citizen. He said that the only way that 600 units can be built there is if the Town does control it. The plan is to conserve the area and to have a utility area to put a water tank on and to preserve the well field. The charge of the Board of finance is to determine only if the Town can afford this and you have been shown that it can be afforded as part of the debt plan. He said that he was on the Zoning Commission for years and heard from people how they want to preserve the rural character of the Town. He asked that they please not expand their purview here.

John Drabik, 18 Drabik Road said that there are financial reasons such as the capital improvements and the Town debt and this is just a wish list and now they are not doing so well however they want to keep it the same and not pay the debt down. He said that he is worried about the next 5 – 10 years as he has a business here. The wells up there are not an asset but that does not belong before this Board. He said that he does not like to be held hostage by what might happen. They are all aware of the easement letter about an easement running through the area. He said that he has not seen a map showing the area, this just came up suddenly in June and has been jammed through.

Karen Rak, 27 Black Point Road said that she would like to see a plan as she would not purchase something herself if she did not know what would be done. Also, in the letter that they received from Attorney Blatt it said that they wanted the letter read into the record – she requested that they do so.

Allan Taylor, 10 Lakeview Circle said that he would preference his next statements with an 'if' – if a member of the Board of Finance has a conflict or is in partnership with someone owning abutting land, this would be a conflict of interest and he said that he would hope, that if that were so that the person would recuse themselves as if not, they could be held liable. He added that he also understands that the easement pertains to if a public road were built and if not – then it would not apply.

John Drabik, 18 Drabik Road read excerpt from the letter regarding the right to pass and re-pass and said that no one has seen the letter and he thinks that the public should know about it and be able to review it before voting. He said that they keep talking about a debt plan and he wants to see it come before the public to vote on it as the numbers on this debt plan keep changing.

#### **4. Old Business**

##### **▪ Bonding Resolution – Darrow Pond – Tabled Motion – August 10, 2011**

Mr. Kleinhans said that the motion was tabled at the last meeting. He said that he has the correspondence from New England National and that he would provide it for the record as an attachment to the minutes. (Attached to minutes) He asked Attorney Tobin, Special Counsel for this item to speak to some of the easement concerns.

Attorney Robert Tobin, 313 Boston Post Road said that he serves as Special Counsel to the Town for this project. He said that he was asked early on in this project for information regarding easements and that he provided copies of the easements at the last meeting and described in the hearing how it worked. He said that basically there are two documents relevant to East Lyme with respect to the use of the property for the Town. One document allows a developer to connect his roads to those developed on Darrow Pond property but there are no plans to build roads on the Darrow Pond property so there is nothing to connect to. Since all of the adjoining lots have been sold there would be little incentive to build roads. With regard to the document on the use and maintenance of the pond itself – the vast majority of

*East Lyme Board of Finance Special Meeting Minutes II – August 17, 2011*

the pond is owned by Webster Bank and a small amount by a developed who has conveyed the use/rights to homeowners. It is shared on an equal basis and the mutual use and maintenance agreement relates to the use of the pond.

Mr. Formica said that he was asked at the last meeting to go back to the bank with Ms. Schofield and ask about a price reduction. He said that his job is to bring opportunities before them and this is an opportunity to preserve 200 acres, to preserve the utility and according to engineers it is also the best location for a water tank for the interconnection system. He said that he proposed at a Board of Selectmen meeting to set up a committee to study the uses for the property. As such any concepts that they come up with will come before the public and if any expenses are involved they would have to be voted on by the public. For the record, the Town does not have a contract with the bank. The Trust for Public Land has the contract and the Town has the option to exercise to buy this from the Trust for Public Land by a date in September. This land provides the opportunity to preserve the utility. The property is 270' high which is ideal to place a tank on. The only people who may see a piece of the tank are 4500' away on Darrow's Ridge and he thinks that they can significantly reduce that. Regarding what is value – it is relative – some 20 years from now the \$13,000/acre will seem like a bargain. Regarding the letter from Mr. Blatt, he said that he is not sure that all of the Board members got a copy. However; the Town has been in litigation with him and his company for some time and it has cost the Town a considerable amount in time and money. He said that he resents statements that they had offered to negotiate with the Town to obtain a better purchase price. The Town has spent nearly a half million dollars over a number of years to defend itself from various suits brought by Mr. Blatt and his company and it would not be appropriate for them to meet with him on any of this.

He said that he has demonstrated affordability and fiscal prudence – in 2009 \$967,405 was returned unspent from the budget; in 2010 \$912,263 was returned unspent from the budget and in 2011 it is projected to be \$678,473 to be returned unspent with \$250,000 being returned from the Board of Ed. This purchase alone will not raise taxes – the debt graph shows the \$8M for the regional interconnection project, \$4.1M for Darrow Pond and some \$5M for future spending. He said that he was elected to run the Town like a business but the Town will be here 100 years from now – unlike many businesses. He said that he appreciates all that the Board of Finance has done and that on behalf of Ms. Schofield, the bank has agreed to reduce the price by \$50,000 to be in direct line with the appraisal. He strongly urged them to move this forward.

Mr. Kleinhans called for comments from the Board members.

Ms. Picarazzi thanked everyone for all of their hard work on this project and for trying to do right for the Town. She said that she does see the value of this property but has struggled with the appraisal on it and has gone back and forth on that in relation to the economy. She said that she has listened to the public speak for and against it and that she finds herself leaning towards it although it is not the money that she wants to spend however the property is valuable and they have been fiscally prudent and can afford this.

Mr. Kelley said that he has read the assessment of the land and sees this as an opportunity for the Town and will vote in favor of it. He has heard people talk about how the Town almost did not buy McCook's years ago and he enjoys the area and it is always full of people and he does not want to hear years from now about how they did not buy this property and they should have. He said that he feels strongly that it should be sent for the Townspeople to vote on.

Mr. Hart said that he agrees with Ms. Picarazzi about the price and has gone back and forth on the appraisal. He said that he is also concerned with how fast this went and questions if it is wise to overpay for this and is leaning towards voting no as he thinks that they should spend more time on it.

Mr. Larcen said that this is a tough one. His concerns are: the economy; future budget challenges to satisfy debt service and things that the Town needs although he commends Mr. Formica's leadership; he is not satisfied with the appraisal as they have done one for the bank on other occasions and – whether developed or not, there are 214 acres of open space in the permit for this land. He said that he is leaning towards a no vote but would support a lesser cost.

Mr. Kleinhans said that they passed the capital improvement plan in April and that this was in it along with their being a discussion on debt. The economy has been difficult but the market went down 1000 points in one week and back up 900 points in the next week. This has been well thought out on the water side and it is based on if the Town has the ability to pay and he feels that it has been proven by all the work that Mr. Formica has done and with information from the Attorney on the easements. 20 to 40 years from now, this price may seem insignificant – you just don't know. This has been supported by Planning, The Board of Selectmen, Zoning, Conservation and many other public groups. He said that with that he would ask for an alphabetical roll call of the vote by the Recording Secretary commencing with Mr. Harney.

Mr. Harney – Abstained  
Mr. Hart – Vote Against  
Mr. Kelley – Vote in Favor  
Mr. Kleinhans – Vote in Favor  
Mr. Larcen – Vote Against  
Ms. Picarazzi – Vote in Favor

Final vote: 3 – 2 – 1. Motion passed.  
Mr. Kleinhans thanked everyone for their efforts.

## **5. Adjournment**

Mr. Kleinhans called for a motion to adjourn.

### **\*\*MOTION (2)**

Mr. Kelley moved to adjourn this Special Meeting of the Board of Finance at 9:19 PM.

Mr. Hart seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Respectfully submitted,

Karen Zmitruk,  
Recording Secretary

**NEW ENGLAND NATIONAL LLC**

1890 PALMER AVENUE, SUITE 303  
LARCHMONT, NY 10538  
914-834-0291

hand delivered  
by Jason  
Passaglia  
from NEN

August 15, 2011

Town of East Lyme  
Board of Finance  
Pennsylvania Avenue  
Niantic, CT 06333

Attn: Robert Kleinhans, Chairman

Re: Board of Finance Meeting August 10, 2011/Darrow Pond

Ladies & Gentlemen:

Please accept this correspondence as our comments to certain statements and representations made during the August 10, 2011 public hearing held by The Town of East Lyme Board of Finance concerning the proposed acquisition of the Darrow Pond property formerly owned by my company.

I respectfully request that this correspondence and its attached exhibits be read into and made a part of the record during the Board of Finance's continued public hearing on August 17, 2011.

Having reviewed the meeting held on August 10, 2011, telecast on MetroCast Cable Channel 22, I would like to address what I believe to be serious omissions and misrepresentations made to you by Ms. Hardy, Mr. Formica and Attorney Tobin regarding the proposed Darrow Pond acquisition. In doing so I believe the Board of Finance is entitled to fully understand the ramifications of East Lyme's proposed acquisition of the Darrow Pond property which, upon information and belief, have not been addressed in the appraisal commissioned by the Trust for Public Land from the same company who had previously appraised this property for both Webster Bank (the current seller) in 2008, 2009 and 2010 and the Federal Deposit Insurance Corp. (FDIC) and myself in 1995 for values that ranged from \$500,000 to \$6,300,000.

Specifically, and at a minimum, the current alleged valuation of \$4,100,000. excludes addressing the numerous easements which exist on the property the Town of East Lyme ("East Lyme") proposes to purchase which are held by my company New

Attachment Board of Finance Spec. Mtg. 8/17/11

England National LLC ("NEN") and its affiliate Niantic Real Estate LLC ("Niantic"). These easements have also been omitted, or have been misrepresented by Mr., Formica in his presentation to the Board of Finance and clearly effect both the value and the ultimate cost of the property given the virtual certainty of litigation resulting from the contentious relationship that exists between New England National LLC and Mr. Formica.

Enclosed herewith are the following plans and filings on record in the Town of East Lyme Land Records relating to the above referenced easements;

1. Access easement recorded on the East Lyme Land Records Book 678 Page 628 which allows Niantic and New England National to **"pass or re-pass on foot or by motor vehicle over the private roadways constructed or to be constructed..."** and

**"the right to construct such roadways on the other's property which shall be necessary to make connection between the road systems of each of the parcels..."** (Exhibit A).

2. A map entitled "plan showing parcels of New England National LLC and Niantic Real Estate Limited Liability Company subject to access easement recorded on the East Lyme Land Records July 29, 2004 at DR6-165 (Exhibit B).

3. A mutual use and maintenance easement agreement recorded on the Town of East Lyme Land Records at Book 678 Page 632 which encumbers and obligates the owners of the Darrow Pond property (namely Webster Bank as successor to New England National and Niantic Real Estate) to maintain the pond, not the residents of Darrows Pond Subdivision, contrary to representations and statements by Mr. Formica and Ms. Scofield (Exhibit C).

4. A map entitled "plan showing parcels of New England National LLC and Niantic Real Estate LLC subject to mutual use and maintenance easement, Mostowy Road, East Lyme, Connecticut Scale 1"=250', July 15, 2004" recorded in the East Lyme Land Records at DR6-166. (Exhibit D).

5. The foreclosure deed filed by Webster Bank and recorded on the East Lyme Land Records at Book 814 Page 407. In this regard I refer you to Book 814 Page 4104 (the last page of the document) where it states the following;

**SAID PARCEL IS CONVEYED TOGETHER WITH THE RIGHT TO PASS AND RE-PASS AS WELL AS THE RIGHT TO IMPROVE SUCH AREA FOR THE PURPOSES OF PROVIDING PASSAGE OVER THAT PIECE OR PARCEL OF LAND SHOWS AS "DRIVEWAY EASEMENT AREA..."** (Exhibit E).

To be clear, the documents and statements enclosed herewith serve two purposes;

a. To provide information on and possibly further educate the Board of Finance of the matters I believe were deliberately omitted or misrepresented by Mr. Formica and other members of the "acquisition team" that burden and encumber the property East Lyme proposes to acquire; and

b. To correct the record relevant to NEN and Niantic's specific rights of use of and the restrictive covenants on and over the subject property.

In addition to the matters addressed above, I would like to address the following statements made during the public hearing which are simply untrue;

A. Rose Ann Hardy's claim that the Town tried to purchase the property from J.C. Penney Corp. in the 1980's for 16 million dollars. In fact, as can be verified in the East Lyme Land Records, the property was sold by J.C. Penney Corp. in 1988 to CCNE Group L.P. for \$3,200,000. Thereafter, I effectively controlled the property from early 1990 until its sale in 2005 by purchasing the mortgage debt that encumbered the property. Of additional note I acquired title to the property in November of 1995 together with 15 acres of land on Upper Pattagansett Road for a total of \$500,000. At no time was or has this property been priced for sale at 16 million dollars.

B. Any claims that the Darrows Ridge Subdivision residents are financially responsible for the Darrow Pond Dam apparently made by representatives of the Trust for Public Land and Mr. Formica are false. The "dam" protecting Darrow Pond is in fact Mostowy Road whose use rights and maintenance obligations vest with the Town of East Lyme. I refer you to the Connecticut Department of Environmental and Energy Protection, Dam Reports Division, in this regard. The sole improvement that connects Darrow Pond to the dam which exists within the legal boundaries of the pond is a four foot (4') wide concrete spillway.

C. Contrary to the claims of Mr. Formica, Niantic Real Estate LLC owns approximately nine (9) acres of the forty eight (48) acre Darrow Pond while Webster Bank owns the remainder. Further, Niantic Real Estate LLC is under no obligation what so ever to transfer ownership of its "pond property" to any third party or parties including but not limited to the residents of the Darrow Ridge Subdivision. The Darrow Ridge Subdivision residents were merely provided with an easement to use the pond for swimming, fishing, non-motorized boating and certain lot purchasers have the additional right to build docks on Niantic Real Estates pond property not exceeding 30 feet in length. The "scare tactics" attributed to Ms. Scofield and Mr. Formica regarding the alleged potential financial obligations of Darrow Ridge Subdivision residents regarding "the dam" are both untrue and unconscionable.

D. Mr. Formica's statement that he "would meet with anyone" is also demonstrably false.

In an effort to assist the Town of East Lyme in obtaining a price reduction and therefore not significantly over-pay for this property as presently proposed, New

England National, at the request of members of this Board, agreed to meet with Webster Bank and Mr. Formica to provide certain information to Webster Bank to facilitate the Town of East Lyme's efforts. Mr. Formica rebuffed the efforts of the members of this Board and New England National by refusing to meet.

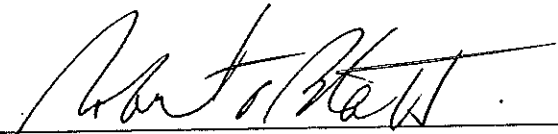
Separately and apart from the above stated efforts, Mr. Formica has also refused the offers of New England National to engage in good faith discussions to address each of the easements identified earlier in this correspondence.

In closing, should the Town of East Lyme Board of Finance have any further questions regarding the information addressed or enclosed herein, please feel free to contact me.

Sincerely,

**NEW ENGLAND NATIONAL LLC**

By



Robert A. Blatt  
Managing Member

cc: Steven Larcen  
Raymond Hart  
Steve Kelley  
Lisa Picarazzi  
Steve Harney

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# EXHIBIT A

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ACCESS EASEMENT

WHEREAS, New England National LLC ("New England") is presently the owner in fee of a certain parcel of land known as 16 Mostowy Road, which parcel is shown on a map or plan entitled "Plan Showing Parcels of New England National, LLC and Niantic Real Estate Limited Liability Company Subject to Access Easement, Mostowy 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 ("Plan"); and

WHEREAS Niantic Real Estate Limited Liability Company ("Niantic") is the owner in fee of those certain parcels of land contiguous of that of New England, which parcels are also shown on the above referenced plan; and

WHEREAS Niantic is the contract purchaser for an additional parcel of land which shall be contiguous to its other holdings, which parcel of land is presently owned by DOLORES SCOTT and WALTER SCOTT and which parcel is intended to be annexed to the current land of Niantic, and upon annexation be benefitted and burdened by this Easement, which land is also shown on the above referenced plan; and

WHEREAS the parties hereto, their successors and assigns, will be developing their respective parcels and constructing private roads thereon; and

WHEREAS it is anticipated that regulatory authorities and/or optimization of design, may require that there be mutual non-exclusive access over said private road system to provide alternative access to public roads and/or access to various portions of the other property.

NOW, THEREFORE, the parties agree as follows:

1. Each party grants to the other a non-exclusive easement to pass and re-pass on foot or by motor vehicles over the private roadways constructed or to be constructed by the other upon their respective parcels, as shown on said plan. This easement shall be an easement which shall be appurtenant to each of the parties parcels herein described, and

*no* CONVEYANCE TAXES COLLECTED

*Esther B. Williams*

TOWN CLERK OF EAST LYME

LAW OFFICES

STEVENS, HARRIS & GUERNSEY, P.C.

shall run with the land and inure to the benefit of the parties hereto, their successors and assigns.

2. Each party hereto reserves the right to construct such roadways on the other's property which shall be necessary to make connection between the road systems of each of the parcels, or public roads as the case may be, provided that the location of such roadway shall not materially interfere with the design of the respective parcels.

3. To the extent any of the above referenced parcels shall be divided, the rights and responsibilities herein described shall apply between such divided parcels.

4. Each party hereto, its successors and assigns, shall have the obligation to maintain the road systems located on their respective parcel(s) and/or constructed by it, pursuant to paragraph 2.

5. All parcels herein described shall be conveyed together with and subject to the covenants herein contained.

6. Each of the parties hereto agree for itself, and its successors and assigns, to indemnify and hold the other harmless for any claims, damages or losses caused to the other by the exercise of rights pursuant to the easements herein granted. To the extent possible, each party and their successors and assigns will name the other as an additional insured on its policies of insurance covering liability with respect to such private roads.

7. Neither party to this agreement shall commence construction of any private roadway on the others land without first obtaining the prior written approval of the other party relative to the location, design, and other aspects of the private roadway to be constructed which approval shall not be unreasonably withheld.

8. If either party to this Easement Agreement shall construct private roadway(s) on the land of the other party, the constructing party shall provide the other party with Absolute Releases of Mechanics Lien Rights executed by all those who have supplied materials or performed services in connection with the construction of the private roadways.

IN WITNESS WHERETO the parties have hereunto set their hands and seals the

29<sup>th</sup> day of July, 2004.

Signed, sealed and delivered  
in the presence of

NEW ENGLAND NATIONAL, LLC

By: Robert O. Blatt, its  
MANAGING MEMBER Duly authorized

NIANTIC REAL ESTATE LIMITED  
LIABILITY COMPANY

By: [Signature], its  
Duly authorized

Thaddeus A. Harris

Thaddeus A. Harris

STATE OF CONNECTICUT

ss:

East Lyme July 29, 2004

COUNTY OF NEW LONDON

On this the 29 day of July, 2004 before me, the undersigned officer, personally appeared Robert Blatt who acknowledged him/herself to be the Managing Member of New England National, LLC, and that he/she, as such Managing Member being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the LLC by him/herself as said Managing Member.

In witness whereof, I hereunto set my hand and official seal

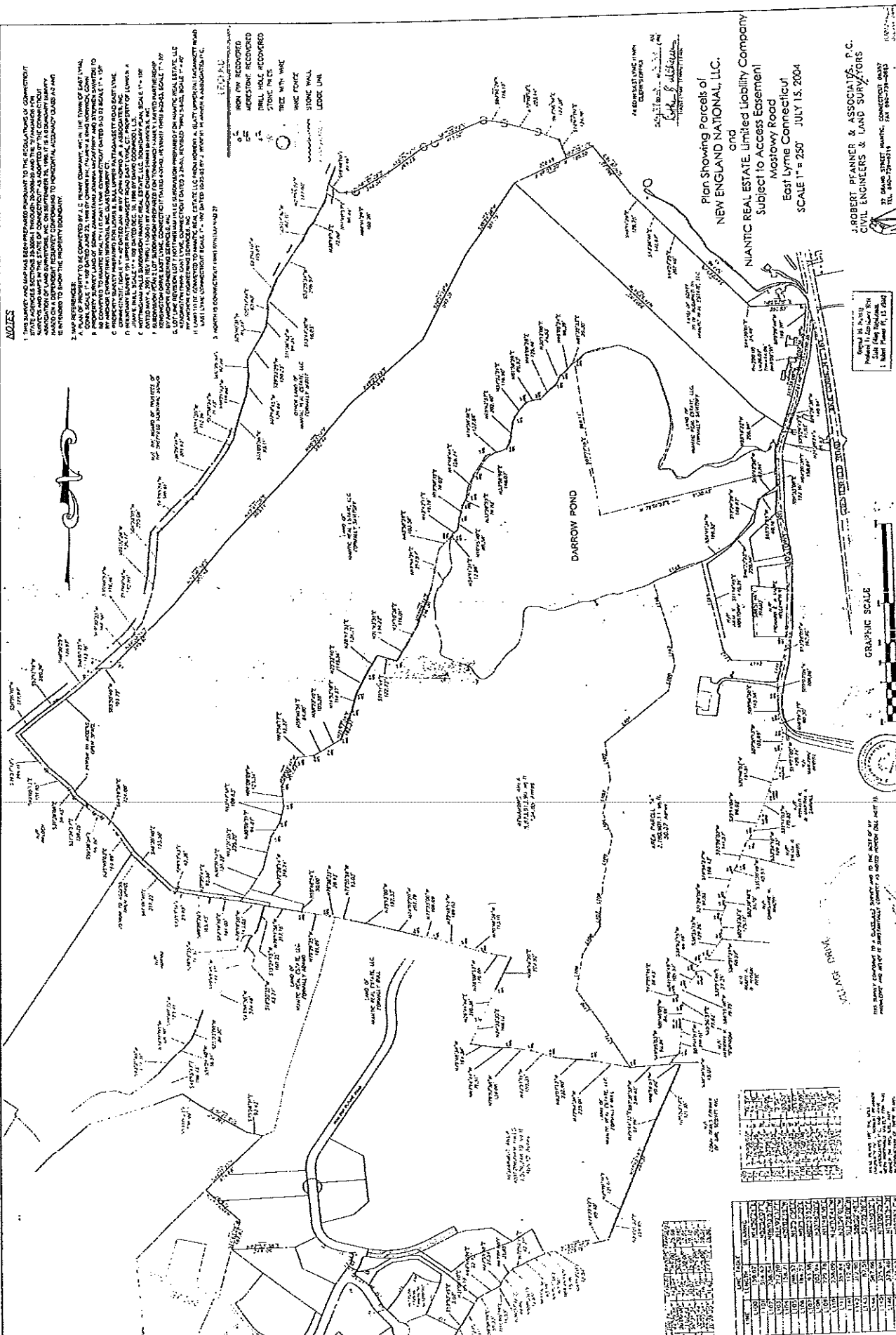
[Signature]  
Commissioner of the Superior Court

# EXHIBIT B

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**NOTES**

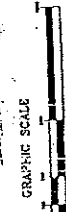
1. THIS PLAN AND THE FIELD NOTES HEREON WERE PREPARED BY THE CONSULTING ENGINEER IN ACCORDANCE WITH THE REQUIREMENTS OF THE REGISTERED PROFESSIONAL ENGINEERS ACT OF THE STATE OF CONNECTICUT AND THE REGULATIONS OF THE BOARD OF REGISTRATION OF PROFESSIONAL ENGINEERS AND SURVEYORS OF THE STATE OF CONNECTICUT. THE CONSULTING ENGINEER HAS NOT CONDUCTED A VISUAL INSPECTION OF THE PROPERTY DESCRIBED HEREON NOR HAS HE CONDUCTED A SURVEY OF THE PROPERTY DESCRIBED HEREON. THE CONSULTING ENGINEER HAS NOT CONDUCTED A SURVEY OF THE PROPERTY DESCRIBED HEREON NOR HAS HE CONDUCTED A SURVEY OF THE PROPERTY DESCRIBED HEREON.
2. THE REFERENCES TO THE RECORDS OF THE REGISTERED PROFESSIONAL ENGINEERS AND SURVEYORS OF THE STATE OF CONNECTICUT ARE TO THE RECORDS OF THE REGISTERED PROFESSIONAL ENGINEERS AND SURVEYORS OF THE STATE OF CONNECTICUT. THE REFERENCES TO THE RECORDS OF THE REGISTERED PROFESSIONAL ENGINEERS AND SURVEYORS OF THE STATE OF CONNECTICUT ARE TO THE RECORDS OF THE REGISTERED PROFESSIONAL ENGINEERS AND SURVEYORS OF THE STATE OF CONNECTICUT.
3. THE PROPERTY DESCRIBED HEREON IS THE PROPERTY OF THE REGISTERED PROFESSIONAL ENGINEERS AND SURVEYORS OF THE STATE OF CONNECTICUT. THE PROPERTY DESCRIBED HEREON IS THE PROPERTY OF THE REGISTERED PROFESSIONAL ENGINEERS AND SURVEYORS OF THE STATE OF CONNECTICUT.



Plan Showing Parcels of  
**NEW ENGLAND NATIONAL, LLC.**  
 and  
**NIANTIC REAL ESTATE, Limited Liability Company**  
 Subject to Access Easement  
 Mostoway Road  
 East Lyme, Connecticut  
 SCALE 1" = 250' JULY 15, 2004

**J. ROBERT PLANNER & ASSOCIATES, P.C.**  
 CIVIL ENGINEERS & LAND SURVEYORS  
 27 SHAW STREET SUITE 100  
 EAST LYME, CONNECTICUT 06424  
 TEL: 860-336-5515

Surveyed by Robert Planner  
 Date of Survey July 15, 2004  
 1 Sheet (Sheet No. 15 of 20)



THIS SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE REQUIREMENTS OF THE REGISTERED PROFESSIONAL ENGINEERS AND SURVEYORS ACT OF THE STATE OF CONNECTICUT. THE SURVEYOR HAS NOT CONDUCTED A VISUAL INSPECTION OF THE PROPERTY DESCRIBED HEREON NOR HAS HE CONDUCTED A SURVEY OF THE PROPERTY DESCRIBED HEREON.

Lot No.	Area (Acres)	Area (Sq. Ft.)
1	0.12	8,100
2	0.15	10,350
3	0.18	12,600
4	0.21	14,550
5	0.24	16,500
6	0.27	18,450
7	0.30	20,400
8	0.33	22,350
9	0.36	24,300
10	0.39	26,250
11	0.42	28,200
12	0.45	30,150
13	0.48	32,100
14	0.51	34,050
15	0.54	36,000
16	0.57	37,950
17	0.60	39,900
18	0.63	41,850
19	0.66	43,800
20	0.69	45,750
21	0.72	47,700
22	0.75	49,650
23	0.78	51,600
24	0.81	53,550
25	0.84	55,500
26	0.87	57,450
27	0.90	59,400
28	0.93	61,350
29	0.96	63,300
30	0.99	65,250
31	1.02	67,200
32	1.05	69,150
33	1.08	71,100
34	1.11	73,050
35	1.14	75,000
36	1.17	76,950
37	1.20	78,900
38	1.23	80,850
39	1.26	82,800
40	1.29	84,750
41	1.32	86,700
42	1.35	88,650
43	1.38	90,600
44	1.41	92,550
45	1.44	94,500
46	1.47	96,450
47	1.50	98,400
48	1.53	100,350
49	1.56	102,300
50	1.59	104,250
51	1.62	106,200
52	1.65	108,150
53	1.68	110,100
54	1.71	112,050
55	1.74	114,000
56	1.77	115,950
57	1.80	117,900
58	1.83	119,850
59	1.86	121,800
60	1.89	123,750
61	1.92	125,700
62	1.95	127,650
63	1.98	129,600
64	2.01	131,550
65	2.04	133,500
66	2.07	135,450
67	2.10	137,400
68	2.13	139,350
69	2.16	141,300
70	2.19	143,250
71	2.22	145,200
72	2.25	147,150
73	2.28	149,100
74	2.31	151,050
75	2.34	153,000
76	2.37	154,950
77	2.40	156,900
78	2.43	158,850
79	2.46	160,800
80	2.49	162,750
81	2.52	164,700
82	2.55	166,650
83	2.58	168,600
84	2.61	170,550
85	2.64	172,500
86	2.67	174,450
87	2.70	176,400
88	2.73	178,350
89	2.76	180,300
90	2.79	182,250
91	2.82	184,200
92	2.85	186,150
93	2.88	188,100
94	2.91	190,050
95	2.94	192,000
96	2.97	193,950
97	3.00	195,900
98	3.03	197,850
99	3.06	199,800
100	3.09	201,750

Lot No.	Area (Acres)	Area (Sq. Ft.)
101	3.12	203,700
102	3.15	205,650
103	3.18	207,600
104	3.21	209,550
105	3.24	211,500
106	3.27	213,450
107	3.30	215,400
108	3.33	217,350
109	3.36	219,300
110	3.39	221,250
111	3.42	223,200
112	3.45	225,150
113	3.48	227,100
114	3.51	229,050
115	3.54	231,000
116	3.57	232,950
117	3.60	234,900
118	3.63	236,850
119	3.66	238,800
120	3.69	240,750
121	3.72	242,700
122	3.75	244,650
123	3.78	246,600
124	3.81	248,550
125	3.84	250,500
126	3.87	252,450
127	3.90	254,400
128	3.93	256,350
129	3.96	258,300
130	3.99	260,250
131	4.02	262,200
132	4.05	264,150
133	4.08	266,100
134	4.11	268,050
135	4.14	270,000
136	4.17	271,950
137	4.20	273,900
138	4.23	275,850
139	4.26	277,800
140	4.29	279,750
141	4.32	281,700
142	4.35	283,650
143	4.38	285,600
144	4.41	287,550
145	4.44	289,500
146	4.47	291,450
147	4.50	293,400
148	4.53	295,350
149	4.56	297,300
150	4.59	299,250

# EXHIBIT C

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3874

**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, NIANTIC 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 NIANTIC 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  
STEVENS, HARRIS & GUERNSEY, P.C.



above insurance coverage. Both parties to this agreement shall also provide general comprehensive public liability insurance in connection with the benefits of the mutual use and maintenance agreement. Said liability insurance shall provide for the same coverage and requirements as the above referenced general comprehensive liability insurance coverage relative to the pond.

2. In areas where there shall be non-flooded land between the pond and the others upland, this easement shall include the non-exclusive right to cross such areas for the purposes herein stated.

3. The dam shall be maintained at its current elevation and each party hereto waives such rights, if any, that it shall have to flood the other's upland areas including but not limited to those rights which are described in deeds recorded at Volume 287, Page 121 and Volume 584, Page 624 of the East Lyme Land Records.

4. Each party hereto reserves the right to use their respective owned portions of the pond for any use or purposes which will not interfere with the mutual easements herein created including, but not limited to, the right to improve the shore area of the pond adjoining their upland area, and to wharf out to the extent that they deem appropriate along the areas of their upland ownership.

5. Each of the parties hereto agree for themselves and their successors and assigns to share both the maintenance of Darrow Pond and the dam maintenance on an equal basis. Neither party shall incur any expense with respect to such maintenance without first notifying the other, in writing, of intent to perform such maintenance, and the estimated cost thereof. In the event the parties can not agree on the need or amount of proration as provided herein of such maintenance, such decision shall be submitted to arbitration in accordance with the rules of the American Arbitration Association and the decision of the arbitration procedure shall be final and binding on both parties. Assignees of each party shall share maintenance pro-rata with such party based upon the relative area of the land of the Assignee compared to original Assignor's land.

6. It is the intent of this Easement to benefit and burden all the properties shown on the above referenced Plan provided that said properties shall be annexed to properties owned by either NIANTIC or NEW ENGLAND.

7. Nothing herein shall be construed to eliminate any required governmental permitting with respect to any of the activities described herein, such required permitting, if any, to be the responsibility of the respective party who shall undertake such activity. Both parties to this agreement hereby agree to indemnify, save and hold the other party to this agreement, its successors and assigns harmless from and against all loss, costs, damage, liability and expense (including without limitation reasonable attorneys fees and

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STEVENS, HARRIS & O'NEALEY, P.C.

351 MAIN STREET • R. O. DRAWER 660 • NIANTIC, CONNECTICUT 06357 • JURIS NUMBER 56685 • (860) 739-6906

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 29<sup>th</sup> day of July, 2004.

Signed, sealed and delivered in the presence of

*[Handwritten signatures and names]*  
Therese A. Harris  
Therese A. Harris

NEW ENGLAND NATIONAL, LLC

By: *[Handwritten signature]*

NIANTIC REAL ESTATE LIMITED LIABILITY COMPANY

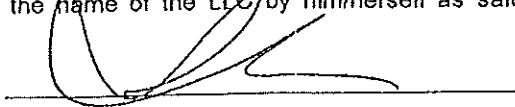
By: *[Handwritten signature]* Manager

Its Member, duly authorized

STATE OF CONNECTICUT  
COUNTY OF NEW LONDON

SS: East Lyme July 29, 2004

On this the 29 day of July, 2004, before me, the undersigned officer, personally appeared Robert Blatt who acknowledged him/herself to be the duly authorized Member of NEW ENGLAND NATIONAL, LLC and that he/she, as such Member, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the LLC by him/herself as said Member.

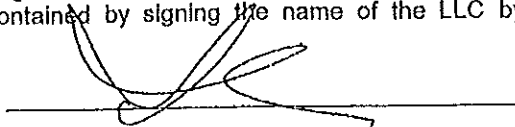


Commissioner of the Superior Court

STATE OF CONNECTICUT  
COUNTY OF NEW LONDON

SS: East Lyme July 29, 2004

On this the 29<sup>th</sup> day of July, 2004, before me, the undersigned officer, personally appeared Daffney Turano who acknowledged him/herself to be the duly authorized Manager of NANTIC REAL ESTATE LIMITED LIABILITY COMPANY and that he/she, as such Manager, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the LLC by him/herself as said Manager.



Commissioner of the Superior Court

Recorded July 29 2004  
AKA  
4:18 PM Esther B. Williams  
East Lyme Town Clerk

**EXHIBIT D**



# EXHIBIT E

After Recording Return To:  
BROWN & WELSH, P.C.  
530 Preston Avenue, 2<sup>nd</sup> Floor  
Meriden, CT 06450

BOOK 814 PAGE 407

4078

DOCKET NO.: KNL-CV-08-6000823-S : SUPERIOR COURT  
WEBSTER BANK : JD OF NEW LONDON  
NATIONAL ASSOCIATION  
VS : AT NEW LONDON  
DARROW POND, LLC, ET AL : DECEMBER 18, 2008

CERTIFICATE OF FORECLOSURE

TO ALL WHOM IT MAY CONCERN.

This certifies that a mortgage from Webster Bank, National Association of the town of Waterbury, county of New Haven and state of Connecticut bearing date the 12<sup>th</sup> day of May, A.D. 2006 and recorded in the land records of the town of East Lyme, book 705, page 208, was foreclosed upon the complaint of Webster Bank, National Association against Darrow Pond, LLC, the owner of the equity of redemption in said mortgaged premises, and against Steven B. Sandler and Arthur B. Sandler, having an interest therein, in the Superior court, Judicial District of New London held at New London within and for the county of New London and the state of Connecticut on the 15<sup>th</sup> day of December, A.D. 2008.

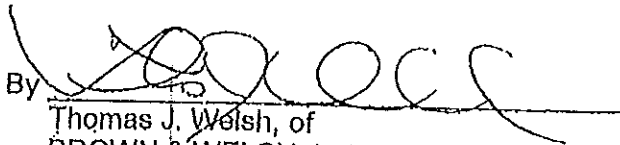
The premises foreclosed are described as follows, viz.: See attached Exhibit A.

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The time limited for redemption in said judgment of foreclosure has passed and the title to said premises became absolute in the said Webster Bank, National Association on the 18<sup>th</sup> day of December, A.D. 2008.

Dated at Meriden, Connecticut this 18th day of December 2008.

WEBSTER BANK, NATIONAL ASSOCIATION

By 

Thomas J. Welsh, of  
BROWN & WELSH, P.C.  
538 Preston Avenue, P.O. Box 183  
Meriden, Connecticut, 06450  
(203) 235-1051  
Juris No. 100074  
Its Attorneys



SCHEDULE A

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 Mostoway Road, and the southeast corner of land now or formerly of Niantto Real Estate, LLC, formerly Savitsky, said point being the northeast corner of the heretofore 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;
- S 32°23'46" E, a distance of 27.35 feet to a point;
- S 41°06'49" W, a distance of 105.57 feet to a point;
- S 66°15'48" W, a distance of 79.75 feet to a point;
- S 47°25'39" E, a distance of 26.43 feet to a point;
- S 25°50'57" E, a distance of 72.62 feet to a point;
- S 01°46'05" W, a distance of 84.59 feet to a point;
- S 07°41'03" W, a distance of 216.01 feet to a point;
- S 49°25'03" W, a distance of 50.34 feet to a point;
- S 38°36'18" W, a distance of 45.17 feet to a point;
- S 86°18'53" E, a distance of 70.20 feet to a point;
- S 25°53'12" W, a distance of 321.35 feet to a point;
- S 25°44'32" W, a distance of 97.86 feet to a point;
- S 23°43'19" W, a distance of 495.31 feet to a point;

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06/11/06-SPT/

- S 25°01'31" W, a distance of 121.07 feet to a point;
- S 23°21'37" W, a distance of 154.85 feet to a point;
- S 77°22'42" W, a distance of 89.40 feet to a point;
- S 79°25'07" W, a distance of 235.76 feet to a point;
- S 87°17'00" W, a distance of 82.50 feet to a point;
- S 69°45'15" W, a distance of 45.76 feet to a point;
- N 25°06'44" W, a distance of 179.29 feet to a point;
- S 58°27'57" W, a distance of 142.15 feet to a point;
- N 54°13'13" W, a distance of 155.78 feet to a point;
- S 85°44'58" W, a distance of 160.67 feet to a point;
- S 74°20'20" W, a distance of 48.26 feet to a point;
- N 26°47'32" W, a distance of 50.00 feet to a point;
- S 63°12'28" W, a distance of 200.94 feet to a point;
- N 21°33'41" W, a distance of 358.99 feet to a point;
- N 50°24'30" E, a distance of 173.06 feet to a point;
- N 36°26'58" E, a distance of 239.95 feet to a point;
- N 04°40'12" E, a distance of 225.93 feet to a point;
- N 03°31'29" W, a distance of 306.35 feet to a point;
- N 06°25'59" E, a distance of 328.35 feet to a point;
- N 05°42'52" W, a distance of 311.17 feet to a point;
- N 74°52'39" W, a distance of 515.75 feet to a point;
- N 05°48'22" W, a distance of 86.20 feet to a point;
- N 77°50'59" W, a distance of 93.03 feet to a point;

BBB/27848/146/68107v2  
05/11/05-BET/

N 76°38'32" W, a distance of 28.93 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;

BBB/27848/146/68107v2  
08/11/06-BPT/

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;  
N 81°38'28" E, a distance of 89.93 feet to a point;  
N 49°09'28" E, a distance of 125.46 feet to a point;  
N 30°12'08" E, a distance of 74.53 feet to a point;  
N 46°05'24" E, a distance of 96.39 feet to a point;  
N 61°32'33" E, a distance of 20.29 feet to a point;  
S 30°57'44" E, a distance of 935.47 feet to a point;  
N 83°59'30" E, a distance of 754.03 feet to the point and place of beginning.

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Said Parcel contains 13,135,116.14 S.F. (301.5 Acres) and is shown on a map or plan entitled, "LAND TO BE CONVEYED TO DARROW POND, L.L.C. FROM NEW ENGLAND NATIONAL MOSTOWY ROAD EAST LYME, CONNECTICUT DATED 4/05/05, REVISED 5/5/05 BY J. ROBERT PRANNER & ASSOCIATES, P.C."

Said Parcel is conveyed together with the right to pass and repass as well as the right to improve such area for the purposes of providing passage over that certain piece or parcel of land shown as "Driveway Basement Area" on a map or plan entitled "NANTIC REAL ESTATE, LLC EAST LYME, CONNECTICUT, APRIL 10, 2004 REVISED THROUGH JULY 10, 2004 SHEETS SD2 AND SD3; J. ROBERT PRANNER & ASSOCIATES, P.C. CIVIL ENGINEERS & LAND SURVEYORS".

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05/11/05-BPT/

Recorded Dec 22 20 08  
11:40 AM  
PM Kath L. Williams  
East Lyme Town Clerk

East Lyme 0001560