

EAST LYME PLANNING COMMISSION
REGULAR MEETING
Tuesday, MARCH 1st, 2011
MINUTES

FILED IN EAST LYME TOWN
CLERK'S OFFICE

Mar 4 20 11 at 7:55 (AM/PM)

Esther B. Williams

EAST LYME TOWN CLERK

PRESENT: Mike Bowers, Chairman, George McPherson, Secretary, Francine Schwartz, Brian Schuch, Joan Bengtson, Alternate, Frank Balantic, Alternate

ALSO PRESENT: Attorney Andrew Cellemme, Town Counsel
Gary Goeschel, Planning Director

ABSENT: Mark Mangelinkx, Chris Sandford, Brian Bohmbach, Alternate

Chairman Bowers called this Regular Meeting of the Planning Commission to order at 7:02 PM. He noted that he had seated Joan Bengtson, Alternate and Frank Balantic, Alternate at the table this evening.

Pledge of Allegiance

The Pledge was observed.

I. Additions to the Agenda

Mr. Bowers noted that they had one item to add to the agenda under New Business: Scenic Road Ordinance - Discussion.

****MOTION (1)**

Mr. McPherson moved to add under New Business: Scenic Road Ordinance – Discussion.

Ms. Bengtson 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 – Workshop Meeting Minutes of February 15, 2011

Mr. Bowers called for any discussion or corrections to the Planning Commission Workshop Meeting Minutes of February 15, 2011.

****MOTION (2)**

Ms. Schwartz moved to approve the Planning Commission Workshop Meeting Minutes of February 15, 2011 as presented.

Mr. Schuch seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

IV. Pending Applications

There were none.

V. Current Subdivision Approval/Construction Reports

1. Pazz Construction LLC, Applicant/Owner – Request for 30 day extension of time to file Mylars for a Subdivision of 3.65 acres located at 41 Scott Road, East Lyme, Connecticut, Tax Assessor's Map #29.0, Lot #20-1.

Mr. Goeschel noted that a 35-day extension was previously granted however, it would expire prior to the next meeting of the Commission. He said that as he recalls, this is a lot line issue with a shed.

Jason Pazzaglia, 21 Darrow's Ridge, the Applicant said that it does involve the shed location and that what he is doing is giving them a 5' buffer around that building however in order for the agreement to be complete he needs to get a signature from them.

Mr. Bowers asked if he feels reasonably comfortable that this will happen.

Mr. Pazzaglia said that he does and that there have been various issues that have happened personally with them that have prevented this from being completed.

Ms. Bengston asked if the 30-day extension was from this evening.

Mr. Goeschel said no, it would be from the date that the 35 day extension expires next week.

****MOTION (3)**

Mr. McPherson moved to approve the request of Pazz Construction LLC, Applicant/Owner for a 30 day extension of time to file Mylars for a Subdivision of 3.65 acres located at 41 Scott Road, East Lyme, Connecticut, Tax Assessor's Map #29.0, Lot #20-1.

Mr. Balantic seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

2. Bride Brook Knoll, LLC, Agreement regarding Erosion and Sedimentation Control and Site Restoration Bond and Inland Wetlands Bond.

Mr. Goeschel noted that Attorney Cellemme, Town Counsel was present to explain this.

Attorney Cellemme, Waller, Smith & Palmer explained that three separate bonds were posted originally and that there are two remaining that total \$50,500. The \$105,000 bond is gone. He said that according to the Town Engineer that there should be enough to cover anything that would need to be done. The developer has agreed to do the work at his own cost – paying the subs to do the work. After successful completion of the work, the monies would be released. They have a written agreement and he would suggest that they authorize the Chairman to sign it on behalf of the Commission once everything else has been signed.

Mr. Goeschel explained that the agreement being put into place has a July 1, 2011 date by which to complete the work. If the work is not done by that time, they would use their own discretion regarding use of the funds to get the work done. He said that there is not a great deal of work that has to be done.

Attorney Cellemme said that if the work came to more than they have, then the developer is obligated to pay the difference.

There was discussion among the Commissioners regarding the security of the bonds with the bank so that Webster Bank does not release these monies to the developer prior to the terms of the agreement with the Town being successfully executed.

Attorney Cellemme said that he would send a letter to the bank with a copy of the signed agreement stressing that monies were not to be released.

****MOTION (4)**

Mr. Balantic moved to approve the Agreement Regarding Erosion and Sedimentation Control and Site Restoration Bond and Inland Wetlands Bond and authorize the Chairman to act as signatory on behalf of the East Lyme Planning Commission with a condition that Town Counsel send

correspondence to Webster Bank indicating the sensitivity of the matter and that the bond should not be released without authorization from the Town.

Mr. Schuch seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

VI. Zoning Referrals (CGS 8-3a)

There were none.

VII. 8-24 Referrals (Municipal Improvements)

There were none.

VIII. New Business

1. Scenic Roads Ordinance - Discussion

Mr. Bowers explained that awhile ago they had agreed upon a Scenic Road Ordinance and sent it on to the Board of Selectmen where it went to Public Hearing and was accepted. There is a group in Town who are trying to get three roads accepted under the Scenic Roads designation but the cost of the registered letters to the property owners on the road has come to be a burden for them. They could notice the property owners by way of a certificate of mailing which is much cheaper however, the ordinance states that it must be by registered letter. In order to make any changes they would have to reopen discussion on this and craft a language change and send it along to the Board of Selectmen to go back through the process.

Mr. Goeschel said that he would email the ordinance and legislation out to the members along with the information on the certificate of mailing.

Mr. Balantic said that he feels that they do need a legitimate paper trail on the notification so that the people on the road would be aware of how encumbered they are going to be by this ordinance. As a property owner and taxpayer himself, he said that he would certainly want to know what the designation would entail and what it would mean to him regarding the use of his property. This needs to be something that people are aware of and not something that just slides by.

Mr. Bowers suggested that signs could be posted at the beginning and end of the scenic road area.

The Commissioners felt that those would be missed and would not be seen by people other than the ones who live on the road and the process was open to the public comment.

IX. Old Business

1. Village Master Plans – Niantic & Flanders

Mr. Goeschel said that he had included the objectives in their packets and asked that if they had any comments to please contact him with them.

2. POCD Chapter 4 – Economic Development and Chapter 8 – Circulation and Transportation

Mr. Goeschel said that he has included copies of these in their packets also. He will be going over the transportation section with the Town Engineer and has contacted the Chairman of the Economic Development Commission regarding input from them on the EDC chapter.

Mr. Bowers asked that more recent census data be used.

Mr. Goeschel said that he would use the most recent and update the information. He added that he would start drafting language for them to review and asked that they send along any suggestions that they might have in the meantime.

Mr. Bowers asked that they review these for discussion at the next meeting which is a workshop meeting.

X. Reports

1. Chairman

Mr. Bowers said that he did not have anything further to report.

2. Zoning Representative

Mr. Schuch said that he did not have a report as the meeting had been cancelled.

3. Regional Planning Commission Representative

This group only meets once per year.

4. Subcommittees

- **Sustainable Development and Climate Adaptation – (Gary Goeschel, Francine Schwartz, Mark Mangelinkx)**

Ms. Schwartz noted that Groton had received a grant for sustainable development and that they had come up with some good ideas for it. The ideas will be put on the website for everyone to use.

5. Ex-Officio – Jack Hogan

Mr. Hogan was not present and there was no report.

6. Staff/Communications

Mr. Goeschel noted that he and Mr. Formica have been invited to a kick-off of a new GIS tool with respect to the Coastline that will be held on March 30, 2011. He reported that FEMA is updating the flood maps and that the new maps will become effective on July 18, 2011. FEMA will hold two sessions on them. They will a new GISaid that they had combined the Planning Commission budget with the Planning Department and made it one item using the Planning Department number. They still have the various items that they would need.

ADJOURNMENT

****MOTION (5)**

Mr. McPherson moved to adjourn this Regular Meeting of the East Lyme Planning Commission at 7:56 PM.

Ms. Schwartz seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary

**AGREEMENT REGARDING EROSION AND SEDIMENTATION CONTROL
AND SITE RESTORATION BOND AND INLAND WETLANDS BOND**

THIS AGREEMENT is made and entered this ___ day of January, 2011 between **Bride Brook Knoll, LLC**, a Connecticut limited liability company ("**Bride Brook**") and the **Town of East Lyme**, a municipal corporation located in the County of New London and State of Connecticut, acting herein by its Planning Commission and its Inland Wetlands Agency ("**Town**") (Bride Brook and the Town are sometimes referred to herein collectively as the "**parties**")

WHEREAS, on June 17, 2003, the East Lyme Planning Commission ("**Planning Commission**") approved a 20 lot subdivision as depicted on a plan entitled "Record Subdivision Map Bride Brook Estates Land N/F The Estate of Hyman Salowitz, North Bride Brook Road & West Society Road, East Lyme, Connecticut Scale 1"=100' Dated 8/30/2002, revised through 7/29/03 Bennet and Smilas Engineering Inc. Higganum, CT 06441" ("**Approved Plans**"), which has been duly recorded in the Office of the East Lyme Town Clerk as Map #DR6-69; and

WHEREAS, in accordance with the Approved Plans, Bride Brook has the obligation to complete certain public improvements as depicted on the Approved Plans; and

WHEREAS, as a condition of its approval, the Planning Commission required Bride Brook to post certain Bonds to assure completion of the public improvements contained in the subdivision and for the installation and maintenance of erosion and sediment controls and site restoration associated with the construction of subdivision; and

WHEREAS, the Inland Wetlands Agency required Bride Brook to post a Bond to assure compliance with the Town's Inland Wetlands Regulations; and

WHEREAS, in accordance with the Planning Commission and Inland Wetland Agency approvals, Bride Brook, as Principal, posted the following Bonds with the Town as Obligee:

(1) Erosion and Sedimentation Control and Site Restoration Bond dated May 20, 2003 in the amount of \$23,000.00, secured by passbook savings account no. 698000328 at Webster Bank, a copy of which is attached hereto as **Exhibit A**.

(2) Performance Bond – Public Improvements Passbook dated May 24, 2005 in the amount of \$27,500.00, secured by passbook savings account no. 1990071072 at Webster Bank, a copy of which is attached hereto as **Exhibit B**.

Attachment Planning Commission 3/1/2011

(3) Performance Bond – Public Improvements Passbook dated June 17, 2003 in the amount of \$205,000.00, secured by passbook savings account no. 698000311 at Webster Savings Bank, a copy of which is attached hereto as **Exhibit C**. After approval of the Planning Commission, this Bond was reduced to \$105,000.00. As a result of an unauthorized additional withdrawal by Bride Brook, this Bond has a zero balance; and

WHEREAS, Bride Brook has developed and conveyed all the lots as depicted on the Approved Plans and residences have been constructed thereon; and

WHEREAS, certain Public Improvements identified on **Schedule A** attached hereto, remain to be complete in accordance with the Approved Plans (“**remaining work**”); and

WHEREAS, some or all of remaining work is secured by the Bond identified as Exhibit C, which currently has a zero balance; and

WHEREAS, in accordance with its regulations and the Connecticut General Statutes and to protect the public health and safety of the general public the Town requires Bride Brook to complete the Public Improvements identified on Schedule A as soon as practicable; and

WHEREAS, the Town consents to the funds held in the Bonds identified as Exhibits A and B to be utilized to complete the remaining work; and

WHEREAS, Bride Brook desires to undertake to complete the remaining work in accordance with the Approved Plans as soon as practicable.

NOW, THEREFORE, the parties agree as follows:

1. Bride Brook, at its sole cost and expense, shall undertake to complete the remaining work on or before 7/1, 2011. Time being expressly of the essence. *July 1, 2011*
2. Funds from the Erosion and Sediment Control and Site Restoration Bond (Exhibit A) and the Inland Wetlands Bond (Exhibit B) may be used to complete the improvements associated with those bonds, and any unused funds from Exhibit A and Exhibit B shall be used to complete the Public Improvements set forth in Schedule A. If these funds are insufficient to complete the remaining work, Bride Brook shall be responsible for any additional cost and expense.
3. Until such time as the roads depicted on the Approved Plans are accepted by the Town, Bride Brook shall be responsible for all maintenance and repair of the roads to maintain them in a safe and passable condition for both vehicular

and pedestrian traffic. Such repair and maintenance shall include, but is not limited to, ice and snow removal.

4. Prior to the commencement of the remaining work Bride Brook shall notify the town, in writing, of the contractor that will perform and complete the remaining work and the terms of the contract between Bride Brook and the contractor. Upon completion of the work, to the satisfaction of the Town and in accordance with the Approved Plans, the Town will authorize payment to the contractor in accordance with the terms of the contract provided by Bride Brook from the funds being held in the Bonds identified in Exhibit A and Exhibit B.
5. Upon completion of the Public Improvements, if any funds remain available under the Bonds identified in Exhibit A and Exhibit B, the parties shall execute all documents necessary to release and return to Bride Brook such remaining funds.
6. This Agreement is in addition to, and not in lieu of, any rights and remedies available to the Town to assure compliance with the approvals for the subdivision identified herein and shall not be interpreted in any way as a waiver by the Town of any such rights.

DATED, signed and sealed this ____ day of January, 2011

Town of East Lyme Planning Commission

By _____

Town of East Lyme Inland Wetland Agency

By _____

Bride Brook Knoll, LLC

By _____

