

EAST LYME PLANNING COMMISSION
REGULAR MEETING
Tuesday, APRIL 5th, 2011
MINUTES

FILED IN EAST LYME TOWN
CLERK'S OFFICE

Apr 8 20 11 at 1:50 AM
PM

Ethel B Williams

EAST LYME TOWN CLERK

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

ALSO PRESENT: Gary Goeschel, Planning Director
Brian Bohmbach, Alternate
Jack Hogan, Ex-Officio, Board of Selectmen

ABSENT: No One

Chairman Bowers called this Regular Meeting of the Planning Commission to order at 7:02 PM. He noted that he had seated Alternate Brian Bohmbach, Alternate at the table this evening for the first matter of business.

Pledge of Allegiance

The Pledge was observed.

I. Additions to the Agenda

There were none.

Mr. Bowers asked that they move the New Business item up to be addressed before the Approval of Minutes.

****MOTION (1)**

Mr. McPherson moved that the New Business item on Planning Commission vacancies be addressed prior to the Approval of Minutes.

Mr. Schuch seconded the motion.

Vote: 5 - 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.

II.a. Planning Commission Regular and Alternate Member Vacancies

Mr. Bowers noted that Mr. Mangelinkx and Mr. Sandford had resigned as regular members due to other obligations and called for nominations for their replacement.

Mr. McPherson nominated Ms. Bengtson, Alternate to fill Mr. Mangelinkx's former regular member position on the Planning Commission.

Mr. Bowers nominated Mr. Balantic, Alternate to fill Mr. Sandford's former regular member position on the Planning Commission.

Mr. Bowers asked if there were any other nominations –
Hearing none – he called for a motion to close nominations.

****MOTION (2)**

Mr. McPherson moved that nominations be closed.

Mr. Schuch seconded the motion.

Vote: 5 – 0 – 0. Motion passed.

Mr. Bowers called for a vote on the nomination of Ms. Bengston to fill a regular member position on the Planning Commission.

Vote: 5 – 0 – 0. Motion passed.

Mr. Bowers called for a vote on the nomination of Mr. Balantic to fill a regular member position on the Planning Commission.

Vote: 5 – 0 – 0. Motion passed.

Mr. Bowers congratulated both members and asked them to join the table and Mr. Bohmbach, Alternate to be seated in the audience.

Mr. McPherson reminded them that they would need to resign their Alternate positions with the Town Clerk and be sworn in as Regular Members.

Mr. Bowers noted that they have openings for two alternates and asked that if anyone was interested to please let them know.

III. Approval of Minutes – Workshop Meeting Minutes of March 15, 2011

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

****MOTION (3)**

Ms. Schwartz moved to approve the Planning Commission Workshop Meeting Minutes of March 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. Request for Release of Maintenance Bond of Phase III for The Orchards.

Mr. Goeschel noted that they had a memo from Mr. Scheer, Town Engineer in their packets stating that the one year period has passed and the public improvements have been inspected and it was determined that the 2% maintenance bond in the amount of \$30,000 could be released. It was noted that Phase III includes a portion of Arbor Crossing and all of Pear Grove.

****MOTION (4)**

Mr. McPherson moved that the \$30,000 maintenance bond for Phase III of the Orchards be released.

Mr. Schuch seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

2. YC Ventures: Ownership change for the Orchards Subdivision

Mr. Goeschel said that Attorney Smith represents people who are interested in purchasing the Orchards and completing the project and that he wanted to go over the timeline with them as the subdivision is nearing the end of the approval time frame.

Attorney Christopher Smith, place of business, Shipman & Goodwin LLP, 1 Constitution Plaza, Hartford, CT said that he represents the Carrier Family who have been in the home building development business throughout the State for 40 years. They have formed YC Ventures and have not yet closed on the property. He provided them with a timeline/status report (attached at end of Minutes) on the project noting that the current approval expires in August 2011. He noted the various options that they would have stating that the Carrier family would like to purchase the property and work with the Commission and the Town to build out the project as it was originally approved. There are 161 approved lots and 42 have been sold. With the recently adopted stormwater regulations in effect, they are looking to work under the conditions of the previous approval as they have not had any issues. They anticipate that the project would be completed by 2014. He noted the various procedural avenues that they could follow.

Mr. McPherson asked about the contaminated soil that was removed from the lots in blue on the map and put on the orange lots and what happens to it.

Attorney Smith said that the lots in orange would not be built upon.

Mr. McPherson said that they would then essentially be 'open space'.

Ms. Schwartz asked if they have already had a discussion on the stormwater with the Town Engineer.

Attorney Smith said that they have met with him on a very preliminary basis.

Mr. Goeschel noted that they have all met and that essentially the Town has been non-committal. Attorney O'Connell is in the process of reviewing CGS 8-26a.

Ms. Bengston said that she is new to this and would like to proceed with caution. She asked if they were to consider this how many other subdivisions there are that would also fall into this category.

Mr. Goeschel said that is under review at this time and that there are possibly three.

Mr. Balantic thanked Attorney Smith for bringing them up to speed on the timeline and noted that he thought that the bonds would have to be recalculated so that they are up to date with today's figures. He added that with a new owner that he felt that they would certainly try to work with them.

Attorney Smith thanked them for allowing the time to present the information to them.

VI. Zoning Referrals (CGS 8-3a)

There were none.

VII. 8-24 Referrals (Municipal Improvements)

1. Town of East Lyme CGS 8-24 Referral on Main Street Enhancement Project, Phase III Streetscape, Niantic, CT.

Mr. Goeschel noted that this was Phase III of the Streetscape Project and that they had received a \$200,000 STEAP Grant for this project. This is consistent with Phases I and II of the Streetscape Project in which they had previously received \$500,000 each time. The intent is to make downtown more friendly and to add approximately 55 more public parking spaces. They would also do sidewalk improvements from Baptist Lane to Lake Avenue, consistent with those already completed on Main Street. With this referral, they are looking for a finding of consistency with the goals and objectives of the POCD.

****MOTION (5)**

Mr. McPherson moved to find the CGS 8-24 Referral of the Town of East Lyme Main Street Enhancement Project – Phase III Streetscape, CONSISTENT with the goals and objectives of the POCD.

Ms. Bengston seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

VIII. New Business

This was previously addressed.

IX. Old Business

1. Scenic Road Ordinance

Mr. Bowers said that they had copies of this in their packets.

Mr. Goeschel said noted the addition of *'certificate of mailing or'* under 7.1 of the ordinance. He said that Attorney O'Connell has not looked at the public act for this however he has reviewed it for the Inland Wetlands and found that Inland Wetlands does not have to change their information as they already have it there. He said that this would now go to the Board of Selectmen with recommendation for their consideration. He said that he would hope that they would not have to publish the entire ordinance just for the addition of a few words but he was not. He added that he did not think that the intent of the ordinance was for someone to apply for the whole road.

****MOTION (6)**

Mr. McPherson moved to forward the change to the Scenic Road Ordinance to the Board of Selectmen for their consideration.

Ms. Bengston seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

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

Mr. Goeschel said that he expected to have a draft on the EDC part for their next meeting.

Mr. McPherson noted the email that they had received from Mr. Goeschel and said that he would volunteer to be on the Transportation section as he does a lot of driving and would be willing to replace the vacancy from Mr. Kenny.

X. Reports

1. Chairman

Mr. Bowers noted that they have the two alternate positions to fill and asked again that if they know of anyone interested that they please contact him or Mr. Goeschel. He also noted that he would not be able to attend the next meeting of the Commission as he would be away on business.

After discussion, the Commissioners decided to cancel the Workshop Meeting of the Commission scheduled for April 19, 2011.

2. Zoning Representative

Ms. Bengston reported that she found the Affordable Housing Public Hearing interesting and that there was a large group present. She noted that they had mentioned the referral from the Planning Commission.

Mr. McPherson reported that he went to the meeting after the one that Ms. Bengston had attended and that there were few people in attendance and the Public Hearing was closed with no decision made. He noted that the number of units had been reduced.

3. Regional Planning Commission Representative

This group only meets once per year.

Mr. Schuch volunteered to replace Mr. Sandford as the representative from the Planning Commission.

4. Subcommittees

• Sustainable Development and Climate Adaptation – (Gary Goeschel, Francine Schwartz)

Mr. Goeschel said that he had attended the Old Lyme unveiling of their coastal resiliency tool website. They could find this at coastalresilience.org. He said that it is a GIS tool with interactive tools on the long-term implications if the area was inundated with water.

• Village Center Master Plan Subcommittee (Gary Goeschel, Brian Schuch)

Mr. Goeschel said that he had attended a forum at the Lyceum in Hartford on getting America to grow again – unleashing our cities. This could tie in with the economic gardening concept that he has been working on.

5. Ex-Officio – Jack Hogan

Mr. Hogan reported that they have been involved with the budget process and that the Board of Finance is working on it. He also noted that they may have read that the Gates men's prison is closing. They are not sure at this time of the total impact this will have.

6. Staff/Communications

Mr. Goeschel asked that they review the fee schedules that they had in their packets as was requested. It was noted that they had been increased in 2008 prior to the economic downturn.

ADJOURNMENT

****MOTION (7)**

Mr. Balantic moved to adjourn this Regular Meeting of the East Lyme Planning Commission at 9:15 PM.

Mr. Schuch seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary

MEMORANDUM

TO: Planning Commission of the Town of East Lyme
Zoning Commission of the Town of East Lyme
Gary Goeschel, East Lyme Director of Planning
Bill Scheer, East Lyme Public Works Town Engineer
Ed O'Connell, East Lyme Town Attorney

c: Carrier Enterprises

FROM: Tim Hollister and Chris Smith, Shipman & Goodwin LLP

DATE: March 31, 2011

RE: Purchase of The Orchards Subdivision by Carrier Enterprises - **REVISED**

Our client Carrier Enterprises has signed a contract to purchase The Orchards subdivision. This memo outlines the current situation and from Carrier to preserve the existing subdivision plan and complete it in a timely manner.

I. CURRENT STATUS

- A. Existing 161 lot subdivision approval; effective August 2001, expires August 2011
- B. Lots 1-28, 137, 149-161 sold
- C. Common interest ownership community declared, covering all sold lots plus Lots 29-49, 59-62, 109-137; "Phase II" identified in Declaration as "must be built"
- D. Open space conveyed to Homeowners Association, as required by subdivision approval
- E. Cash bond monies posted (as per W. Scheer 9/7/10 to G. Goeschel)
 - \$30,000 maintenance of Phase III
 - \$350,000 erosion, sedimentation control, and site restoration
 - \$400,000 Phase V, Arbor Crossing to Holly Lane, and Holly Lane (water, sewer, public works included)

- F. Binder course installed from Lots 148 / 155 to Lot 85, Arbor Crossing
- G. Remediation Plan approved December 2008, covering Lots 50-108, 145-148, based upon existing subdivision approval
- H. Cell tower lease being extended February 2011
- I. Property taxed as 161 approved lots; pending tax appeal to be settled March 2011
- J. Since 2001, Planning and Zoning Commission has adopted regulation amendments regarding cluster, stormwater

II. REASONS TO PRESERVE/EXTEND/RENEW EXISTING SUBDIVISION PLAN.

- 1. Wetlands permit extended in January 2011 to January 2016, regulated activities existing subdivision plan.
- 2. Open space areas have been conveyed as required by the existing subdivision plan, establishing boundaries of development "envelope".
- 3. Remediation Plan is tied to specific lots.
- 4. Common interest ownership Declaration identifies balance of Phase II of existing subdivision as "must be built".
- 5. Under General Statutes § 8-26a, The Orchards subdivision plan is grandfathered from zoning and subdivision regulation amendments so long as existing subdivision approval remains in place.
- 6. Under General Statutes Section 8-26c(e), as new owner of subdivided lots and partially built development, Carrier can post performance bonds for remaining public improvements and, if Planning and Zoning Commission declares subdivision expired, Town becomes obligated to call the bonds and finish the improvements.

III. OPTIONS FOR PRESERVING/EXTENDING/RENEWING EXISTING SUBDIVISION PLAN.

- 1. **Extend the existing subdivision approval for one year to August 2012, as provided by General Statutes § 8-26c(e).** General Statutes § 8-26c(e) provides that any subdivision approval(s) during July 1, 2006 to July 1, 2009, "shall expire not less than six years after the date of approval" subject to extensions not to exceed a total of eleven years. The Planning Commission approved the plan's extension from August 2006 to August 2011. Therefore, the existing subdivision approval is subject to an extension through August 2012.

2. Reapprove the existing subdivision plan for five years based on the existing subdivision being grandfathered under § 8-26a, and the vested rights and non-conformities in place, as listed above in Section II.

IV. ACCEPTABLE SUBDIVISION PLAN REVISIONS, TIMETABLE, CONDITIONS.

As a condition of extension noted above, Carrier agrees to the following:

- A. Replace existing cash bonds with new bonds, subject to any recalculation / revision / reduction to reflect present status of improvements
- B. Post cash bond in 2011 for public improvements of Arbor Crossing, Lots 12 / 133 to 39 / 115 (to location of sewer pump station); post additional bonds in amounts by phases, to be determined in cooperation with the Town Engineer, but all public improvements bonded no later than April 2014
- C. Dedicate Lots 120-128, 134-136, 138-144 (19 lots, 16± acres) as additional open space, to be combined with open space behind Lots 109-117
- D. Complete of public improvements of Arbor Crossing, Lots 12 / 133 to 39 / 115, by Nov. 30, 2012
- E. Commence remediation by June 1, 2011, with completion goal in 2011 but no later than June 2012
- F. Establish, as a condition of approval, a template for Low Impact Design stormwater management (enhanced on-site infiltration) on each lot, details to be provided when building permit is sought for that lot
- G. Remainder of public improvements to be completed by November 30, 2014

All of the above subject to review by Town Attorney, Director of Planning, Town Engineer, Planning Commission, Zoning Commission, and The Orchards Homeowners Association.

V. CONCLUSION.

Carrier seeks to work with the Town and its land commissions to ensure that the existing subdivision plan, with its related permits and approvals, including wetlands and the recently approved Remediation Plan, are completed.

TSH:ekf
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Aerial photo - early stages of buildout

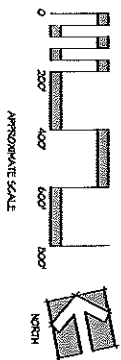


EXISTING AERIAL PHOTO

THE ORCHARDS AT EAST LYME

BOSTON POST ROAD

EAST LYME, CONNECTICUT



APPROXIMATE SCALE

NORTH