

East Lyme Planning Commission

Public Meeting Minutes

Tuesday, December 2, 2014

PRESENT: Frank Balantic, Joan Bengtson, Ernie Covino, Brian Schuch, Rita Palazzo, Francine Schwartz

ALSO PRESENT: Gary Goeschel, Planning Director, Rose Ann Hardy, Ex-Officio, Michael Hess, Alternate, Anne Thurlow, Alternate

ABSENT: John Birmingham, Alternate

Mr. Schuch called this Public Hearing of the Planning Commission to order at 7:04 PM.

Pledge of Allegiance

The Pledge was observed.

FILED IN EAST LYME
CONNECTICUT
Dec 9 2014 AT 9:25 (AM/PM)
Kathryn Adams City
EAST LYME TOWN CLERK

I. Public Hearing

- A. 26 Industrial Park Road;** J. Robert Pfanner, Applicant for Bertil Olsson, Owner, for a 2 lot Re-subdivision of property located at 26 Industrial Park Road.

Mr. Goeschel explained to the Commission that Mr. Pfanner was unable to attend the Public Hearing due to some unforeseen health issues. The Commission has thirty five days to conduct the Hearing which can be continued to the next regularly scheduled Meeting on January 7th, 2015, or a Special Meeting can be scheduled. Mr. Goeschel provided the Commission with several handouts related to 26 Industrial Road and the waiver request (Exhibit 1), for them to review prior to the next Meeting. The Commission briefly discussed Mr. Goeschel's Memorandum dated December 2nd, 2014 and Mr. Goeschel pointed out the 26 Industrial Road parcel on the GIS map.

Mr. Schuch asked if there were any comments from the Public, there were none.

- ****Motion (1)**

Ms. Palazzo moved to table the Public Hearing, hold a Special Meeting on December 16th 2014 and to close the Public Hearing Session.

Mr. Covino seconded the motion.

Vote: 6-0-0. Motion passed.

The Regularly Scheduled Meeting of the Planning Commission was called to order at 7:23 PM.

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 VII) 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.

There were none.

III. Approval of Minutes

Regular Meeting Minutes of October 21st, 2014.

Mr. Covino noted for the record that the Zoning Meeting he attended regarding JAG Capital Drive was limited to facility operational issues; the scope was a factual hearing.

- ****Motion (2)**

Mr. Covino moved to approve the Planning Commission Meeting Minutes of October 21st, 2014 as amended.

Ms. Schwartz seconded the motion.

Vote: 6-0-0. Motion approved.

IV. Subdivisions and Resubdivisions

A 26 Industrial Park Road; J. Robert Pfanner, Applicant for Bertil Olsson, Owner, for a 2 lot Re-subdivision of property located at 26 Industrial Park Drive.

This matter has been continued until the December 16th, 2014 Special Planning Meeting.

B. Expiration of Hathaway Farms Resubdivision; Cove Landing Associates, LLC (aka Upper Pattagansett #2) an 18 Lot Resubdivision of property located at Upper Pattagansett Road and Hathaway Road.

Mr. Goeschel provided the Commission with handouts (Exhibit 2), which briefly explain the status of the project; all the work has been completed. He also included the original quit claim deed for the strip of land and the pedestrian easement. If the Resolution is approved Mr. Goeschel will add this item to the December 17th, 2014 Board of Selectmen Meeting, the bond will be released and Attorney O'Connell will record the deeds on the Land Records.

Ms. Bengtson asked how big the strip of the land is, Mr. Goeschel explained that it runs along the entire frontage of the subdivision property and is for highway purposes.

- **** Motion (3)**

Ms. Bengtson stated that based on the subdivision status indicated in the Memorandum from Gary A. Goeschel II, Director of Planning, and dated December 2nd, 2014 the Commission hereby Moves to Release the Public Improvement Bond in the amount of \$17,052.74 plus any accrued interest for the Hathaway Farms Subdivision (aka Cove Landing Associates.)

Ms. Palazzo seconded the motion.

Vote: 6-0-0. Motion passes.

C. Orchards at East Lyme Development, Inc. successor to Orchard Woods at East Lyme, LLC; Declaration of Restrictions and Covenants Regarding the Sale or Transfer of Subdivision Lots.

Mr. Goeschel explained that homes sold by the Orchards were on Plum Hill and that it wasn't picked up until later, that a Restriction had been filed preventing the sale of lots until the release of the Public Improvement bond. The lots associated with Phase I and Phase III were released for sale but it was only a partial release. When the Carriers' acquired the property and replaced the bonds with their own money, it was believed that the remaining lots associated with Phase V-A and Phase V-B were released. Attorney Ziegler is now requesting that these lots be officially released for sale. The road associated with this Phase is bonded and Mr. Goeschel stated that he has no objection to releasing the lots given the bond, but cautions releasing all the lots when no bond exists for the road in its entirety. Attorney O'Connell is in the process of reviewing Attorney Ziegler's request.

Mr. Goeschel explained the contamination that exists because of the original apple orchard, how each lot has been stripped and how the contamination will be capped and held on four undeveloped lots. He pointed out these lots on the GIS map for the Commission, Ms. Bengtson asked how close the contamination is to the wetland and Mr. Goeschel stated approximately 100 feet. Mark Murphy of 167 Blood Street, Lyme was in attendance to represent the Subdivision and to provide any needed detail; he is the building manager for the project. Mr. Murphy stated that Mr. Ziegler would be in attendance for the next regularly scheduled Meeting; the Commission tabled this matter until that time.

V. Referrals

There were none.

VI Other Business

A. New Business

There was none.

B. Old Business

There was none.

VII Reports

A. Chairman

Mr. Schuch welcomed Mr. Salerno who was in attendance as representative for the Zoning Commission. Mr. Schuch had nothing to report

B. Ex-Officio- Rose Ann Hardy

Ms. Hardy had nothing to report.

C. Zoning Representative

Ms. Palazzo had nothing to report since the November 20th, 2014 Meeting was cancelled. Ms. Bengtson will attend the December 4th, 2014 Meeting.

D. Regional Planning Representative- Brian Schuch

Mr. Schuch had nothing to report.

E. Sub-Committees

a. Sustainable Development and Climate Adaptation Subcommittee (F. Schwartz, G. Goeschel)

Mr. Goeschel stated that they are moving along slowly and planning on a February workshop.

b. Subdivision Regulations Bonding Review Subcommittee (B. Schuch, J. Bengtson, G. Goeschel)

Mr. Goeschel stated that they did meet and that Attorney O'Connell is making changes to their rough draft. Mr. Goeschel also stated that he has been reviewing the Regulations with Mr. Benni, the Town Engineer.

F. Staff/Communications

a. Staff Report

Mr. Goeschel had nothing new to add.

G. Election of Officers

Mr. Schuch handed the Meeting over to Ms. Hardy for the election of officers. Ms. Hardy called for nominations for Chairman.

• **Motion (4)

Mr. Covino nominated Mr. Schuch as Chairman of the Commission.

Ms. Palazzo seconded the motion.

Vote: 6-0-0. Motion passed.

Ms. Hardy called for nominations for Secretary.

- ****Motion (5)**

Ms. Palazzo nominated Mr. Balantic as Secretary of the Commission.

Mr. Schuch seconded the motion.

Vote: 6-0-0. Motion passed.

H. Appointments

a. Regional Planning Representative

Mr. Schuch said he would be happy to continue.

b. Sustainable Development and Climate Adaptation Subcommittee

Ms. Schwartz stated that she would continue.

c. Subdivision Regulations Bonding Review Subcommittee

Ms. Bengtson and Mr. Schuch both stated they would continue.

Adjournment

- ****Motion (5)**

Ms. Palazzo moved to adjourn the Planning Commission Meeting at 8:10 PM.

Ms. Bengtson seconded the motion.

Vote: 6-0-0. Motion passed.

Respectfully submitted,



Brooke Stevens,
Recording Secretary

Town of East Lyme

P.O. DRAWER 519

NIANTIC, CONNECTICUT 06357



Town Engineer
Victor A. Benni, P.E.

860-691-4112
FAX 860-739-6930

To: Gary Goeschel, Director of Planning

From: Victor Benni, P.E., Town Engineer 

Date: December 1, 2014

Re: 26 Industrial Park Road – Resubdivision / Site Plan Review

Information submitted by the Applicant which was considered in this review:

- Resubdivision of Property of Bertil Olsson, 26 Industrial Park Road Niantic CT. Sheet Number: 1 of 1, Date: August 28, 2013, Revised: 11/24/14, by: J.Robert Pfanner & Associates, P.C. Civil Engineers & Land Surveyors.
- Drainage Calculations, Water Quality Volume, by: J.Robert Pfanner & Associates, P.C. Civil Engineers & Land Surveyors.

This office has reviewed the above referenced information and has the following comments:

1. Provide description of topographic accuracy and reference to datum.
2. Erosion & sediment control notes that satisfy Section 5-2-2 Subdivision Plan Requirements, (G.i.a.7.) Erosion & Sediment Control Plan. Provide, "Identification of a designated on-site individual responsible for installation, monitoring and correction of sediment control plan requirements and authorized to take corrective actions, as required, to ensure compliance with certified plans.
3. At the discretion of the Commission, the Engineering Department feels that the above referenced items are minor in nature and may be considered conditions of approval.
4. The Engineering Department requests the right to work with the developer to modify the design, or location of the Dry Swales, to accommodate final lot configuration and existing conditions at the time of construction.

Ex "H"

EAST LYME DEPARTMENT OF PLANNING

SUBDIVISION REVIEW SHEET

TITLE OF PLAN:	Resubdivision of Property of Bertil Olsson 26 Industrial Park Road Niantic CT, prepared by J. Robert Pfanner & Associates, P.C. Civil Engineers & Land Surveyors, dated August 28, 2013
DATE RECEIVED:	October 14, 2014
DATE DISTRIBUTED:	November 3, 2014
REVIEW DEADLINE:	November 14, 2014

	Application	Plans
WILLIAM MULHOLLAND, ZONING	✓	✓
BRAD KARGL, UTILITIES ENGINEER	✓	✓
VICTOR BENNI, TOWN ENGINEER	✓	✓
RICHARD MORRIS, FIRE MARSHAL	✓	✓

PUBLIC HEARING IS SCHEDULED FOR UNDETERMINED

COMMENTS:

Plan as submitted complies with zoning for subdivision proposed. However should the application be approved any proposed new building will require additional review by my office. The zoning regulations require the construction of a side walk unless a waiver is granted by the zoning commission.

REVIEWED BY: WBM DATE: 11/10/14

EAST LYME DEPARTMENT OF PLANNING

SUBDIVISION REVIEW SHEET

TITLE OF PLAN:	Resubdivision of Property of Bertil Olsson 26 Industrial Park Road Niantic CT, prepared by J. Robert Pfanner & Associates, P.C. Civil Engineers & Land Surveyors, dated August 28, 2013	
DATE RECEIVED:	October 14, 2014	RECEIVED
DATE DISTRIBUTED:	November 3, 2014	NOV - 3 2014
REVIEW DEADLINE:	November 14, 2014	DIRECTOR OF PUBLIC WORKS

	Application	Plans
WILLIAM MULHOLLAND, ZONING	✓	✓
BRAD KARGL, UTILITIES ENGINEER	✓	✓
VICTOR BENNI, TOWN ENGINEER	✓	✓
RICHARD MORRIS, FIRE MARSHAL	✓	✓

PUBLIC HEARING IS SCHEDULED FOR UNDETERMINED

COMMENTS:

Water & Sewer is available to the site known as the resubdivision of 26 Industrial Park Rd., Niantic, CT.

REVIEWED BY: BR K DATE: 11/6/14

Town of

P.O. Drawer 519

**Department of Planning &
Inland Wetlands**

*Gary A. Goeschel II, Director of Planning /
Inland Wetlands Agent*



East Lyme

108 Pennsylvania Ave
Niantic, Connecticut 06357

Phone: (860) 691-4114

Fax: (860) 860-691-0351

MEMORANDUM

To: East Lyme Planning Commission

From: Gary A. Goeschel II, Director of Planning

Digitally signed by Gary A. Goeschel II
DN: cn=Gary A. Goeschel II, o=Town of
East Lyme, ou=Director of Planning,
email=ggoeschel@townofeastlyme.com, c=US
Date: 2014.12.02 14:36:34 -0500

Date: December 2, 2014

RE: Application of J. Robert Pfanner, Agent, for Owner Bertil Olsson, for a proposed two lot re-subdivision of property located at 26 Industrial Park Road, East Lyme CT, property identified on the East Lyme Assessor's Map 26.1, Lot 28.

Upon review of the above referenced application, supporting documentation, and proposed subdivision plans entitled "Resubdivision of Property of Bertil Olson, 26 Industrial Park Road, Niantic, CT; dated August 28, 2013, and revised through November 24, 2014 prepared by J. Robert Pfanner, P.E., L.S. of J. Robert Pfanner & Associates, P.C., Niantic, Connecticut", below are my findings:

WAIVER REQUEST

In regards to the evaluating the Waiver Request from Sections: Sec 4-2-3 (B) Archeological Survey, Sec (C) Biological Survey, (D) Soil Scientist's Report, (E) Pesticide Report, (F) Traffic Report, (J) Open Space Report, Sec 6-12 Sidewalks, and Sec 7-2 Open Space against the Waiver criteria in Section 4-9 of the Subdivision Regulations, I found the following:

FINDINGS

Whereas: Pursuant to Section 4-12 of the East Lyme Subdivision Regulations, only as specifically authorized within the Regulations may the Commission waive certain requirements by a three-quarters vote of all members, when it is demonstrated that strict compliance will cause an exceptional difficulty or undue hardship. Also, the applicant must submit a waiver request in writing at the time of application and the Commission must require a public hearing.

Whereas: At the time of application, the applicant provided a waiver request in writing from Sections: Sec. 4-2-3 (B) Archeological Survey, (C) Biological Survey, (D) Soil Scientist's Report, (E) Pesticide Report, (F) Traffic Report, (J) Open Space Report, Sec. 6-12 Sidewalks, and Sec. 7-2 Open Space.

Whereas: The Commission commenced a Public Hearing and received testimony on December 2, 2014. The Public Hearing for said application was *continued to* _____ *and/or closed* at the Commission's December 2, 2014 meeting. The Commission has reviewed the application and received testimony from the applicant and the public. Town staff also provided the Commission with comment concerning this applications compliance with local requirements and regulations.

Further, the Commission shall not grant a waiver unless it finds the following conditions are met:

- (1) The waiver has been requested in writing by the applicant in the application submission;
 - As previously stated, at the time of application the applicant provided a waiver request in writing.
- (2) The property for which the waiver is sought is affected by conditions, which affect the property and are not generally applicable to other land in the area;
 - As evidence by Exhibit "B" the subject property is an existing lot located in a Light Industrial (LI) zone, is currently developed with a single one story building. The existing lot as well as the proposed lot have available to it water, sewer, gas. In addition, the parcel contains an area of wetlands adjacent to the Pattagansett River to the rear and east of the lot. It is important to note there are currently no sidewalks along Industrial Park Road. Although of these conditions generally apply to other land in the area, the bulk of the requested waiver consists of waving several design reports versus a site design standard with the exception of the request to waive the sidewalk and open space requirement. The applicability of this condition may not be considered pertinent as it pertains to waiving the design reports. However, it would in my opinion, be applicable as it pertains to waiving the requirement for sidewalks and open space.
- (3) Physical features of the property or its location causes exceptional difficulty or unusual hardship in meeting the requirements of these Regulations;
 - The parcel contains an area of wetlands adjacent to the Pattagansett River to the rear and east of the lot. As the subject parcel has already been part a previous subdivision and was subsequently disturbed and developed. In my opinion, this condition is not necessarily applicable to the requirement of providing the design reports required by Section 4-2-3. However, in my opinion, its applicability would be applicable as it pertains to the waiver of the sidewalks and open space. As such, I am uncertain that the wetlands and river to rear and east of the property create an exceptional difficulty or unusual hardship that would prevent the installation of a sidewalk. In terms of providing open space these resource may actually provide an opportunity for it.
- (4) The granting of a waiver will not have a significantly adverse effect upon adjacent property, the environment, or the public health and safety;
 - The granting of this waiver as it pertains to the Design Reports required by Sec. 4-2-3 would not have a significantly adverse effect upon adjacent property, the environment, or the public health and safety.
 - Currently, there are no existing sidewalks along Industrial Park Road. The argument of providing safe pedestrian passage through our industrial parks could be made. However, a sidewalk to "nowhere" that the Town will then be obligated to maintain may not be desirable as there is no certainty as to when or if the neighboring parcels will ever be redeveloped or further subdivided.

- I would argue the necessity of providing 10-percent Open Space, which would be approximately 12,371-square feet, within our LI Zones may be in contradiction to the economic benefits of being able to maximize the development potential within our LI zones (approximately 1,110-acres in East Lyme are zoned LI). In addition, the subject property abuts the Pattagansett River and contains on-site wetlands which are regulated under the jurisdiction of the East Lyme Inland Wetlands Agency. However, with municipal water supply wells directly downstream it may be beneficial to consider a conservation easement over the wetlands, watercourse, floodplain and the 100-foot upland review area located on the proposed lot.
- (5) The granting of the waiver will not be in conflict with the Plan of Conservation and Development;
- As the proposed plan proposes the construction to be concentrated on the portion of the parcel best suited for development, minimizes grading and excavation, it protects environmentally sensitive areas such as wetlands. Further, it encourages the development of a new industrial building which supports economic development and “would be considered a financial benefit to the Town”. As such, the proposed plan would be consistent with POCD Sections: 3.4 Industrial, 5.3.1 Environmentally Sensitive Areas, and Objective 2.2 Support and cultivate a wide variety of economic activities that may be easily integrated into the community with little or no adverse impact on community resources. As such, the granting of the waiver will not be in conflict with the Plan of Conservation and Development.
- (6) Where it is proposed to vary any engineering standard contained in these Regulations, a report from the Town Engineer has been requested and considered by the Commission;
- The requested waiver does not propose to vary any engineering standard.
- (7) The requested waiver is the minimum deviation from the requirements of these Regulations necessary to permit subdivision of subject land.
- The applicant is requesting to waive the submission of reports which, in my opinion, are not necessarily applicable as the site has already been disturbed by previous development.
 - The applicant is requesting to waive the installation of a sidewalk which, in my opinion, would function as a sidewalk to “nowhere”. However, the 2010 Land of Unique Values Study, suggests establishing a pedestrian pathway and implement the concept of a complete road. In addition, by Ordinance the Town is obligated to maintain (plow) sidewalks within Town.
 - The applicant is also requesting to waive the dedication of Open Space which, in my opinion, the necessity of providing 10% Open Space (approximately 12,371-square feet), within the LI Zone is contradictory to the economic benefits of being able to maximize the development potential within our LI zones, of which there is only 1,110±-acres in East Lyme. However, as the subject property abuts the Pattagansett River, contains on-site wetlands, and with municipal water supply wells located downstream within 300 and 1800-feet from the subject site it may be beneficial to consider a conservation easement over the wetlands, watercourse, and floodplain.

In granting a waiver, the Commission must state upon its record, the reasons for granting any waiver. Note the word "reasons" is plural. Also, the granting or denial of a Waiver is a separate action of the Commission which, in my opinion, requires a separate motion and must occur prior to the approval or denial of a subdivision application. The following is proposed language for such a motion:

MOTION FOR THE WAIVER REQUEST:

Based on the above Findings indicated in the Memorandum from Gary A. Goeschel II, Director of Planning, dated December 1, 2014, the Commission Moves to GRANT/DENY the Waiver request from Section 4-2-3 (B), (C), (D) (E), (F), (J), Section 6-12 Sidewalks, and Section 7-2 Open Space associated with the Application submitted as Application of J. Robert Pfanner, Agent, for Owner Bertil Olsson, for a proposed two lot re-subdivision of property located at 26 Industrial Park Road, East Lyme CT, property identified on the East Lyme Assessor's Map 26.1, Lot 28 and plans entitled "Resubdivision of Property of Bertil Olson, 26 Industrial Park Road, Niantic, CT; dated August 28, 2013, and revised through November 24, 2014 prepared by J. Robert Pfanner, P.E., L.S. of J. Robert Pfanner & Associates, P.C., Niantic, Connecticut" for the following reasons:

- (1)
- (2)
- (3) , etc....

RESUBDIVISION APPLICATION

In regards to my review of the above referenced application, supporting documentation, and proposed subdivision plans entitled "Resubdivision of Property of Bertil Olson, 26 Industrial Park Road, Niantic, CT; dated August 28, 2013, and revised through November 24, 2014 prepared by J. Robert Pfanner, P.E., L.S. of J. Robert Pfanner & Associates, P.C., Niantic, Connecticut", below are my findings:

FINDINGS

The East Lyme Planning Commission based on the record before it with respect to this application, finds this application to be generally in conformance with the Subdivision Regulations of the Town of East Lyme as based on the following Findings:

Whereas: The Commission received a Subdivision Application on November 18, 2014 from J. Robert Pfanner the Applicant/ Bertil G. Olson, Owner; for one lot resubdivision of 2.84-acres of property located at 26 Industrial Park Road, Niantic, CT, property identified on the East Lyme Assessor's Map 26.1, Lot 28 and a waiver request from the following Sections of the of the East Lyme Subdivision Regulations:

- Sec 4-2-3 (B) Archeological Survey,
- Sec 4-2-3 (C) Biological Survey
- Sec 4-2-3 (D) Soil Scientist's Report
- Sec 4-2-3 (E) Pesticide Report
- Sec 4-2-3 (F) Traffic Report
- Sec 4-2-3 (J) Open Space Report
- Sec 6-12 Sidewalks
- Sec 7-2 Open Space

Whereas: The Commission commenced a Public Hearing and received testimony on December 2, 2014. The Public Hearing for said application was **continued to _____ and/or closed** at the Commission's December 2, 2014 meeting. The Commission has reviewed the application and received testimony from the applicant and the public. In addition, 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 Light Industrial (LI). The properties abutting the site to the south are zoned LI and the properties to the west, north, and east are zoned LI and CA- Commercial.

Whereas: The proposed 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: As the proposed Subdivision is located within a Light Industrial zoning district adjacent to existing lots previously approved as part of a conventional subdivision, the proposed subdivision conforms to the comprehensive Plan of Development for the Town of East Lyme (POCD) as adopted by the East Lyme Planning Commission. The proposed subdivision continues following the pattern of development characteristic of the existing light industrial development.

Section 5-4 Sanitation Report: As indicated in Exhibit "F" correspondence from Brad Kargl, Utilities Engineer, to G. Goeschel II, Director of Planning, dated 11/16/14, sewer is available to the site.

Section 5-5 Water Supply Report: As indicated in Exhibit "F" correspondence from Brad Kargl, Utilities Engineer, to G. Goeschel II, Director of Planning, dated 11/16/14, water is available to the site.

Section 5-2-2(E) and 6-8 Stormwater Management Plan: As indicated in Exhibit "H", Memo from Victor Benni, P.E., Town Engineer, dated 12/1/2014, indicates the proposed design meets the intent of the stormwater regulations by addressing the components of stormwater quality, peak flow, and volume. The Engineering Department does recommend the following:

Section 5-2-2(G) Erosion and Sedimentation Control Plan: The proposed Stormwater Management, Grading and Erosion & Sedimentation Plan as indicated on Exhibit "D", Resubdivision Plan entitled "Resubdivision of Property of Bertil Olson, 26 Industrial Park Road, Niantic, CT; dated August 28, 2013, and revised through November 24, 2014 prepared by J. Robert Pfanner, P.E., L.S. of J. Robert Pfanner & Associates, P.C., Niantic, Connecticut" contains proper provisions to adequately control accelerated erosion and sedimentation and reduce the danger from storm water runoff on the proposed site as evidenced by Exhibit "H", previously noted above. However, as indicated in Exhibit "H" the plan does not provide the identification of a designated on-site individual responsible for installation, monitoring and correction of sediment control plan requirements, and authorized to take corrective actions, as required, to ensure compliance with certified plan pursuant to Section 5-2-2 (G) Erosion and Sedimentation Control Plan subsection (i.a.7).

As such, the Planning Commission may hereby certify that the Soil Erosion and Sediment Control Plan complies with the requirements and objectives of this Subdivision Regulation provided the plan is revised to provide for the identification of a designated on-site individual responsible for installation, monitoring and correction of sediment control plan requirements, and authorized to take corrective actions, as required, to ensure compliance with certified plans.

Section 5-6 Pesticide Report: There are no known regular applications of pesticides on the subject site. In addition, based on the supporting documentation within the application the subject site was not known to be classified as farm land in accordance with Section 12-107c of the Connecticut General Statutes. As such, the applicant has requested a waiver from Section 4-2-3 (E) Pesticide Report.

Section 5-7 CAM Coastal Site Plan Review Required: The subject site is not within the Coastal Management Review Area

Section 5-8 Archeological Survey: As the site has been previously disturbed as a result of the previous subdivision and construction of the on-site industrial building, there are no known archeological sites in the project area and the proposed subdivision should have no effect on the State's archeological resources. As such the Applicant has requested a waiver from Section 4-2-3 (B) Archeological Report.

Section 6-2 Lot Design Specifications: The proposed subdivision complies with all applicable Zoning Regulations for the purposes of the subdivision of land as evidenced by Exhibit "I" correspondence from William Mulholland, Zoning Official dated November 10, 2014. In addition, by way of this memorandum, the proposed re-subdivision of land meets the Lot Design Specifications regarding Lot Size and Configuration, Health Requirements, Building Location, Access, and Energy Efficiency and Conservation.

Section 6-9 Requirements Regarding Flooding: As demonstrated by Exhibit "H", Memo from Victor Benni, P.E., Town Engineer, dated December 1, 2014, indicating the proposed design meets the intent of the stormwater regulations by addressing the components of stormwater quality, peak flow, and volume, the proposed subdivision is reasonably safe from flooding.

MOTION FOR THE RESUBDIVISION APPROVAL:

Based on the above Findings indicated in the Memorandum from Gary A. Goeschel II, Director of Planning, dated December 1, 2014, the Commission Moves to APPROVE the application known as Application of J. Robert Pfanner, Agent, for Owner Bertil Olsson, for a proposed two lot re-subdivision of property located at 26 Industrial Park Road, East Lyme CT, property identified on the East Lyme Assessor's Map 26.1, Lot 28 and plans entitled "Resubdivision of Property of Bertil Olson, 26 Industrial Park Road, Niantic, CT; dated August 28, 2013, and revised through November 24, 2014 prepared by J. Robert Pfanner, P.E., L.S. of J. Robert Pfanner & Associates, P.C., Niantic, Connecticut" which is further subject to the following administrative requirements and required modifications to the site plan and/or other materials submitted in support of this application:

1. Pursuant to Section 5-2-2 (D)vii, the plan shall be revised to include a description on the Plan of topographic accuracy and reference datum based on field or aerial survey using official Town of East Lyme, State, or U.S. Benchmarks.
2. Pursuant to Section 5-2-2 (D)xii, the plan shall be revised to include the flood elevation and zone.
3. Pursuant to Section 5-2-2 (G) Erosion and Sedimentation Control Plan subsection (i.a.7) the Erosion and sedimentation control notes shall be revised to include the identification of a designated on-site individual responsible for installation, monitoring and correction of sediment control plan requirements, and authorized to take corrective actions, as required, to ensure compliance with certified plan.

4. The Engineering Department may work with the developer to modify the design, or location of Dry Swales, to accommodate final lot configuration and existing conditions at the time of construction.
5. Pursuant to Section 4-2-11 of the Subdivision Regulations, copies of all easements and deeds necessary to carry the subdivision plan into effect, including instruments to be executed or delivered after approval of the application shall be submitted to the East Lyme Planning Director prior to the endorsement of the plan by the Chairman or Secretary on behalf of the Commission
6. A deed restriction to ensure that the dry swales are constructed and maintained in a functional manner. A Note shall be placed on the Record Subdivision Plan with reference to this deed restriction.
7. Pursuant to Section 4-4-10 of the Subdivision Regulations any revisions of the approved construction must be approved by the Town Engineer. Such revisions shall be incorporated on an as-built construction plans and a separate as-built Mylar shall be submitted to the East Lyme Water Department showing the location of all water mains and appurtenances with location ties to all main line valves and shut-off valves.

Optional Conditions:

8. Pursuant to Section 6-12 of the Regulations, the plans shall be revised to include a sidewalk located along the frontage of the proposed subdivision, acceptable to the Town Engineer and a bond for the construction of said public improvement be determined by the Applicant's Engineer in an amount acceptable the Town Engineer and submitted to the Town prior the endorsement of the final subdivision plan.
9. Pursuant to Section 7-2 of the Regulations the plans shall be revised to include a conservation easement area over the wetlands and watercourse of no less than 10-percent of the total area being subdivided.

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 the Application of J. Robert Pfanner, Agent, for Owner Bertil Olsson, for a proposed two lot re-subdivision of property located at 26 Industrial Park Road, East Lyme CT, property identified on the East Lyme Assessor's Map 26.1, Lot 28 and plans entitled "Resubdivision of Property of Bertil Olson, 26 Industrial Park Road, Niantic, CT; dated August 28, 2013, and revised through November 24, 2014 prepared by J. Robert Pfanner, P.E., L.S. of J. Robert Pfanner & Associates, P.C., Niantic, Connecticut". Any changes 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.

J. ROBERT PFANNER & ASSOCIATES, P.C.
Civil Engineers and Land Surveyors

December 2, 2014

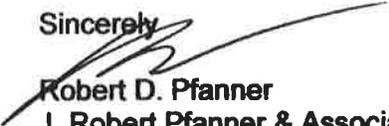
Gary Goeschel
Director Of Planning
PO Drawer 519
Niantic, CT 06357

Ref: 26 Industrial Park Road – Resubdivision/site plan review

I would like to request that our public hearing be continued until the next date that is available. I would like if a special meeting could be held before the end of the year. My Father (J. Robert Pfanner) has been and is still in the hospital with some medical issues and he will not be able to make a presentation.

Please forward any and all future comments and or information to my attention so that I can prepare for the next meeting

Sincerely



Robert D. Pfanner
J. Robert Pfanner & Associates P.C.

Town of



East Lyme

P.O. Drawer 519

**Department of Planning &
Inland Wetlands**

*Gary A. Goeschel II, Director of Planning /
Inland Wetlands Agent*

**108 Pennsylvania Ave
Niantic, Connecticut 06357**

Phone: (860) 691-4114

Fax: (860) 860-691-0351

MEMORANDUM

To: East Lyme Planning Commission

From: Gary A. Goeschel II, Director of Planning

Digitally signed by Gary A. Goeschel II,
DN: cn=Gary A. Goeschel II, o=Town of
East Lyme, ou=Department of Planning,
email=g.goeschel@townofeastlyme.com, c=US
Date: 2014.12.02 16:58:05 -0500

Date: December 2, 2014

RE: Resubdivision Hathaway Farms Upper Pattagansett
Upper Pattagansett Road and Hathaway Road, East Lyme, Connecticut

HISTORY:

As you may know, the above referenced subdivision which was approved by the East Lyme Planning Commission on August 13, 2002, should have expired August 13, 2007. However, because the Planning Commission did not file a notice of expiration on the East Lyme land records and did not note the expiration on the recorded subdivision plan, the subdivision was not officially expired in accordance with State Statutes and the Commission's regulations.

In July of 2009, the applicant requested the release of the Public Improvement Bond. However, as indicated in the attached memorandum from William A. Scheer, P.E. L.S., Town Engineer dated August 13, 2009, a number of the public improvements remained incomplete. The Planning Commission denied the request on September 1, 2009, as it did not have sufficient information to verify that all the subdivision improvements had been completed to the satisfaction of the Town Engineer.

Because the Subdivision was not officially expired by the Planning Commission prior May 9, 2011 when Public Act No. 11-5 was adopted, it may have been construed that the time to complete the subdivision improvements was automatically extended. In fact the Subdivision was extended by virtue of that law, it would have expired on August 13, 2011.

CURRENT STATUS:

Correspondence from William Scheer, Deputy Director of Public Works to myself dated July 15, 2014, indicates "All of the engineering / public works items on the punch list have been completed..."

By way of this memorandum, the developer has provided the Town with a signed and stamped "as-built" mylar drawing, an original quitclaim deed executed by the present owner of the "Hathaway Farms" strip of land along Upper Pattagansett Road to be conveyed to the Town of East Lyme for highway purposes, and quit claim deed executed by the present owner of the "Hathaway Farms" to the Town for the pedestrian easement depicted on the relevant subdivision maps.

As such, it is my opinion; all the conditions pursuant to Section 9-7 of the East Lyme Subdivision Regulations have been met. Therefore, it is my recommendation the Planning Commission considers the following resolution:

BE IT RESOLVED:

Based on the subdivision status indicated in the Memorandum from Gary A. Goeschel II, Director of Planning, dated December 2, 2014, the Commission hereby **MOVES TO RELEASE** the Public Improvement Bond in the amount of \$17,052.74 plus any accrued interest for the Hathaway Farms Subdivision (a.k.a Cove Landing Associates).

Town of

P.O. Drawer 519

**Department of Planning &
Inland Wetlands**

*Gary A. Goeschel II, Director of Planning /
Inland Wetlands Agent*



East Lyme

108 Pennsylvania Ave
Niantic, Connecticut 06357

Phone: (860) 691-4114

Fax: (860) 860-691-0351

December 1, 2014

Board of Selectman
c/o Paul Formica, First Selectman
Town of East Lyme
P.O. Box 519
Niantic, CT 06375

RE: Hathaway Farms Road Deed & Pedestrian Easement

Dear Mr. Formica,

Please place the Hathaway Farms Road Deed and Pedestrian Easement on the next Board of Selectman Agenda for road acceptance. I have enclosed the deed copies reviewed by Town Attorney Edward B. O'Connell.

If you have any further questions please do not hesitate to contact the Director of Planning at (860) 691-4105 or visit the East Lyme Planning Department.

Sincerely,

Frank Balantic, Secretary
Planning Commission

cc: Joe Bragaw, Director of Public Works
Bill Scheer, Deputy Director of Public Works
Victor Benni, Town Engineer
Donna Price-Bekech, Assessor
William Mulholland, Zoning Official
File



**WALLER
SMITH &
PALMER**^{PC}
Attorneys at Law

HUGHES GRIFFIS
EDWARD B. O'CONNELL
TRACY M. COLLINS*
PHILIP M. JOHNSTONE+*
CHARLES C. ANDERSON
KERIN M. WOODS+
ELLEN C. BROWN*
KARL-ERIK STERNLOF
MARK S. ZAMARKA
CATHERINE A. MARRION
MATTHEW R. KINELL

OF COUNSEL:
WILLIAM W. MINER
ROBERT W. MARRION
ROBERT P. ANDERSON, JR.
FREDERICK B. GAHAGAN

December 1, 2014

Gary Goeschel, II, Director of Planning
Town of East Lyme
P.O. Box 519
Niantic, CT 06357

+ ALSO ADMITTED IN RI
* ALSO ADMITTED IN MA

Re: Hathaway Farms Road Deed and Pedestrian Easement

Dear Mr. Goeschel:

Enclosed are an original quitclaim deed executed by the present owner of the "Hathaway Farms" strip of land to be conveyed to the Town of East Lyme for highway purposes. Also enclosed is an original quitclaim deed to the Town for the pedestrian easement depicted on the relevant subdivision maps.

These documents should be held in your file pending approval of these conveyances by the Board of Selectmen. When these matters appear on the Selectmen's agenda, we will prepare the necessary resolutions.

Very truly yours,

Edward B. O'Connell, of
Waller, Smith & Palmer, P.C.

EBO:cmc
enclosures

QUITCLAIM DEED

Upper Pattagansett #2 Inc., a Connecticut corporation with a principal place of business in Old Saybrook, Connecticut, for the consideration paid grants to the Town of East Lyme, a municipal corporation, with quitclaim covenants the following real property:

All that certain piece or parcel of land in the Town of East Lyme, County of New London and State of Connecticut located north of the property lines for Lots 1-15 in the subdivision generally known as 'Hathaway Farms', more particularly described in Schedule A, Tract I, attached.

All that certain piece or parcel of land located in the Town of East Lyme, County of New London and State of Connecticut designated as 'Turn Around Area To Be Deeded To The Town Of East Lyme', more particularly described in Schedule A, Tract II, attached.

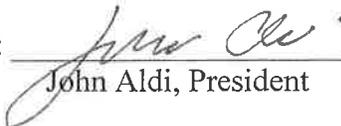
Signed this 17th day of November, 2014.

Witnessed by:

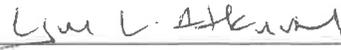
Upper Pattagansett # 2 Inc.



Gary R. Atkinson

BY: 

John Aldi, President



Lynn L. Atkinson

State of Connecticut

SS: Old Saybrook

November 17, 2014

Count of Middlesex

Personally appeared JOHN ALDI, President of Upper Pattagansett #2, Inc., signer and sealer of the foregoing instrument and acknowledged the same to be his free act and deed, and the free act and deed of said corporation, before me.



Gary R. Atkinson
Commissioner of the Superior Court

SCHEDULE A

HIGHWAY LEGAL DESCRIPTION

TRACT I:

All that certain piece or parcel of land in the Town of East Lyme, County of New London and State of Connecticut located north of the property lines for Lot No.s 1-15 in the subdivision known generally as "Hathaway Farms", and designated as "All Remaining Land Between Lots And Town Road To Be Deeded To Town Of East Lyme" on a map or plan entitled "Improvement Location Survey Prepared for Upper Pattagansett #2, Inc. J. Robert Pfanner & Associates, P.C. Civil Engineers & Land Surveyors 37 Grand Street, Niantic, Connecticut 06357 Drawn By RDP Date June 30, 2014 Sheet Number 1 of 3 and Sheet Number 2 of 3".

TRACT II:

All that certain piece or parcel of land located in the Town of East Lyme, County of New London and State of Connecticut designated as "Turn Around Area To Be Deeded To Town Of East Lyme" on a map or plan entitled "Improvement Location Survey Prepared for Upper Pattagansett #2, Inc. J. Robert Pfanner & Associates, P.C. Civil Engineers & Land Surveyors 37 Grand Street, Niantic, Connecticut 06357 Drawn By RDP Date June 30, 2014 Sheet Number 3 of 3". Said parcel is more particularly described as follows:

Beginning at a point on the north side of Hathaway Road at the intersection of the premises designated as Conservation Easement on said plan; then running N 73° 30' 54" E a distance of 39.86' to a point; then running N 42° 32' 50" E a distance of 21.58' to a point; thence running S 47° 27' 10" E a distance of 20.00' to a point; thence running S 28° 30' 01" W a distance of 35.60' to a point on the north side of Hathaway Road; thence running along said road N 62° 45' 41" W a distance of 15.03' to a point; thence running along a curve to the left with a radius of 100.00' and a curve length of 38.96' to the point and place of beginning.

QUITCLAIM DEED

Pedestrian Easement

KNOW ALL PERSONS BY THESE PRESENTS, that UPPER PATTAGANSETT #2, INC., a Connecticut corporation having an office and place business in Old Saybrook, Connecticut, ("Grantor"), for the consideration of One Dollar (\$1.00) and other valuable consideration received to our full satisfaction of the Town of East Lyme, a municipal corporation, ("Grantee"), do give, grant, and convey unto the Grantee, it's successors and assigns forever with quitclaim covenants, the following:

A pedestrian easement over Lot Nos. 16 and 17 in the subdivision known as "Hathaway Farms Subdivision", more particularly described in Schedule A attached.

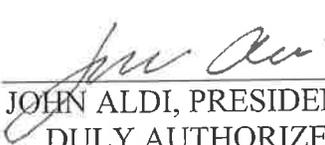
Signed this 17th day of November, 2014.

Witnessed by:

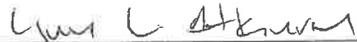
UPPER PATTAGANSETT #2, INC.



Gary R. Atkinson

BY: 

JOHN ALDI, PRESIDENT
DULY AUTHORIZED



Lynn L. Atkinson

STATE OF CONNECTICUTSS: OLD SAYBROOK
COUNTY OF MIDDLESEX

November 17, 2014

Personally appeared JOHN ALDI who acknowledged himself to be the President of UPPER PATTAGANSETT #2, INC., a Connecticut corporation, and that he as such officer being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as such officer, before me.



Gary R. Atkinson
Commissioner of the Superior Court

SCHEDULE A

PEDESTRIAN EASEMENT LEGAL DESCRIPTION

A certain piece or parcel of land located in the Town of East Lyme, County of New London and State of Connecticut designated as a "10' Wide Pedestrian Easement" on two maps or plans, one map entitled "Resubdivision Hathaway Farm Upper Pattagansett Road East Lyme Connecticut Scale 1" = 40' March 24, 2002 Sheet 3 J. Robert Pfanner & Associates, P.C. Civil Engineers & Land Surveyors 37 Grand Street Niantic, Connecticut 06357 Revised 5-14-02, 7-08-02, 9-08-02" and the other map entitled "Resubdivision Hathaway Farm Upper Pattagansett Road East Lyme Connecticut Scale 1" = 40' March 24, 2002 Sheet 4 J. Robert Pfanner & Associates, P.C. Civil Engineers & Land Surveyors 37 Grand Street Niantic, Connecticut 06357 Revised 5-14-02, 7-08-02, 9-08-02", which plans are on file in the office of the East Lyme Town Clerk.

Said pedestrian easement is ten feet in width, and runs across Lot Nos. 16 and 17 in the subdivision known as "Hathaway Farms Subdivision" in a general northerly direction from the northerly line of Hathaway Road to the southerly line of Pattagansett Road, as shown on said plans, to which further reference may be had.

ROBERT A. ZIEGLER

Attorney at Law
58 East Main Street
Plainville, Connecticut 06062
Telephone 860-793-1506
Facsimile 860-747-5219

Robert A. Ziegler
Bob@zieglerlawct.com
Taryn D. Martin
Taryn@zieglerlawct.com

Karen@zieglerlawct.com
Sarah@zieglerlawct.com
Billing@zieglerlawct.com

VIA HAND DELIVERY ONLY

November 3, 2014

Mr. Brian Schuch
Chairman East Lyme Planning Commission
c/o Gary Goeschel II, Director of Planning
Town of East Lyme
P. O. Box 519
108 Pennsylvania Avenue
Niantic, CT 06357

RE: Our File No. 10732.000
The Orchards of East Lyme Development, Inc. Successor to Orchard Woods at
East Lyme LLC
Declaration of Restrictions and Covenants RE Sale or Transfer of Subdivision Lots

Dear Mr. Schuch:

I have been instructed by Gary Goeschel, the Director of Planning for the Town of East Lyme, to write a letter directly to you in reference to the above so that this matter may be placed on the Planning Commission's next meeting agenda to be held on November 18, 2014.

A Declaration of Restrictions and Covenants RE Sale or Transfer of Subdivision Lots was recorded on June 23, 2004 in Volume 674 at Page 286 of the East Lyme Land Records (a copy of which is enclosed herein as Exhibit A) thereby restricting the sale of lots in the above subdivision or offered for sale until (1) "the timely completion and acceptance by the Town of East Lyme of all Public improvements" or (2) "the posting of a performance bond in such amount and such form as shall have been approved by the East Lyme Planning Commission". It is our understanding that the Orchard Woods at East Lyme LLC posted this Bond in 2008 prior to The Orchards of East Lyme Development, Inc. acquiring this property by Limited Warranty Deed dated April 25, 2011, and recorded on April 26, 2011, in Volume 0870 at Page 037 of the East Lyme Land Records (a copy of which is enclosed herein as Exhibit B) so this Declaration should have been fully released at that time.

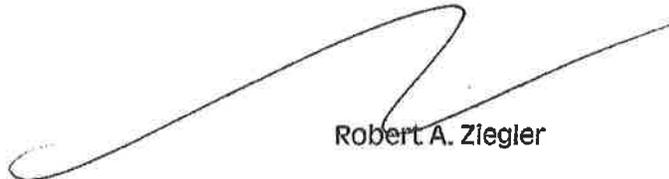
Mr. Brian Schuch
November 3, 2014
Page 2.

A Partial Release of Declaration of Restrictions and Covenants RE: Sale or Transfer of Subdivision Lots releasing Lot Numbers 1 through 28 and Lot Numbers 79, 137, 147 through 161 was recorded on the East Lyme Land Records on March 24, 2008, in Volume 798 at Page 282 (a copy of which is enclosed as Exhibit C) when, in fact, a full Release should have been recorded.

Please place this matter on your next monthly meeting Agenda for November 18, 2014. Finally, I have enclosed a full Release of the Declaration of Restrictions and Covenants RE Sale or Transfer of Subdivision Lots found in Volume 674 at Page 286 of the East Lyme Land Records that I have drafted for your signature once your Commission acts.

If you should have any questions and/or concerns, please feel free to contact me.

Very truly yours,



Robert A. Ziegler

Kkw

ENC.

cc: Gary Goeschel via email: GGoeschel@eltownhall.com
Jennifer Lindo via email: JLindo@eltownhall.com
Client: tina@bycarrier.com

Y:\Work Directory\Real Estate\CARRIER\The Orchards at East Lyme 10732.000\Letter to Brian Schuch.doc

EXHIBIT A

BOOK 674 PAGE 286

DECLARATION OF RESTRICTIONS AND COVENANTS RE SALE OR TRANSFER OF SUBDIVISION LOTS

3226

THIS DECLARATION, executed this ^{22nd} day of June, 2004, by ORCHARD WOODS AT EAST LYME LLC (hereinafter referred to as "Grantor") in favor of THE TOWN OF EAST LYME PLANNING COMMISSION, (hereinafter referred to as "Grantee" or "Planning Commission") with respect to the property shown on a map or plan entitled, "Final Subdivision Plan The Orchards At East Lyme Boston Post Road and Scott Road East Lyme, Connecticut Owner and Applicant Orchard Woods Associates Limited Partnership Sheets 1-104 of 104 Scale 1" = 40' October 15, 1988 Rev. to July 2, 1999" (hereinafter referred to as the "Subdivision")

WHEREAS, the above referenced Subdivision plan was approved by the Planning Commission on May 18, 1999 ; and

WHEREAS, said approval was conditioned upon completion of the site improvements and other items more particularly described in the Subdivision plan and related documents and the resolution of the Planning Commission approving the Subdivision (hereinafter referred to as the "Public Improvements"); and

WHEREAS, the maps of said Subdivision plan have been endorsed by the Chairman or Secretary of the Planning Commission and recorded on the East Lyme Land Records.

NOW THEREFORE, the Grantor hereby covenants and agrees as follows:

1. No lots in the above referenced Subdivision shall be sold or offered for sale or otherwise transferred until the following requirement(s) have been met, and a release of this Declaration shall have been executed by the Chairman or Secretary of the Planning Commission:
 - A. The timely completion and acceptance by the Town of East Lyme of all Public Improvements, or in lieu thereof, the posting of a performance bond in such amount and such form as shall have been approved by the East Lyme Planning Commission with surety and conditions satisfactory to it securing to the municipality the actual construction, maintenance and installation of such Public Improvements within the period specified in the bond.
2. In the event that it should be necessary for the Town of East Lyme or its Planning Commission to take action at law or in equity to enforce the provisions of this Declaration, the Grantor shall pay the Grantee's expenses for such action, including but not limited to reasonable attorney's fees. The Grantor also agrees that a violation of this Declaration may be enforced by injunction, and that should the Grantee seek relief by way of a temporary or permanent injunction, it shall not be required to demonstrate an irreparable injury or the lack of an adequate remedy at law.

EXHIBIT B

Shiptman & Goodwin LLP
Counselors at Law
One Constitution Plaza
Hartford, Connecticut 06103-1919
A. Stover

LIMITED WARRANTY DEED

1320

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

KNOW YE, THAT ORCHARDS II VENTURES, LLC, a Delaware limited liability company with an office and place of business at c/o Reis, Inc., 530 Fifth Avenue, 5th Floor, New York, NY 10036 (the "Grantor") for consideration received to its full satisfaction from The Orchards of East Lyme Development, Inc., a Connecticut corporation having an office and place of business at 117 Birch Street, Southington, Connecticut 06489 (the "Grantee"), does give, grant, bargain, sell and confirm unto the said Grantee, its successors and assigns forever:

ALL of the Grantor's right, title and interest in and to those certain pieces or parcels of land described on Schedule A attached hereto and made a part hereof subject to the encumbrances, exceptions and matters of title set forth and described in Schedule B to Schedule A attached hereto and made a part hereof.

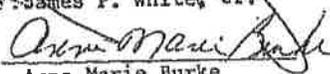
TO HAVE AND TO HOLD the above granted and bargained premises hereby conveyed, with the appurtenances thereof, unto the said Grantee, and unto Grantee's successors and assigns forever, to its and their own proper use and behoof;

AND the Grantor does, for itself and its successors and assigns, covenant with Grantee, its successors and assigns, that at the time of delivery of this Deed, the premises were free from all encumbrances made or suffered by Grantor, except as are set forth in said Schedule B to Schedule A;

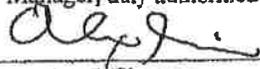
AND FURTHERMORE, that Grantor will, and its successors and assigns shall, warrant and defend the same to Grantee, its successors and assigns forever, against the lawful claims and demands made during the Grantor's period of ownership or suffered by Grantor, except as aforesaid, but against none other.

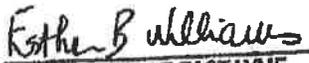
25th IN WITNESS WHEREOF, the Grantor has caused this Deed to be executed on this the day of April, 2011.

Signed, Sealed, Delivered
in the presence of:


James P. White, Jr.

Anne Marie Burke

ORCHARDS II VENTURES, LLC
By Reis, Inc.
Its Manager, duly authorized

By: 
Alexander G. Simpson
Vice President and Secretary

\$7916.40 \$3958.20
CONVEYANCE TAXES COLLECTED

TOWN CLERK OF EAST LYME

**SCHEDULE A
LEGAL DESCRIPTION WITH PERMITTED EXCEPTIONS
SECTION II**

First Parcel

That certain piece or parcel of land with improvements thereon located on Scott Road in the Town of East Lyme, County of New London, State of Connecticut. The Premises herein include "Orchard Section II" described in Schedule A-1 and A-3 in the Declaration of The Orchards At East Lyme declared by Orchard Woods At East Lyme LLC dated June 22, 2004 and recorded June 23, 2004 in Volume 674 at Page 232 of the East Lyme Land Records. Said Premises are also shown on a map or Plan entitled "Final Subdivision Plan The Orchards At East Lyme Boston Post Road and Scott Road East Lyme, Connecticut Owner and Applicant Orchard Woods Associates L.P. Sheets 1-104 of 104 Scale 1" = 40' October 15, 1998 Rev, 12/18/98, 2/26/99, 6/14/99 David M. Coonrod L.L.S." The Lots and roads referred to herein are shown on said map. Said Premises are more particularly bounded and described as follows:

Orchard Section II

Commencing at a point in the easterly line of Scott Road at the southwesterly corner of land now or formerly of Walter Scott and the northwesterly corner of the premises herein described; at a drill hole in a rock

Thence running S 03° 29' 14" W, 126.45 feet to a point;

Thence running S 04° 12' 11" W, 63.91 feet to a point;

Thence running S 23° 55' 25" E, 9.23 feet to a point;

Thence running S 05° 13' 04" W, 144.52 feet to a point;

Thence running S 04° 13' 32" W, 258.80 feet to a point at the northwesterly corner of land now or formerly of Webster and Lisa Scott, the last five courses being bounded westerly by Scott Road;

Thence running S 82° 29' 08" E, 133.22 feet to a point;

Thence running S 61° 23' 55" E, 325.50 feet to a point;

Thence running S 31° 75' 00" W, 275.88 feet to a point;

Thence running N 79° 41' 24" W, 54.97 feet to a point;

Thence running N 83° 50' 23" W, 266.46 feet to a point in the easterly side of Scott Road;

Thence running S 00° 51' 26" W, 381.21 feet to a point;

Thence running S 04° 41' 22" W, 232.69 feet to a point;

Thence running S 39° 28' 36" W, 147.92 feet to a point at the northerly corner of land now or formerly of Wilson & Clara Scott; the last 3 courses being bounded westerly by Scott Road;

Thence running S 16° 56' 34" E, 199.91 feet to a point;

Thence running S 22° 21' 09" W, 133.52 feet to a point;

Thence running S 52° 50' 45" W, 204.92 feet to a point at the northeasterly corner of land now or formerly of J.W.B. Scott, the last three courses being bounded southwesterly, westerly and northwesterly by land now or formerly of Wilson and Clara Scott;

Thence running S 15° 57' 17" W, 110.91 feet to a point;

Thence running S 17° 53' 40" W, 204.01 feet to a point;

Thence running S 15° 04' 56" W, 171.85 feet to a point;

Thence running S 18° 22' 56" W, 53.40 feet to a point;

Thence running S 17° 33' 24" W, 46.05 feet to a point;

Thence running S 26° 09' 35" W, 50.26 feet to a point in the northeasterly line of land now or formerly of Ruth Scott; the last six courses being bounded westerly by land now or formerly of J.W.B. Scott;

Thence running S 37° 12' 54" E, along the northeasterly line of land now or formerly of Ruth Scott, 56.44 feet to a point at the northwesterly corner of land now or formerly of Sturgis;

Thence running S 39° 28' 41" E, along the northeasterly line of land now or formerly of Sturgis, 205.90 feet to a point;

Thence running S 38° 53' 21" E, along the northeasterly line of land now or formerly of Sturgis, 118.33 feet to a point at the northwesterly corner of land now or formerly of J.W.B. Scott;

Thence running northerly in a straight line 519 feet to the southwesterly corner of Lot 161;

Thence running northeasterly along the westerly line of Lot 161, 110 feet to a point;

Thence running southeasterly along the northeasterly line of said Lot 161, 280 feet more or less to Pear Grove as shown on said map;

Thence running northeasterly along the northwesterly line of Pear Grove, 534 feet more or less to Arbor Crossing;

Thence running northeasterly across Arbor Crossing, 50 feet to the easterly side of Arbor Crossing;

Thence running southeasterly along the southwesterly line of Lot 147 and Lot 148, 204 feet more or less to the southwest corner of Lot 148;

Thence running northeasterly along the southeasterly line of Lot 148, 260 feet more or less to the northeast corner of Lot 148;

Thence running northerly in a straight line, 286 feet more or less to the southwesterly corner of Lot 141;

Thence running northeasterly along the westerly line of Lots 141, 142, 143 and 144, 677 feet more or less to the northwesterly corner of Lot 144;

Thence running northeasterly across Pheasant Run as shown on said map, 64 feet more or less to the southwest corner of Lot 125;

Thence running northeasterly along the westerly line of Lot 125, 230 feet more or less to the northwesterly corner of Lot 125;

Thence running northeasterly in a straight line, 438 feet more or less, to the southwesterly corner of Lot 109;

Thence running northerly along the westerly line of Lot 109, 270 feet more or less to the northwest corner of Lot 109;

Thence running northerly across Arbor Crossing, 51 feet more or less to the southwesterly corner of Lot 62;

Thence running northerly along the westerly line of Lot 62, 200 feet more or less to the northwesterly corner of Lot 62,

Thence running easterly along the northerly line of Lot 62, 19.5 feet more or less to the southwesterly corner of Lot 59;

Thence running northerly along the westerly line of Lot 59; 228 feet more or less to the northwesterly corner of Lot 59;

Thence running northeasterly across Partridge Court as shown on said map, 53 feet more or less, to the southwesterly corner of Lot 48;

Thence running northerly along the westerly line of Lot 48, 240 feet more or less to the northwesterly corner of Lot 48;

Thence continuing northerly in the same direction, in a straight line, 85 feet more or less to a point in land now or formerly of Sheffield Scientific School Trustees which point is 617.43 feet easterly of the southwesterly corner of land now or formerly of Sheffield Scientific School Trustees as measured along the southerly line of said land now or formerly of Sheffield Scientific School Trustees;

Thence running westerly along said southerly line of land now or formerly of said Sheffield Scientific School Trustees, 617.43 feet to a point marking the southwesterly corner of said land now or formerly of Sheffield Scientific Trustees;

Thence running S 27° 57' 21" W, 566.29 feet to a point;

Thence running N 76° 53' 03" W, 355.00 feet to a point;

Thence running N 75° 11' 21" W, 344.25 feet to a point;

Thence running N 75° 34' 49" W, 76.82 feet to a point;

Thence running N 74° 11' 44" W, 210.36 feet to a point;

Thence running S 85° 31' 08" W, 263.51 feet to the point of beginning on the easterly line of Scott Road; the last six courses being bounded northwesterly and northerly by land now or formerly of Walter Scott.

Together with an easement to build and maintain a culvert as reserved in a Quit Claim Deed from Woodrow H. Scott to William Kowalski and Roberta Kowalski, dated March 26, 1969, recorded in Volume 120, Page 669 of the East Lyme Land Records.

Excluding the following described parcel of land bounded:

Northwesterly by land now or formerly of Orchard Woods Associates Limited Partnership, 345.50 feet;

Northeasterly by land now or formerly of Howard Cioci, 98.02 feet;

Southeasterly by land now or formerly of Gregg M. Ross, et al 146.69 feet;

Northeasterly again by land now or formerly of Gregg M. Ross, et al, 24.06 feet;

Southeasterly by land now or formerly of Gregg M. Ross, et al, 193.41 feet;

Southwesterly by land now or formerly of Orchard Woods Associates Limited Partnership, 125 feet.

Intending to include all of the land shown on a Map recorded in the Town Clerk's Office in said Town of East Lyme entitled "Final Subdivision Plan The Orchards At East Lyme Boston Post Road and Scott Road East Lyme, Connecticut Owner and Applicant Orchard Woods Associates L.P. Sheets 1-104 of 104 Scale 1" = 40' October 15, 1998 Rev. 12/18/98, 2/26/99, 6/14/99 David M. Coonrod L.L.S." except those parcels previously conveyed to the Orchards At East Lyme, Inc. and to East Lyme Housing Ventures, LLC.

Being the same premises contained in the Declaration by Orchard Woods of East Lyme LLC, successor to Orchard Woods Associates Limited Partnership, **THE ORCHARDS AT EAST LYME, A COMMON INTEREST COMMUNITY**, dated June 22, 2004 and recorded June 23, 2004 in Volume 674 at Page 232 of the East Lyme Land Records, as amended and restated by Amended and Restated Declaration of The Orchards at East Lyme, A Common Interest Community, dated October 27, 2005 and recorded October 28, 2005 in Volume 722 at Page 682 of said Land Records, as amended by First Amendment to Amended and Restated Declaration of The Orchards at East Lyme A Common Interest Community dated November 8, 2006 and recorded December 8, 2006 in Volume 761, at Page 69 of said Land Records.

Second Parcel

All of the Grantor's right, title and interest in and to the Development Rights and Special Declarant Rights in and to Orchard Section 2 as set forth in Article 8 of the Declaration of The Orchards At East Lyme dated June 22, 2004 and recorded in Volume 674 at Page 232 as amended by an Amended and Restated Declaration of The Orchards At East Lyme dated October 27, 2005 and recorded on October 28, 2005 as amended and restated in Volume 722 at Page 682 as conveyed to the Grantor by Orchard Woods at East Lyme LLC by Warranty Deed dated November 15, 2005 and recorded in Volume 725 at Page 91 of the East Lyme Land Records.

**SCHEDULE B
TO
SCHEDULE A**

1. Taxes to the Town of East Lyme on the Grand List of October 1, 2010 when due and payable after delivery of this Deed.
2. Sewer Use Charges to the Water Pollution Control Authority for the City/Town of East Lyme due and payable after the Closing.
3. Sewer Assessment Charges to the Town of East Lyme due and payable after the delivery of this Deed.
4. Terms, Conditions, Agreements, Covenants, Restrictions, Obligations, and Easements contained in the Declaration described in Schedule A hereof and the Bylaws and Exhibits made a part of said Declaration, and any amendments or modifications subsequently made thereto.
5. Unpaid assessments for common expenses or common charges assessed as provided for in Section 59 of the Common Interest Ownership Act against the herein described premises, due and payable after the delivery of this Deed.
6. Lease in favor of The Southern New England Telephone Company pursuant to Option-Lease Agreement recorded March 13, 1985 in Volume 208 at Page 760 of the East Lyme Land Records; as purportedly modified by Deed recorded in Volumes 443 at Page 267 of the East Lyme Land Records.
7. Electric Distribution Easement to The Connecticut Light & Power Company dated December 19, 1986 and recorded in Volume 229 at Page 166 of the East Lyme Land Records.
8. Electric Distribution Easement to The Connecticut Light and Power Company dated February 6, 1987 and recorded in Volume 229 at Page 1062 of the East Lyme Land Records.
9. State Traffic Commission Certificate No. 1006, dated January 13, 1990 and recorded in Volume 301 at Page 499 of the East Lyme Land Records.
10. Boundary Line Agreement dated February 6, 1995 and recorded in Volume 420 at Page 416 and Boundary Line Agreement dated December 31, 1996 and recorded in Volume 420 at Page 419 of the East Lyme Land Records.
11. Reservation of drainage rights in a Warranty Deed from Alfred H. Smith to Alexander Scott, Jr. and Patricia Ann Scott dated September 7, 1968 and recorded September 10, 1968 in Volume 118 at Page 655 of the East Lyme Land Records.

12. Restrictions, conditions and easements set forth in the subdivision plans of "Orchards at East Lyme" prepared by D.W. Gerwick Engineering dated October 15, 1998, as revised from time to time, as approved by the East Lyme Planning Commission.
13. Notes, notations, inland wetlands areas, easements, pedestrian trails, pedestrian paths and setback lines as shown or set forth on said maps and as recorded in Drawer No. 5, Maps 685-703 on file in the East Lyme Town Clerk's Office.
14. Riparian or littoral rights of others in and to any natural watercourse, wetland or body of water flowing through or adjoining the Property and all statutory rights of others in and to any such watercourse or body of water.
15. Rights of others in and to the roads as shown on said Maps.
16. Easement by and between Howard Cioci and Orchard Woods Associates, Limited Partnership n/k/a Orchard Woods at East Lyme LLC dated June 1, 2004 and recorded June 23, 2004 in Volume 674 at Page 229 of said Land Records, as corrected by Correcting Grant of Easement dated May 19, 2006 and recorded June 19, 2006 in Volume 745 at Page 565 of said Land Records.
17. State of Connecticut Department of Transportation Traffic Investigation Report to the State Traffic Commission dated February 10, 2004 and recorded March 23, 2004 in Volume 662 at Page 163 of the East Lyme Land Records.
18. Declaration of Restrictions and Covenants Re Sale or Transfer of Subdivision Lots by Orchard Woods at East Lyme LLC in favor of The Town of East Lyme Planning Commission dated June 22, 2004 and recorded June 23, 2004 in Volume 674 at Page 286 of said Land Records. NOTE: Said declaration was partially released by Partial Release dated March 13, 2008 and recorded March 24, 2008 in Volume 798 at Page 282 of said Land Records.
19. The Notes set forth on the Plans described in Schedule A and the building, zoning, wetlands, water and sewer regulations of the Town of East Lyme.
20. State of Connecticut State Traffic Commission Certificate dated July 21, 2004 and recorded August 4, 2004 in Volume 679 at Page 430 of said Land Records.
21. Conservation Easement dated June 17, 2005 and recorded June 30, 2005 in Volume 710 at Page 607 of the East Lyme Land Records.
22. The Orchards at East Lyme Declaration of Restrictions and Covenants by East Lyme Housing Ventures, LLC dated October 21, 2005 and recorded October 28, 2005 in Volume 722 at Page 678 of said Land Records.
23. Supplemental Resolution to Sewer Main Extension No. 5 recorded October 9, 2009 in Volume 837 at Page 52 of said Land Records.

24. Certificate of Notice of Installment Payment of Assessment of Benefits Supplemental to Sewer Main Extension No. 5 recorded October 16, 2009 in Volume 837 at Page 347 of said Land Records.

ACTIVE/72251.1/JPW/2420766v4

Recorded Apr 26 2011
12:45 ^{AM} _{PM} Esther B. Williams
East Lyme Town Clerk

PARTIAL RELEASE OF DECLARATION OF RESTRICTIONS AND COVENANTS RE: SALE OR TRANSFER OF SUBDIVISION LOTS

KNOW ALL PERSONS BY THESE PRESENTS, That

935

EAST LYME PLANNING COMMISSION for the Town of East Lyme, a municipal corporation in the County of New London and State of Connecticut, hereby releases a certain Declaration of Restrictions and Covenants Re: Sale or Transfer of Subdivision Lots as follows:

WHEREAS, a Declaration of Restrictions and Covenants Re: Sale or Transfer of Subdivision Lots was executed by Orchard Woods Associates L.P., as Grantor, in favor of the Town of East Lyme Planning Commission, as Grantee, with respect to The Orchards at East Lyme: and

WHEREAS, said Declaration was recorded at Volume 674, Page 286 of the East Lyme Land Records; and

WHEREAS, Release of said Declaration was conditioned upon the completion and acceptance of public improvements or in lieu thereof, the posting of a Performance Bond; and

WHEREAS, the Declarant has posted a Performance Bond to the satisfaction of the East Lyme Planning Commission, and in conjunction therewith, the Commission has authorized release of such Restriction.

NOW, THEREFORE, the undersigned, as Chairman of the East Lyme Planning Commission, hereby releases the following lots contained in Phase I and Phase III of said Declaration:

PHASE I Lot Nos: 1 through 28

PHASE III Lot Nos: 79, 137, 147 through 161

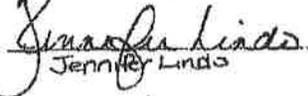
This partial release shall not in any way impair, alter or diminish the effect, lien or encumbrance of the aforesaid restriction and covenant on the remaining parts of The Orchards at East Lyme

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 13 day of March, 2008 ~~October, 2007~~.

In the presence of:

EAST LYME PLANNING COMMISSION



Joe Smith


Jennifer Lindo

by 

Lisa Picarazzi, Chair

I hereby releasing due parcel declarations hereby

STATE OF CONNECTICUT)
) ss. Niantic
COUNTY OF NEW LONDON)

March 13, 2008
~~October~~ _____, 2007

On this the 13 day of ~~October~~ ^{March} 2008, before me, the undersigned officer, personally appeared LISA PICARAZZI, who acknowledged herself to be the Chair of the East Lyme Planning Commission, and that she as such Chair, being authorized so to do, executed the foregoing instrument for the purposes therein contained, by signing the name of the Commission by herself as such Chair.

Jennifer Lindo

Commissioner of the Superior Court
Notary Public
My commission expires:

JENNIFER LINDO
NOTARY PUBLIC
MY COMMISSION EXPIRES OCT. 31, 2010

Recorded March 24 2008
10:55 AM
Kate B. Williams
East Lyme Town Clerk

