

**EAST LYME PLANNING COMMISSION  
PUBLIC HEARING I  
Tuesday, JANUARY 3rd, 2012  
MINUTES**

The East Lyme Planning Commission held a Public Hearing on the Application of Jim Bernardo, LS for Pazz & Construction, LLC for a five lot re-subdivision of 2.49 acres of property located at 49 Fairhaven Road aka/Fairhaven Farms Re-subdivision, Assessor's Map 08.1, Lot 92 on January 3, 2012 at Town Hall, 108 Pennsylvania Ave., Niantic, CT. Chairman Bowers opened the continued Public Hearing and called it to order at 7:02 PM.

**PRESENT:** Mike Bowers, Chairman, Brian Schuch, Secretary, Joan Bengtson, Jean DeGrowth, Carolyn Nee, Rita Palazzo, Alternate

**ALSO PRESENT:** Attorney Theodore Harris, Representing the Applicant  
James Bernardo, LS Representing the Applicant  
Jason Pazzaglia, Owner/Applicant  
Gary Goeschel, Planning Director  
Holly Cheeseman, Ex-Officio, Board of Selectmen  
Frank Balantic, Alternate, Ernest Covino, Alternate,  
Francine Schwartz, Alternate

**ABSENT:** No One

**Pledge of Allegiance**

The Pledge was observed.

**Public Hearing I**

- 1. Application of Jim Bernardo, LS for Pazz & Construction, LLC for a five lot re-subdivision of 2.49 acres of property located at 49 Fairhaven Road aka/Fairhaven Farms Re-subdivision, Assessor's Map 08.1, Lot 92.**

Mr. Bowers noted that they had continued this Public Hearing at the request of the applicant as they had received comments from Ledge Light Health District at a late date that required additional site testing to confirm site suitability.

Mr. Goeschel said that he would submit a list of exhibits to be attached to the minutes. He noted that they had received favorable comments from the Zoning Official and from Kim White of Ledge Light.

Mr. Bowers then called for the applicant or his representative to present this application.

Attorney Theodore Harris, place of business 351 Main Street said that he is representing the applicant. He submitted additional exhibits for the record: **Exhibit BB** – Copy of the sign posted on the property; **Exhibit CC** – Conservation Easement Draft Language; **Exhibit DD** – Joint Driveway & Maintenance Agreement and **Exhibit EE** – Proposed Deed Restrictions per the Town Engineer's comments. He noted that they had requested the continuance due to comments that they had received from Ledge Light and said that **Exhibit V** depicts the final revised plan as of 12/26/2011.

Attorney Harris then gave general information regarding the re-subdivision stating that the lots range in size from 18,000 to 25,000 sq. ft. The two rear lots have 25' of frontage on Fairhaven and the other three lots have direct frontage. The common drive would serve lots 3, 2 and 5 which would eliminate the extra curb cuts and cut down on impervious surface area. Topographically the lot slopes from the back to the road. They would have underground utilities, on-site wells and septic. Ledge Light has suggested that each lot will have their own individual well and for the two rear lots, the wells will be in the conservation easement area. The septic design has Ledge Light approval. The drainage design has drywells on the four new lots with the

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Esther B. Williams

new homes which catch the roof and foundation water. They have minimized the impervious water on site and contaminants would remain in the detention basin rather than flowing off site.

Regarding comments from Ms. Balint of OLISP who suggested perhaps a narrower driveway and rain gardens instead – the driveway – by the regulations cannot be narrower and the basins indent and are able to better channel and hold the water. Additionally Mr. Scheer, the Town Engineer suggested a \$9800 bond for the detention basins and drywells and they do not have a problem with that. There are no wetlands on the site per the report from the soil scientist. The property was an old farm and was tested for pesticides and the report came back with no pesticides. The open space is in the easement area. The plan has indicated on it the typical home locations for each lot. They also checked for endangered species and found that there are none here or in the area. Mr. Bellantoni from the State was consulted for cultural resources and it was determined that there are no archaeologically sensitive areas on site. They have received all positive reports that the area would not be impacted by this subdivision. Each lot also meets the zoning regulations as evidenced by a letter from Mr. Mulholland. He lastly said that Mr. Bernardo and Mr. Pazzaglia were present also to answer any questions.

Mr. Goeschel said that with respect to the correspondence from Ms. Balint that while it indicates that the area is within the coastal management area that it does not contain any sensitive wetlands and there are no known species in the area or on the site that would be impacted. Regarding the suggestion for rain gardens he said that he is not sure that they would be able to accommodate what they are trying to accomplish and the detention basins would in fact act as larger rain gardens. Also, by right, the applicant could come in and apply for multi-family homes – duplexes with each having two bedrooms rather than one home with four bedrooms.

Ms. Bengtson said that the driveway seems to start out at Fairhaven at 20' in width and then reduces to a 10' wide road and asked if that was correct and if emergency vehicles would be able to navigate it.

Mr. Goeschel said that was correct and that with the grass area off the shoulder that they would have enough room to navigate.

Ms. Bengtson said that the plan noted that Lot 1 has an existing well and asked what would be done with it. Attorney Harris said that it would be abandoned.

Ms. Palazzo asked as the driveway has common use – who would be responsible for the maintenance and repair of it.

Attorney Harris said that Lots 2, 5 and 3 are using the shared portion of the driveway and will also share in the upkeep and he had provided that language as Exhibit DD.

Ms. Palazzo asked if there would be streetlights.

Attorney Harris said no, they are not required.

Ms. DeGrowth asked about the well on Lot 1 that is under a deck.

Attorney Harris said that there is a note on the plan that it would be abandoned.

Mr. Bowers asked about the individual septic systems.

Attorney Harris said that they would probably be engineered.

Mr. Bowers asked about the form of the bond.

Attorney Harris said probably surety.

Mr. Bowers noted to Mr. Goeschel that we have asked for cash.

Mr. Goeschel referenced the Public Act change that requires that they take other forms. He added that the \$9800 as a surety bond would be fine and that Town Counsel can review the language.

Ms. Bengtson asked if they were to be duplexes if they would have separate wells and septic for each side. Attorney Harris said no – they would share as the number of total bedrooms would remain the same.

James Barnardo, LS, 102 Spithead Road, Waterford explained the layout of the property. He said that it is broken into two watersheds and that there is a depression between both. The soil type is extremely well drained. The basins are infiltration basins to put the storm water back into the groundwater and recharge it.

Should there be a 100 year storm, it would overflow to the lower depression area. The basins are positioned at low points in the lot.

Mr. Bowers called for anyone from the public who wished to comment on this application.

Merrill Mazzella, 5 Gada Road said that she has concerns over squeezing this property with all of these buildings and that to the people who reside in this area it does not make any sense to squeeze too many things onto 2.5 acres. The rest of the neighborhood has single family homes and only one duplex. She said that she is concerned about the conservation easement as it sounds like a way to get the duplexes in. She is also concerned with the basins as neighbors currently are flooded during regular storms with no development and the new basin is near her property and she does not want water problems. Also, the three way stop at that corner is dangerous. She said that she has lived there nearly 17 years and the road has curves and is narrow and people frequently ignore the stop sign. She has also heard that there are wetlands on the property.

Mr. Bowers asked Mr. Goeschel to explain the difference in wetlands.

Mr. Goeschel said that the term wetlands goes with soil types and often is confused with the FEMA maps of the flood zone areas which is a whole different issue.

Mr. Bowers asked Attorney Harris if he had anything to add.

Attorney Harris summed that the area is in an R-12 zone and that the lots are actually far larger than what is required for an R-12 zone. The Town Engineer has reviewed drainage calculations and the design of the detention basins and has approved them. He noted that our regulations in terms of drainage are far more stringent than most other Towns. The conservation easement in the rear is open space and not a way of getting around the regulations. With regard to traffic, this is a low impact development as duplexes would be two bedroom homes.

Mr. Goeschel suggested that on the southerly side of Lot 5 that the abutting lots would like some vegetative buffer.

Mr. Bernardo suggested that along the westerly portion that they remove the drain pipe and use drywells and then they could put in some plantings.

Ms. Bengtson asked that item #2 on Plate 4-4 which makes reference to 'Montville' be changed to read 'Town of East Lyme'.

Mr. Bernardo apologized and said that he would make certain that change was made.

Mr. Goeschel noted that David King PE did the storm water report and has stated that the basin will not exacerbate any existing conditions – if there are any.

Attorney Harris said that he has no objection to the condition of approval that Item 5 of the joint driveway easement be added to the Mylars so that it is not missed.

Mr. Bowers asked if there were any other questions –  
Hearing none –

Mr. Bowers called for a motion to close this Public Hearing.

**\*\*MOTION (1)**

Mr. Schuch moved that this Public Hearing be closed.

Ms. Bengtson seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Mr. Bowers closed this Public Hearing at 8:20 PM.

Respectfully submitted,

Karen Zmitruk,  
Recording Secretary

49 Fairhaven Road  
Re-subdivision Application  
December 6, 2012 Public Hearing

Exhibit ID	Title/Description	Date
A	Subdivision Application Original	11/8/2011
B	CT DEEP letter to James Bernardo from Dawn McKay, Environmental Analyst	11/16/2011
C	Analysis report from Connecticut Testing Laboratories	11/11/2011
D	EPA method samples from CT Testing Labs	8/8/2011
E	Email from Nick Bellantoni regarding Archaeology of the Site	10/24/2011
F	Letter from Michael Schaefer Sr, Soil Scientist	10/22/2011
G	GIS Interactive Map of 49 Fairhaven Road	11/2/2011
H	Abutters List submitted with Application	11/3/2011
I	Statutory Warranty Deed for 49 Fairhaven Road	11/8/2011
J	Fairhaven Farms Resubdivision at 49 Fairhaven Road Maps	10/6/2011
K	Legal Ad for Public Hearing Notice	11/16/2011
L	Notice to Abutters	11/30/2011
M	Staff Review Comments of Rory Ghio, Fire Marshals Assistant	11/28/2011
N	Staff Review Comments of Brad Kargl, DPU, Engineer	11/21/2011
O	Email from Marcy Balint with Comments regarding CAM and Stormwater	12/5/2011
P	Memo to Gary Goeschel, Planning Director from Bill Scheer, PE Town Engineer, regarding stormwater design	12/6/2011
Q	Letter to James Bernardo Notice of Public Hearing	11/16/2011
R	King & Bernardo, Storm Drainage Design Report Fairhaven Farms Subdivision	11/16/2011
S	Letter from Kim White, RS of LLHD regardin Additional Suitability Issues"	12/5/2011
T	Letter from Theodore A. Harris, Esq. Request to open and continue 12/6/11 public hearing and extenstion of tiem to close public hearing	12/6/2011
U	Fairhaven Farms Resubdivision at 49 Fairhaven Road Maps Updated to December 19, 2011	12/20/2011
V	Fairhaven Farms Resubdivision at 49 Fairhaven Road Maps Updated to December 26, 2011	12/28/2011
W	Letter from Kim White, RS of LLHD recommending suitability of lots 1 thru 5 in current condition based on map of Fairhaven Farms Resubdivision at 49 Fairhaven Road Updated to December 26, 2011	12/29/2011
x	Revised Stormwater Report	12/27/2011
Y	Zoning Comment	1/3/2012
AA	Memorandum to Commission from G Goeschel	1/3/2012
BB	Sign Posted on Property	1/3/2012
CC	Proposed Conservation Easement	1/3/2012