

Planning Commission Meeting Minutes

Tuesday June 2, 2015

Present: Frank Balantic, Secretary, Ernie Covino, Rita Palazzo, Brian Schuch, Chairman, Joan Bengtson, Francine Schwartz, Anne Thurlow, Alternate *(Sat as Regular Member)

Also Present: Gary Goeschel, Planning Director, Marc Salerno (Substitute Ex-Officio), Terry Donovan, Zoning Commission Member

Absent: John Birmingham, Alternate, Michael Hess, Alternate, Rose Ann Hardy, Ex-Officio

Mr. Schuch called this Public Hearing of the Planning Commission to order at 7:05 pm.

Pledge of Allegiance

The Pledge was observed.

FILED IN EAST LYME
CONNECTICUT
June 8, 2015 AT 8:40 AM PM
William Balantic
EAST LYME TOWN CLERK

I. Public Hearing

- A. **Application of Roger Dawson of 1314 East Las Olas Blvd. Fort Lauderdale Fl., 33301, Applicant/Owner;** Application for a 1-Lot Resubdivision of approximately 3.97-acres Zoned RU-80 at 21 Upper Walnut Hill Road, East Lyme, Assessor's Map# 54, Lot# 13 and associated Waiver Request of the open space requirements under Section 7 of the East Lyme Subdivision Regulations.

The Public Hearing was continued from the Planning Commission meeting of May 19, 2015. Mr. Goeschel stated that a flaw was discovered within the legal notice; request for a Waiver from Section 6 was inadvertently omitted from the published legal notice. The Applicant has opted to withdraw his application and resubmit. Mr. Goeschel called attention to the new application in the Member Packet (Exhibit 1), and noted that the Applicant is now only asking for a waiver of the Storm Water requirements. The Public Hearing was closed.

The Commission decided to cancel their regular July 7th, 2015 meeting and hold a special meeting and new public hearing on June 16th, 2015.

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.

I. Approval of Minutes

A. May 19th, 2015 Meeting Minutes

• ****Motion (1)**

Ms. Palazzo moved to approve the Regular Meeting Minutes and Public Hearing Minutes of May 19th, 2015.

Ms. Schwartz seconded the motion.

Vote: 5-0-1. Motion passed.

Ms. Thurlow abstained from the Vote.

III. Subdivisions and Resubdivisions

There were none.

IV. Zoning Referrals (CGS 8-3a)

Proposed changes in zoning regulations or boundaries shall be referred to the Planning Commission for a report that shall contain the findings of the planning commission on consistency of a proposed regulation or boundary changes with the Plan of Development and any other recommendations the Planning Commission deems relevant. Failure of the Planning Commission to report prior to or at the hearing shall be taken as approval of such proposals. The report of the Planning Commission regarding such proposal shall include the reasons for the commission's vote and shall be incorporated into the records of any public hearing held thereon by the Zoning Commission. A proposal disapproved by the Planning Commission may be adopted by the Zoning Commission by a vote of not less than two-thirds of all the members of Zoning Commission.

A. Application of Todd Sakowski, to amend the East Lyme Zoning Regulations, Sections 1.79, 9.2.10, 20.20.8 and 25.5 to permit the operation of a taproom brewery. (Zoning Public Hearing June 4, 2015).

The Commission discussed the taproom application. Mr. Goeschel conceded that it will promote economic growth but wondered if it is appropriate in the commercial business district. He stated that the chosen Zone is his only reservation. He also wondered if the applicant would need to add a food component to the business.

Mr. Schuch asked if they would be able to get a permit for outside dining and Mr. Goeschel said that they would have to show that they serve food. Substitute Ex-Officio Marc Salerno said that only restaurants can have outside dining.

Ms. Palazzo questioned whether the business would create a strong hop fermentation odor which people may find unpleasant. Mr. Schuch said that manufacturing typically occurs in industrial zones but

if this business is located within the CB Zone odor will have to be factored into the equation. Mr. Goeschel explained that approval can condition brewing hours, ventilation, etcetera. Additional restrictions could also be recommended.

Mr. Schuch stated that the Commission could send a letter to Zoning with their thoughts. Ms. Thurlow asked if allowed, does that mean any industrial business will be permitted to come into the CB Zone. Mr. Goeschel said no, if approved, it would only be for this particular application. Mr. Balantic stated that this is a much broader scope; the business could be located anywhere within the CB Zone.

Mr. Goeschel detailed several other towns and states which are welcoming these types of businesses. Brewing is big business which translates into big tax dollars and worth looking at.

Mr. Salerno observed that in regards to the odor, the Town does not regulate cooking smells.

Mr. Schuch asked if the Commission felt that not serving food would change community character. Mr. Goeschel said that if the applicant were to have a kitchen and serve food, he would be operating a brewpub and not a taproom. A brewpub requires a different permit from the State.

Mr. Schuch asked what the Town's definition of a restaurant is; can the taproom simply have a case of bagels? Mr. Goeschel and Mr. Salerno cited different brewpubs as examples of similar businesses who serve food and/or sell beer only on site, or limit drinks to two per persons to prevent the business from becoming a bar. Ms. Schwartz stated that she would think that the applicant would be more successful if he did in fact serve food.

Mr. Covino said that he thinks the taproom is a great idea but that regulations need to be in place, and the Town needs to proceed cautiously. Mr. Schuch said that we want to be sensitive to loopholes so that bars without food don't start cropping up. Mr. Salerno said that the principal business would be manufacturing, which prevents it from becoming a bar. In turn, the 51% requirement for sale on site prevents the business from being solely a manufacturing plant.

Mr. Schuch summed up the Commission's concerns- odor, parking, and lack of food service. Mr. Goeschel said that we should also be concerned with the impact on water and sewer use, which is a Zoning issue, but can be highlighted in the letter sent to Zoning.

Mr. Balantic stated that many of the concerns that the Commission has are covered under the "special permit" umbrella, are site specific and come later. Mr. Salerno clarified that there can be conditions for approval and that they don't have to be part of the Regulations.

The Commission discussed how this application relates to the POCD.

- ****Motion (2)**

Mr. Balantic moved that the East Lyme Planning Commission find the proposed text amendment Application of Todd Sakowski, to amend the East Lyme Zoning Regulations, Sections 1.79, 9.2.10, 20.20.8 and 25.5 to permit the operation of a taproom brewery as consistent with the East Lyme 2009 Plan of Conservation and Development for the following reasons:

- 1. Objective 2.1: Promote Compatible and Sustainable Economic Development.**

Policy- Promote compatible business in appropriate locations to foster local employment and opportunities, a favorable tax base, the provision of goods and services for local residents, and a year round and seasonal economy that improves the overall quality-of-life for East Lyme residents.

2. Objective 2.2: To 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.

Policy- the Town should encourage attractive, well-designed commercial and industrial activity in appropriate locations in order to provide convenient services for residents. As such, the expansion of existing businesses and establishment of new businesses in the village centers, in a manner that promotes a cohesive, pedestrian-friendly, mixed-use retail, service, and residential area should be encouraged. The Town should reserve commercial and industrial only zones, while guarding against commercial sprawl and consider small neighborhood centers consisting of mixed-use development. In addition, the Town should encourage and develop opportunities for low-impact, home based businesses.

The Planning Commission has the following comments:

1. The Planning Commission recommends that the Zoning Commission consider expanding the application for permitting such a use in the CA-Commercial District and the LI-Light Industrial District as well as potentially in the GPDD, Gateway Planned Development District.
2. The Planning Commission recommends that the Zoning Commission consider editing the change to article 20.20.08 to specifically state malt beverages.
3. The Planning Commission values the Town's long standing policy of serving alcohol with food in establishments permitted to do so, and recommends that the Zoning Commission consider an additional control, perhaps limiting the amount of beverage served per person to some quantity consistent with practices in other similar facilities in the State; perhaps 32 ounces would be considered.

Ms. Palazzo seconded the motion.

Vote: 6-0-0. Motion passed.

The Commission took a five minute comfort break and reconvened at 8:30 pm.

V. 8-24 Referrals

- A. Request of the Town of East Lyme, for a report regarding the Purchase of a Conservation Easement on property to be owned by New England Forestry Foundation

known as 29 Goldfinch Terrace consisting of approximately 166 acres with an entrance at the intersection of Goldfinch Terrace and Cedarbrook Road.

Mr. Goeschel provided the Commission with a letter from First Selectman, Mark Nickerson, (Exhibit 2), requesting a report on this matter, and the Commission discussed the potential purchase in detail.

Mr. Balantic said that after reviewing the proposal, he noticed that the land owner is choosing to keep the most developable 40 acres. The acres the owner is choosing to part with are much more difficult to develop and he feels that the market will preserve this land; we should preserve land that we want to save, that would be easier to develop.

Mr. Goeschel noted that the land could be developed in some way but that the site is not conducive to septic.

Mr. Salerno reviewed the history of this proposal for the Commission and explained how the DEEP will be the primary holder of the conservation easement. He did add that the Town would like to be a co-holder of the easement but that it is rare to have two and we would not know until negotiations with the State.

Mr. Goeschel said that the land is listed on Land of Unique Value Study (the LUV Study), as desirable land to preserve which would make it difficult to find this proposal inconsistent, but agrees with Mr. Balantic that the money could be better spent. The parcel is also identified as #24 in the desired open space parcel list in the appendix of the POCD.

Mr. Covino said that their charge is determining consistency and asked how it could not be. Mr. Goeschel said that since this is a referral, only a report needs to be furnished and consistency does not have to be decided.

Mr. Balantic stated that is easy to convince yourself that you're doing the right thing here but that given the possibility of Route 11 and eminent domain, along with the difficulty of developing this land, makes this deal unattractive. He stated that he knows that this proposal will most likely go through, that it looks good on paper, but he finds the whole thing very disheartening. He stated that we may wish we had this money in the future where it could be more effectively spent and not spent simply because we have it.

Mr. Schuch agreed with Mr. Balantic's assessment noting that this Town has already acquired this type/class of land. He observed that this land is protected by the market place and threatened by the State, which may be two reasons not to proceed with this project. Ms. Palazzo stated that the proposal is consistent, but it's a bad deal. Mr. Salerno pointed out that this Commission did endorse the conservation of this land when the Applicant was applying for a State Grant.

- ****Motion (3)**

Mr. Balantic moved that the East Lyme Planning Commission find the 8-24 Referral regarding the Purchase of a Conservation Easement on property to be owned by New England Forestry Foundation known as 29 Goldfinch Terrace consisting of approximately 166 acres with an entrance at the intersection of Goldfinch Terrace and Cedarbrook Road as consistent with the 2009 POCD as amended, specifically Chapter 5, Discussions of Open Space and Open Space Preservation:

Objective 3.1- To identify and preserve the natural, historic, cultural and environmental resources and habitats of the community and Objective 3.2- To protect East Lyme's native ecosystems, biodiversity and maintain the quality of East Lyme's watercourses.

The Commission makes one significant comment; this use of the Town's Open Space Fund may not completely honor

Article 7.2.4.4 of the POCD- to establish an open space fund for future acquisition of open space to help offset the financial impacts of residential growth.

Specifically, several Commission Members expressed the concern that the market place may protect this land just as effectively as this expenditure of funds. The Town may find that we may wish we had these funds for another purchase later.

Ms. Palazzo seconded the motion.

The Commission further discussed the motion.

- ****Motion (4)**

Mr. Balantic moved to amend his previous motion to include one additional comment as discussed by the Membership. This parcel is ranked highly on the Town's Open Space Plan and is classified by the LUV Study as Type 1, "Critical Preservation Parcel"

Development of these parcels would be detrimental to the Town's natural and cultural systems. These parcels present significant legal and physical limitations to development. The presence of highly valued natural and cultural resources dominates site characteristics. Close proximity to surface water bodies makes these parcels key to maintaining a clean hydrological system.

Ms. Palazzo amended her second to include the additional comment
Vote: 6-0-0. Motion passed.

VI. Old Business

- A. Application of Roger Dawson of 1314 East Las Olas Blvd. Fort Lauderdale FL, 33301, Applicant/Owner;** Application for a 1-Lot Resubdivision of approximately 3.97-acres Zoned RU-80 at 21 Upper Walnut Hill Road, East Lyme, Assessor's Map# 54, Lot# 13 and associated Waiver Request of the open space requirements under Section 7 of the East Lyme Subdivision Regulations.

This item has been withdrawn.

VII. New Business

There was none.

VIII. Reports

A. Chairman

There was none.

B. Ex-Officio- Marc Salerno (substitute for Rose Ann Hardy)

Ms. Hardy was not in attendance. Mr. Salerno detailed the last Board of Selectmen Meeting. Crescent Beach Association has decided that they now wish to opt out of allowing golf carts. They did not meet the deadline last year when it was necessary to inform the Town that they do not wish to be included. Since then, several members of their community have purchased golf carts. The Board of Selectmen decided to wait a year before deciding if any changes should be made.

C. Zoning Representative

Mr. Balantic stated that the Zoning Commission held a Public Hearing for Landmark, which consisted of several hours of reading legal documents into the record. The Public Hearing has been continued to June 4, 2015.

D. Sub-Committees

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

Nothing to report.

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

Nothing to report.

E. Staff/Communications

Mr. Goeschel gave the Commission Members a letter from Attorney Ziegler (Exhibit 3).

ADJOURNMENT

- ****Motion (5)**

Ms. Palazzo moved to adjourn the Planning Commission Meeting at 9:20 pm.

Ms. Thurlow seconded the motion.

Vote: 6-0-0. Motion passed.

Respectfully Submitted,

Brooke D. Stevens,

Recording Secretary

Exhibit 1

APPL. ATION NO. _____



PLANNING COMMISSION APPLICATION

FOR SUBDIVISION / RE-SUBDIVISION, SUBDIVISION
MODIFICATION, POCD AND SUBDIVISION REGULATION
AMENDMENT



APPLICATION TYPE: Subdivision _____ Re-Subdivision ☒ Subdivision Modification _____
POCD Amendment _____ Subdivision Amendment _____

NAME OF SUBDIVISION: N/A

PROPOSED ROAD NAME(S): N/A LENGTH _____ l.f.
(attach list if more than one)

PROPERTY LOCATION: (attach 8 1/2 x 11 location map) _____

APPLICANT: Roger Dawson

Address: 1314 East Las Olas Blvd Phone: 23 980 4987 Fax: _____
Ft Lauderdale, FL 33301 e-mail: allstarrjanet@aol.com

OWNER: Same

Address: _____ Phone: _____ Fax: _____
e-mail: _____

PRIMARY CONTACT / AGENT: Tison Dismukes PE

Address: P.O. Box 194 Phone: 860 491 3456 Fax: _____
Goshen CT 06756 e-mail: tdismukes@dismukes-engineering.com

ASSESSOR'S MAP(S) & LOT(S) 54/13 TOTAL ACRES 3.97ZONING DISTRICT(S) R80 CONV. O.S. (circle one) CAM _____ # LOTS _____

FLOOD ZONE _____ AQUIFER _____ W/IN 500' TOWN BOUNDARY _____ FARM LAND _____

WATER SUPPLY well SEWAGE DISPOSAL septic
(attach letter from Water & Sewer Dept. if public and Ledge Light Health District if on-site)

CONSERVATION COMMISSION APPLICATION: _____ PERMIT#: _____

WAIVER(S) REQUESTED: (attach letter) N/AZONING VARIANCES: (attach copy from land records) NonePLANS PREPARED BY (Engineer/Surveyor): Tison Dismukes PE

Address: Above Phone: _____ Fax: _____
e-mail: _____

ORNEY:

Phone:

Pay

e-mail:

PREVIOUS SUBDIVISION(S) IF RE-SUBDIVISION OR LOT LINE REVISION:

Map Dwr.

Map _____ Dwr. _____

Map Dwr.

CHECKLIST ATTACHED

CONSENTS AND PERMISSIONS:

The undersigned owner, or legally authorized agent, hereby consents to necessary and proper inspections of the property that is the subject of this application by agents of the Commission at reasonable times both before and after approval is granted by the Commission.

The undersigned declares all information submitted with this application is accurate to the best of his/her knowledge and belief. If such information subsequently proves to be false, deceptive, incomplete or inaccurate, the approval may be modified, suspended, or revoked by the Commission.

Owner's Printed Name ROGER H. DRAHSON

Owner's Signature _____

4/29/15
Date

Applicant's Printed Name

Applicant's Signature

Date _____

FOR INTERNAL USE ONLY;

**SUBMITTED:
APPLICATION FEE:
PROCESSING FEE:
DATE OF RECEIPT:
SET P.H. BY:
PUBLISH LEGAL NOTICE:
HEARING HELD:
DECISION BY:
CONDITIONAL APPROVAL:
LEGAL NOTICE
FINAL APPROVAL:
LEGAL NOTICE:
LETTER OF DECISION:**

**BOND SUBMITTED:
OPEN SPACE CONVEYED:
MYLARS FILED:
ROAD ACCEPTED:
DEEDS & EASEMENTS FILED:**

SUBDIVISION APPLICATION CHECKLIST

- ☐ Original & 1 copy application form
- ☐ 12 copies 11" x 17" at no less than 1 inch = 200 feet
- ☐ 10 copies of all maps required by Sec 4-1-6 through 4-1-8 and 4-1-12.
- ☒ Application Fee
- ☒ Waiver Request, if applicable
- ☒ Design Report
 - ☒ Natural & Cultural Resources Map (4-1-4)
 - ☒ Archaeological Survey (5-11)
 - ☐ Biological Survey
 - ☒ Soil Scientist's Report
 - ☒ Pesticide Report (5-10)
 - ☐ Yield Plan showing Conventional layout
 - ☐ Cluster/Conservation Design (for subdivisions > 20 acres)
 - ☐ Choice of Design Option Report & Narrative
 - ☐ Open Space Report Narrative
 - ☐ Zoning Compliance Chart
 - ☐ Traffic Report (>100 lots & non-residential)
 - ☒ Sewage Disposal Report ((5-5)
 - ☒ Water Supply Report ((5-6)
 - ☐ Stormwater Management Plan / Hydrological Report (5-7)
 - ☐ Drainage calcs. W/map showing proposed drainage areas
- ☒ Record Subdivision Plan (5-1)
- ☒ Site Development Plan (Grading & E&S)
- ☐ Road Construction (Plan & Profile)
- ☐ Construction Plans
- ☐ CAM application if applicable
- ☐ Easements and Deeds
- ☐ Construction Cost Estimate for Public Improvements
- ☒ List of Adjacent Property Owners
- ☐ Notification of Adjacent Property Owners (Certificates of Mailing) if public hearing
- ☐ Post Sign

Review By Others:

- ☐ East Lyme Inland Wetlands Agency
- ☐ Regional Planning Commission (abuts or straddles an adjacent municipality)
- ☐ Adjacent Municipality (abuts or straddles an adjacent municipality)
- ☐ Environmental Review Team
- ☐ CT Department of Public Health (if located w/in public water supply aquifer protection area)

Storm Water Management Plan

Under the provisions of Section 6-8-7, Exemptions, the applicant respectfully requests a waiver from the requirements of Section 6-8 of the subdivisions regulations. The overall intent of Section 6-8 is to provide storm water management requirements for larger subdivisions that contain infrastructure including roads, cross culverts, storm drainage systems etc. In these types of subdivisions, large concentrated volumes of storm water can be generated.

On the contrary, the proposed project is a one lot re-subdivision that, when developed, will generate modest run-off.

The following measures have been proposed to prevent adverse effects to wetlands and downstream flooding.

- The proposed driveway is relatively flat for most of its length. It is to be cross-sloped to drain. Due to sandy soils down to over seven feet, small, first flush rain events will predominately infiltrate into the ground instead of concentrating in the swale.
- Runoff from larger rain event will drain around the front of the proposed house where it will then sheet flow on the hillside up gradient of the wetlands.
- The proposed driveway is to be paved at the time of construction. This will reduce sedimentation caused from snow plowing and reduced continual maintenance.
- Clean runoff from the roof will be collected and day-lighted to a level spreader uphill of the wetlands.

**PROJECT NARRATIVE
FOR
RESUBDIVISION OF 21 UPPER WALNUT HILL ROAD**

The proposed project consists of re-subdividing one building lot from the parcel of land located at 21 Upper Walnut Hill Road, East Lyme, Connecticut. Soil testing for septic system feasibility was conducted on July 24th 2014. Suitable soil and septic area for a 4-bedroom house was located on the proposed parcel. The prospective new lot will be served by its own driveway off of Upper Walnut Hill Road

A portion of the project is located in the upland regulated area. There is no wetlands disturbance from the proposed activity. The engineer explored different house locations on the parcel in order to limit the impacts in the upland regulated area. These alternatives are attached.

The Re-subdivision plan shows the proposed erosion controls to be employed at the time the parcel is developed. These include:

- Anti-tracking pad so trucks can clean their tires prior to leaving the site.
- Silt fence along the full length and southerly side of the driveway.
- Silt fence on the downhill side of house during construction.
- Silt fence on the downhill side of the septic system at the time of its construction
- Silt fence and a hay bale barrier to protect the wetland area along the north side of the parcel, and
- A level spreader to dissipate discharge energy from storm water


An erosion control narrative and details are shown on the re-subdivision plan.

Natural Diversity Data Base

Areas

EAST LYME, CT

December 2014

 State and Federal Listed Species
& Significant Natural Communities

 Town Boundary

NOTE: This map shows general locations of State and Federal Listed Species and Significant Natural Communities. Information on listed species is collected and compiled by the Natural Diversity Data Base (NDDB) from a number of data sources. Exact locations of species have been buffered to reduce the general locations. Exact locations of species and communities occur somewhere in the shaded areas, not necessarily in the center. A new mapping format is being employed that more accurately models important riparian and aquatic areas and eliminates the need for the upstream/downstream searches required in previous versions.

This map is intended for use as a preliminary screening tool for conducting a Natural Diversity Data Base Review Request. To use the map, locate the project boundaries and any additional affected areas. If the project is within a shaded area there may be a potential conflict with a listed species. For more information, complete a Request for Natural Diversity Data Base State Listed Species Review form (DEP-APP-007), and submit it to the NDDB along with the required maps and information. More detailed instructions are provided with request form on our website.

www.ct.gov/deep/ndb/request

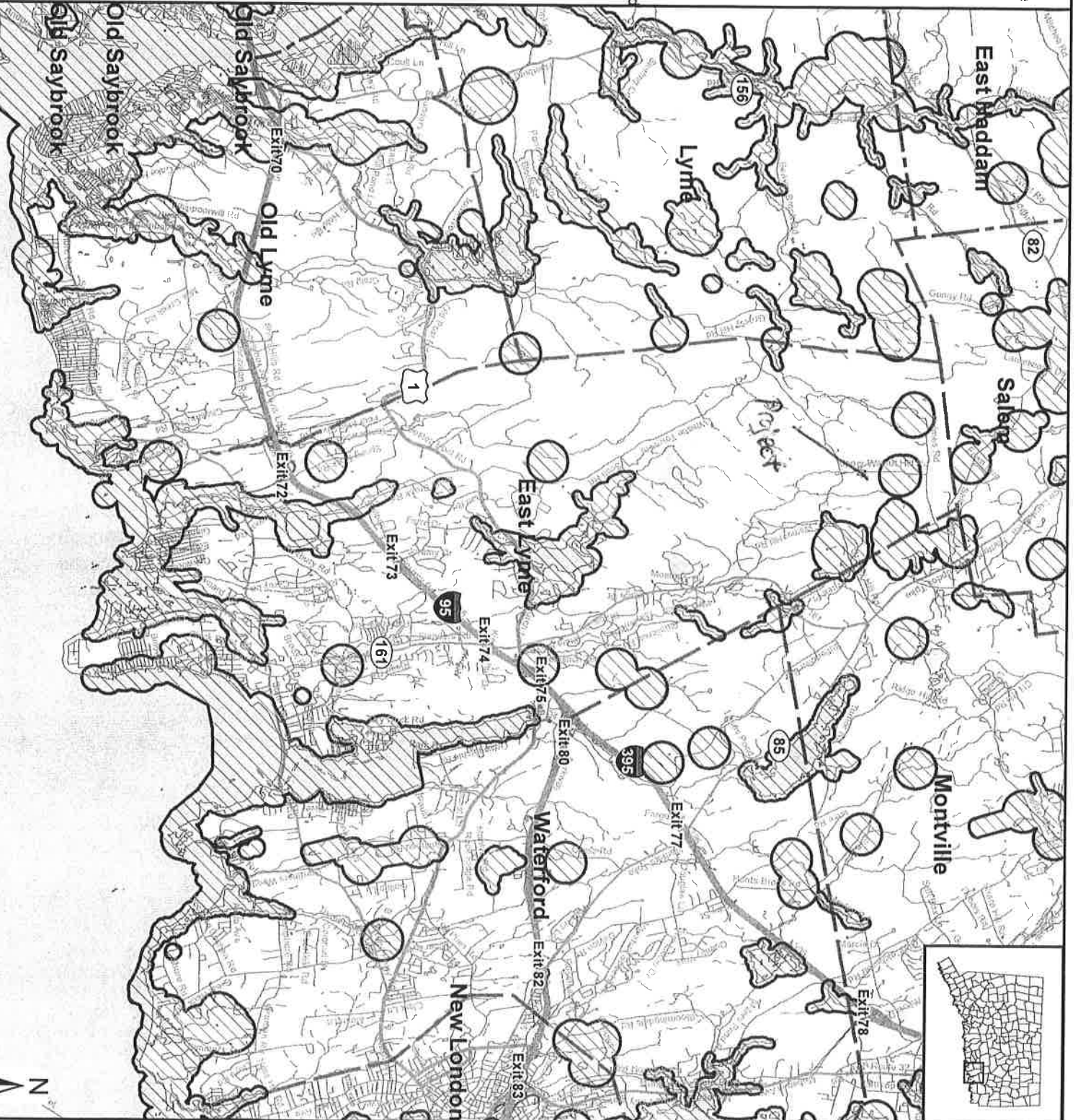
Use the CTECO Interactive Map Viewers at www.cteco.uconn.edu to more precisely search for and locate a site and to view aerial imagery with NDDB Areas.

QUESTIONS: Department of Energy and Environmental Protection (DEEP)
79 Elm St., Hartford CT 06106
Phone (860) 424-3011



Connecticut Department of
Energy & Environmental Protection
Bureau of Natural Resources
Wildlife Division

0 0.5 1 Miles



February 6, 2015

Jason Dismukes, LLC
Consulting Engineers
241 Torrington Road
PO Box 194
Goshen, CT 06756

Re. 21 Upper Walnut Hill Road, East Lyme

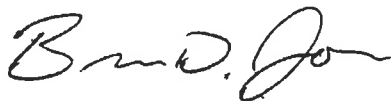
Dear Mr. Dismukes,

The Office of State Archaeology has reviewed the subdivision plan of the lot at 21 Upper Walnut Hill Road in East Lyme, Connecticut. The lot lies on a glacial drumlin and drops in elevation to the east. An existing house, constructed in ca. 1900, currently sits on the western half of the proposed subdivision along Upper Walnut Road and will not be affected by the project. New construction will be focused on the eastern portion of the subdivided lot. This area is underlain by till sediments consisting of very stony Paxton and Montauk soils along the edge of the stony drumlin. These soils are not considered to have a high sensitivity for Native American archaeological sites. No archaeological sites have been reported in the vicinity of the project area.

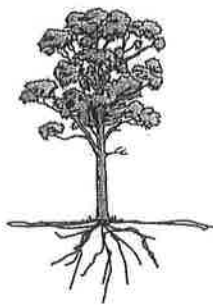
19th century maps suggest that no structures stood on the parcel prior to the construction of the present house. The land appears on the 1934 aerial survey as consisting of open agricultural fields on the west, and wooded pasture on the east. Therefore, there is no concern about historic period archaeological resources on the property.

For the reasons noted above, I do not see a need for an archaeological survey of the property. While I do not anticipate that any Native American or historic-era archaeological deposits will be impacted, should construction activity result in the inadvertent exposure of artifacts or charcoal-rich soil deposits, please have the construction crew contact my office immediately so that I can assess the situation. If you have any questions, please feel free to reach me directly at 860-299-5769.

Sincerely,



Brian D. Jones, Ph.D.
State Archaeologist



JOSEPH R. THEROUX

~ CERTIFIED FORESTER/ SOIL SCIENTIST ~
PHONE 860-376-6842 ~ FAX 860-376-6821
P.O. Box 32, VOLUNTOWN, CT. 06384

FORESTRY SERVICES ~ ENVIRONMENTAL IMPACT ASSESSMENTS
WETLAND DELINEATIONS AND PERMITTING ~ E&S/SITE MONITORING
WETLAND FUNCTION/VALUE ASSESSMENTS

8/14/14

MR. JIM BERNARDO
BERNARDO SURVEYING LLC
102-A SPITHEAD RD.
WATERFORD, CT. 06385

RE: WETLAND DELINEATION, 21 UPPER WALNUT HILL RD. E. LYME, CT.

DEAR MR. BERNARDO,

AT YOUR REQUEST I HAVE DELINEATED THE INLAND WETLANDS/WATERCOURSE ON THE ABOVE REFERENCED PROPERTY.

THESE WETLANDS HAVE BEEN DELINEATED IN ACCORDANCE WITH THE STANDARDS OF THE NATIONAL COOPERATIVE SOIL SURVEY AND THE DEFINITIONS OF WETLANDS AND WATERCOURSES AS FOUND IN THE CONNECTICUT STATUTES, CHAPTER 440, SECTION 22A-38.

FLUORESCENT PINK FLAGS LABELED WETLAND DELINEATION WITH A CORRESPONDING LOCATION NUMBER DELINEATE THE BOUNDARY OF THE INLAND WETLANDS.

FLAG SERIES WF- 1 THROUGH WF- 17 DELINEATE THE BOUNDARY OF A SMALL WETLAND AREA ALONG THE NORTHERN PROPERTY BOUNDARY. AN INTERMITTENT WATERCOURSE FLOWS FROM THIS WETLAND TO THE EAST OFF THE PROPERTY. NO FLOWS WERE NOTED AT THE DATE OF THIS REPORT.

THESE WETLAND SOILS HAVE FORMED AS A RESULT OF PROLONGED WETNESS FROM A SEASONALLY HIGH PERCHED WATER TABLE AND ARE CHARACTERIZED BY LOW CHROMA COLORS WITHIN 20 INCHES OF THE SURFACE AND SHALLOW REDOXIMORPHIC FEATURES.

IN CONCLUSION, IF YOU HAVE ANY QUESTIONS CONCERNING THE DELINEATION OR THIS REPORT, PLEASE FEEL FREE TO CONTACT ME.

THANK YOU,

JOSEPH R. THEROUX
CERTIFIED SOIL SCIENTIST
MEMBER SSSNE, NSCSS.

April 09, 2015

Jason Dismukes, LLC
P.O. Box 194
Goshen, CT 06756

Attn: Mr. Jason Dismukes


Please find attached laboratory report(s) for the samples submitted on:
April 01, 2015.

All pertinent information for this analysis is located on the report. Should it be necessary to contact us regarding billing or the test results, please have the following information readily available:

Lab No. : 0415012
PO/Job No. : QUICK TIME, LLC
Invoice No. : 191708
Customer No. : 3432

Please contact us if you have any questions.

Very truly yours,


Stephen J. Franco
Laboratory Director
PH-0547



STEPHEN J. FRANCO
Laboratory Director
PHONE 203/634-3731

www.ctl-web.com / ctestlab@erols.com
165 GRACEY AVENUE MERIDEN, CT 06451

Client Name: **Jason Dismukes, LLC**
 CTL Lab No.: 0415012
 Job/PO No. Quick Time, LLC
 Report Date : 04/06/15

Date Extracted: 04/01/15
 Date Analyzed: 04/06/15
 Analyst: SM

EPA METHOD 8081A

Date Samples Rec'd: 04/01/15

Matrix Type:
 CTL Sample #:
 Field ID :

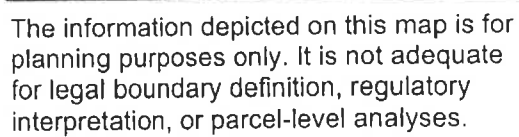
S
3932
New Lot
West

S
3933
New Lot
East

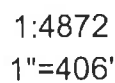
Parameters-ug/kg	RL				
Aldrin	25	ND	ND		
a - BHC	50	ND	ND		
b - BHC	50	ND	ND		
d - BHC	50	ND	ND		
Lindane	20	ND	ND		
Chlordane	50	ND	ND		
4,4' - DDD	50	ND	ND		
4,4' - DDE	50	ND	ND		
4,4' - DDT	50	ND	ND		
Dieldrin	5	ND	ND		
Endosulfan I	100	ND	ND		
Endosulfan II	100	ND	ND		
Endosulfan Sulfate	100	ND	ND		
Endrin	50	ND	ND		
Endrin Aldehyde	50	ND	ND		
Heptachlor	10	ND	ND		
Heptachlor Epoxide	20	ND	ND		
Methoxychlor	50	ND	ND		
Toxaphene	300	ND	ND		

RL= Reporting Limit ND= Not Detected

Matrix Types: W = Water/Aqueous S= Soil/Solid O= Oil/Hydrocarbon



4/8/2015 11:19:57 AM



Adjacent Abutter Mailing Address

Parcel_ID	Grantee	Mailing Address	City	State	Zip
54.0 3-1	ESLINGER STEPHEN R	304 DARLING RD	SALEM	CT	6420
54.0 12	GANNOE SUSAN J	27 UPPER WALNUT HILL RD	EAST LYME	CT	6333
54.0 3	ESLINGER FRANCES L/U	20 UPPER WALNUT HILL RD	EAST LYME	CT	6333
54.0 14	BROGAN CHARLES PATRICK &	19R UPPER WALNUT HILL RD	EAST LYME	CT	6333
54.0 14-1	DALEY VALERIE AKA VALARIE M DALEY	19 UPPER WALNUT HILL RD	EAST LYME	CT	6333

Town of

Mark C. Nickerson
First Selectman
MNickerson@eltownhall.com



East Lyme

108 Pennsylvania Ave.
P.O. Box 519
Niantic, Connecticut 06357
Phone (860) 691-4110
Fax (860) 739-2851

TO: ~~Town Planner Gary Goeschel~~
Board of Finance

FROM: First Selectman Mark C. Nickerson

DATE: May 21, 2015

At their meeting of May 20, 2015, the Board of Selectmen approved the following:

Resolved, to allocate the sum of \$350,000 from Open Space Fund No. 59 for the purpose of purchasing a conservation easement on property to be owned by the New England Forestry Foundation, consisting of approximately 166 acres with an entrance at the intersection of Goldfinch Terrace and Cedarbrook Road in East Lyme. The conservation easement shall be in a form satisfactory to the Board of Selectmen and the Town Attorney.

Also resolved, that said amount shall not be paid unless and until other funds from the following sources are made available to the New England Forestry Foundation at the closing of the purchase and sale of the property; \$500,000 from the Connecticut Department of Energy and Environmental Protection; \$375,000 from private or public funding received by the New England Forestry Foundation.

Also resolved, that the foregoing allocation be forwarded to the Board of Finance for approval, and that the Planning Commission be requested to submit a report as provided in Section 8-24 of the Connecticut General Statutes.

Please take the pertinent actions necessary by each of your Board's pursuant to this motion.

Exhibit 3

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
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Taryn@zieglerlawct.com

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

VIA EMAIL: BrianSchuch@gmail.com

June 2, 2015

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.
Letter of Credit for Specific Improvements and Release of Declaration of
Restrictions and Covenants RE Sale or Transfer of Subdivision Lots

Dear Mr. Schuch:

As you know, this office represents The Orchards of East Lyme Development, Inc. and the purpose of this letter is to request that the following matters be put on the Town Planning Agenda for the July 7, 2015, meeting. We seek the Commission's decision on the following:

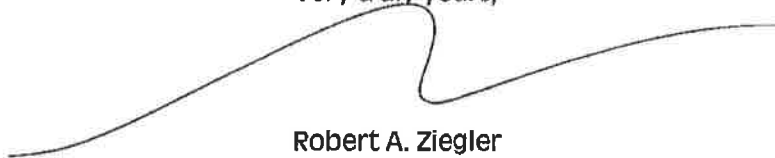
- (1) a request to provide a Letter of Credit to insure completion of the public improvements of the above subdivision and I refer to a Memo to Gary Goeschel from Victor Benni dated May 9, 2015. From this amount we would deduct the \$935,000.00 amount of the bonds already in place for a total amount of \$1,339,364.00; and
- (2) a request, assuming the Planning Commission acts favorably to Item Number 1 above, and that the Commission execute a Release of Declaration of Restrictions and Covenants RE Sale or Transfer of Subdivision Lots in Volume 674 at Page 286 of the East Lyme Land Records, a copy of which is attached hereto.

If there is any reason that the above requests cannot be heard at the July 7, 2015, meeting, please advise immediately.

Mr. Brian Schuch
June 2, 2015
Page 2.

Thank you in advance for your anticipated cooperation.

Very truly yours,

A handwritten signature in black ink, consisting of a long, sweeping horizontal stroke that curves upwards and then back down to the baseline, ending with a small loop.

Robert A. Ziegler

RAZ:kkw

cc: Gary Goeschel via email: GGoeschel@eltownhall.com
Jennifer Lindo via email: JLindo@eltownhall.com
Client: tina@bycarrier.com
Edward O'Connell: eboconnell@wallersmithpalmer.com

Y:\Work Directory\Real Estate\CARRIER\The Orchards at East Lyme 10732.000\Letter to Gary Goeschel,
Brian Schuch and Jennifer Lindo.doc

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.

3. The provisions of this Declaration shall be binding on the Grantee and his/her/its heirs, successors, administrators and assigns.

(NAME OF DECLARANT)

ORCHARD WOODS AT EAST LYME LLC

Edwin A. Lassman
witness Edwin A. Lassman

Edwin A. Lassman
witness Edwin A. Lassman

By Ell, Inc.

Its Sole Member

By

Otto J. Paparazzo
Its President

STATE OF CONNECTICUT)

COUNTY OF _____)

SS: _____

On this the _____ day of _____, 200____, before me,
_____, the undersigned officer, personally appeared
_____, known to me (or satisfactorily proven) to be the person
whose name _____ subscribed to the within instrument and acknowledged that he
_____ executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand.

Notary Public

Commissioner of Superior Court

STATE OF CONNECTICUT)

COUNTY OF HARTFORD)

SS: Hartford

On this the 22nd day of June, 2004, before me,
Edwin A. Lassman, the undersigned officer, personally appeared
Otto J. Paparazzo, who acknowledged himself to be the President of
Ell, Inc., a corporation, and that he, as such President, being
authorized so to do, executed the foregoing instrument for the purposes therein
contained, by signing the name of the corporation by himself as President.

In witness whereof I hereunto set my hand.

Notary Public

Commissioner of Superior Court

Recorded JUNE 23 20 04
Edwin A. Lassman
East Lyme Town Clerk