

**EAST LYME PLANNING COMMISSION
REGULAR MEETING
Tuesday, OCTOBER 2nd, 2012
MINUTES**

PRESENT: Brian Schuch, Acting Chairman, Frank Balantic, Secretary, Joan Bengtson, Ernest Covino, Carolyn Nee, Rita Palazzo, Carolyn Nee

ALSO PRESENT: Attorney Edward O'Connell, Town Counsel
Gary Goeschel, Planning Director

ABSENT: Francine Schwartz, Alternate

Filed October 9, 2012
Recorded AM
10:00 PM Lesley A. Blaw
East Lyme Town Clerk

Acting Chairman Schuch called this Regular Meeting of the Planning Commission to order at 7:05 PM. He noted that all regular members were seated.

Pledge of Allegiance

The Pledge was observed.

I. Additions to the Agenda

Mr. Schuch asked that they add the Election of a Secretary to the Meeting.

****MOTION (1)**

Mr. Schuch moved to add the Election of a Secretary to the agenda – after Public Delegations but before the Approval of the Minutes.

Mr. Covino seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

II. Public Delegations

Public Delegations is the time when members of the public are invited to speak to the Commission about certain matters. Issues or concerns related to approved subdivisions under construction (Item VI) and in-house proposals or general topics of discussion (Item VIII) are open to comment. Items, referrals, or applications subject to a decision by the Commission, a public hearing, or in litigation may not be discussed. The members of the Commission will not directly answer questions or make comment during delegations.

Mr. Schuch called for Public Delegations.
There were no Public Delegations.

▪ **Election of Secretary**

Mr. Schuch called for nominations for the position of Secretary of the Planning Commission.

****MOTION (2)**

Ms. Palazzo moved to nominate Frank Balantic for the position of Secretary of the Planning Commission.

Ms. Bengtson seconded the motion.

Mr. Schuch asked if there were any other nominations –
Hearing none –

He closed nominations and called for a vote on the nomination of Frank Balantic for the position of Secretary of the Planning Commission.

Vote: 5 – 0 – 1. Motion passed.

Abstained: Mr. Balantic

The members congratulated Mr. Balantic.

**III. Approval of Minutes – Regular Meeting Minutes of September 4, 2012
Workshop Minutes of September 18, 2012**

Mr. Schuch called for any discussion or corrections to the Planning Commission Regular Meeting Minutes of September 4, 2012.

Mr. Schuch asked that on Page 4 under the POCD - Chapter 4 that the line be changed to read: 'Mr. Schuch said that he will find a replacement for Ms. DeGrooth.'

****MOTION (3)**

Ms. Nee moved to approve the Planning Commission Regular Meeting Minutes of September 4, 2012 as amended.

Mr. Covino seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Mr. Schuch called for any discussion or corrections to the Planning Commission Workshop Minutes of September 18, 2012.

****MOTION (4)**

Mr. Covino moved to approve the Planning Commission Workshop Minutes of September 18, 2012 as presented.

Mr. Balantic seconded the motion.

Vote: 5 – 0 – 1. Motion passed.

Abstained: Ms. Bengtson

IV. Pending Applications

There were none.

V. Current Subdivision Approval/Construction Reports

There were none.

Mr. Goeschel suggested that they flop items A and B under zoning referrals as Attorney O'Connell is present this evening to give an overview on the Landmark Development application referral.

****MOTION (5)**

Ms. Nee moved to swap Items A. & B. under Zoning Referrals on the agenda.

Ms. Bengtson seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

VI. Zoning Referrals (CGS 8-3a)

a. Landmark Development Group, LLC; Remand of Appeal from Superior Court for the Application of Landmark Development Group, LLC to amend the East Lyme Zoning Regulations Section 32, Affordable Housing District. This application was previously referred for comment and as part of the remand from the Superior Court has been sent back to the Zoning Commission for adoption of the proposed text amendment as evidenced by the enclosed draft. The Zoning Commission has scheduled a public hearing for October 18, 2012.

Attorney O'Connell gave an overview of the events that had led up to the current remand process. He noted that in the Landmark I court case that the decision had been upheld by Judge Quinn; in the Landmark II court case that the decision had been upheld by Judge Prescott and the here in the Landmark III case that the decision had been upheld in part and granted in part and that on appeal it was remanded back to the Zoning Commission. The text amendment of Section 32 – Affordable Housing District is on referral from Zoning.

Mr. Goeschel reviewed the memo that he had provided the Commissioners, with respect to the Plan of Conservation & Development.

Mr. Schuch asked the time frame that they had on this in which to reply.

Attorney O'Connell said that he understands that Zoning will open their public hearing on this matter on October 18, 2012.

Mr. Schuch said that they could act on this at their Workshop Meeting on October 16, 2012 and asked Attorney O'Connell if he would be present at that meeting for them to ask questions. Attorney O'Connell said no.

Mr. Balantic asked if he could outline the differences.

Attorney O'Connell said that he could be very general only – the part that was approved was in the sewer service area. He noted that they would want to think in terms of consistency with the Plan of Conservation & Development as that is their purview.

Mr. Schuch asked about information that was presented from the Planning Department in the past. Attorney O'Connell said that was put together by Meg Parulis and that it had become a part of the Town's zoning record as it was presented there.

Mr. Schuch noted that it also offered them some opportunity again to comment and asked that they take a good look at this and come prepared to put this together at their October 16, 2012 Workshop Meeting. He said that they would table this matter at this time and thanked Attorney O'Connell for coming to their meeting.

Mr. Goeschel asked that if they have any questions that they contact him.

b. Town of East Lyme Zoning Commission – Application to amend the East Lyme Zoning Regulations to remove Section 13, Aquifer and Primary Recharge District and Secondary Recharge District, and Section 30, Aquifer Protection Districts, and a request for a zone change to remove/delete the Aquifer Protection Zones from the East Lyme Zoning Map due to new approvals as required by the State of Connecticut.

Mr. Goeschel noted that he had provided them with information on this with respect to the POCD. He noted that a majority of the land in the re-districted areas is residential and that Zoning has regulations in place regarding certain items that are allowed in that zone. He also said that the Zoning Commission also acts as the Aquifer Protection Agency for the Town and that in that capacity they act solely and separately from the Zoning Commission. Certain uses would be required to register their business and new uses of that type would not be able to establish themselves in the aquifer protection areas. He said that he would recommend that they modify the section to have the aquifer protection zones on the map however it is zoning who ultimately has the vote on this.

Mr. Schuch said that they could also hold off on this and take the time to review it further and act on it at the October 16, 2012 Workshop Meeting.

Mr. Balantic said that he is comfortable with the decision as proposed and that he feels that will work to protect the aquifer and that they are not moving away from protecting those areas.

Ms. Nee asked how the districts were created.
Mr. Goeschel said that soil(s) testing was done.

Ms. Bengtson said that he has a hard time with giving up something and that she is not comfortable with this at all.

Mr. Schuch asked who regulates this now.

Mr. Goeschel said that zoning does.

Mr. Schuch asked if this is adopted who the new agency would be that oversees this.

Mr. Goeschel said that it would be zoning in a separate capacity as the aquifer protection agency for the Town in conjunction with the new approvals as required by the State of Connecticut.

Ms. Nee, after lengthy discussion both pro and con on this matter; said that she is comfortable with the discussion they have had and that she would prefer not to table this item as they will need the time at the next meeting to address the Landmark referral.

****MOTION (6)**

Ms. Nee moved that pursuant to Section 8-3A of the Connecticut General Statutes, the Planning Commission of the Town of East Lyme, exercising its authority and having reviewed the proposal to omit Section 13 and 30 of the East Lyme Zoning Regulations, referenced above, finds the aforesaid proposal INCONSISTENT with the 2009 Plan of Conservation and Development, as amended based

on the findings in a memo dated October 2, 2012 from Gary Goeschel, Director of Planning to the East Lyme Planning Commission and William Mulholland, Zoning Official with the following recommendation(s):

- The State proposed aquifer areas are expanded so that the overlay zone encompasses the non-residential zones.

Ms. Bengtson seconded the motion.

Mr. Schuch said that he would like to see something regarding the POCD and the land use boards working together fostering a common goal. He suggested that the Zoning Regulations should foster the land use commissions working together to effectively implement the POCD.

Mr. Balantic noted that the aquifer boundaries were pointed out in Mr. Goeschel's memo and that language could be taken directly from that regarding the first recommendation.

Ms. Nee said that she would amend the recommendations part of her motion to read:

- Primary and Secondary Aquifer Protection District boundaries in non-residential areas, which operate as overlay zones and are regulated through zoning, should remain.
- The Zoning Regulations should foster the land use commissions working together to effectively implement the POCD.

Ms. Bengtson amended her second to accept these recommendations.

Ms. Bengtson asked what prevents zoning from voting against what they are proposing. She also noted that she had heard an inappropriate comment from outside the board.

Mr. Schuch said nothing, however; he feels that this has been well worth the discussion and that zoning could vote to amend some of it and can take their comments into consideration.

Vote: 6 – 0 – 0. Motion passed.

c. Application of Theodore A. Harris, agent for JAG Capital Drive, LLC to re-zone from its existing zoning designation (Light Industrial) to Affordable Housing District for property identified in the application as West Main Street/Capital Drive, Assessor's Map 09.0, Lot 19. The zone change is part of an application by JAG Capital Drive LLC for approval of an affordable housing development and site plan to construct sixty-nine units (69) on property at the subject property. The Zoning Commission has scheduled a public hearing on this application for November 1, 2012.

Mr. Goeschel noted that they do have time on this and as it would require a zone change that he would like to put a memo together first in relation to the POCD.

Mr. Balantic said that he has walked this property and that he is inclined to say that it is okay and that it could help solve some of the housing issues.

Mr. Schuch said that they would table this to their October 16, 2012 workshop meeting to allow Mr. Goeschel time to prepare a memo for them in conjunction with the POCD.

VII. 8-24 Referrals (Municipal Improvements)

There were none.

VIII. Other Business

▪ New Business

1. Commission Alternate Vacancies/Appointments

Mr. Schuch recalled that they had two (2) Alternate vacancies to fill and that they had left the positions open to allow for interested people to come forward. He said that they had received three letters of interest and that they could not have anymore than two from one party. He noted for their reference that Ms. Schwartz is a democrat – so they could only add one other from that party. The other could be a republican or unaffiliated. He said that if they chose not to fill the positions this evening that it would go to the Board of Selectmen to fill the positions.

Mr. Covino said that he knows Mr. Strafacci and has conducted business with him and asked if he should recuse himself from this process.

Mr. Goeschel said only if Mr. Strafacci is nominated for a vacancy.

Mr. Schuch called for nominations for the position of Alternate on the Planning Commission –

****MOTION (7)**

Ms. Bengtson nominated Hannah Catherine Ladd to fill an alternate position on the Planning Commission.

Ms. Nee seconded the motion.

****MOTION (8)**

Ms. Palazzo nominated Dr. Yousuf to fill an alternate position on the Planning Commission.

Mr. Balantic seconded the motion.

Mr. Schuch asked if there were any other nominations –
Hearing none – he closed nominations.

Mr. Schuch called for a vote on the nomination of Ms. Ladd –
Vote: 6 – 0 – 0. Motion passed.

Mr. Schuch called for a vote on the nomination of Dr. Yousuf –
Vote: 6 – 0 – 0. Motion passed.

Mr. Goeschel said that he would have the office notify the people and also send a letter of appreciation to Mr. Strafacci for his interest.

▪ **Old Business**

1. POCD Discussion on Updates

Mr. Schuch noted that he had emailed them Chapter 2 and that he would have other chapters for them in the near future.

2. Scenic Road Ordinance

Mr. Schuch noted that the issue here was for clarification with respect to property rights.

X. Reports

1. Chairman

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

2. Zoning Representative

There was no report.

3. Regional Planning Commission Representative – Brian Schuch, Luane Lange

There was no meeting to report on.

4. Subcommittees

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

Mr. Goeschel reported that they are making progress on this and that he also has some interns working on it.

▪ **POCD – Chapter 4 – Economic Development Subcommittee**

This is a work in progress.

5. Ex-Officio – Holly Cheeseman

There was no report.

Town of

P.O. Drawer 519

**Department of Planning &
Inland Wetlands**

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



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MEMORANDUM

TO: East Lyme Planning Commission,
William Mulholland, Zoning Official

FROM: Gary A. Goeschel II, Director of Planning 

DATE: October 2, 2012

RE: **Town of East Lyme Zoning Commission:** Application to amend the East Lyme Zoning regulations to remove Section 13, Aquifer and Primary Recharge District and Secondary Recharge District, and Section 30, Aquifer Protection Districts, and a request for a zone change to remove/delete the Aquifer Protection Zones from the East Lyme Zoning Map due to new approvals as required by the State of Connecticut.

The proposed application proposes to omit Section 13 and 30 of the Zoning Regulations.

Upon review of the above referenced Zoning Referral with the 2009 Plan of Conservation and Development, as amended, I offer the following:

FINDINGS:

1.3 Objectives and Policies

OBJECTIVE 3.2: To protect East Lyme's native ecosystems, biodiversity and maintain the quality of East Lyme' watercourses.

POLICY:

The Town should continue making attempts to preserve environmentally sensitive lands, such as Oswegatchie Hills and other lands as identified in the Open Space Plan of the Town of East Lyme (annexed hereto as Appendix D), and develop conservation restrictions to protect natural ecosystems. Further, the Town should preserve and enhance the water quality of East Lyme's inland wetlands, watercourses, and aquifers.

2009 POCD
Compatibility

Chapter 5 Open Space, Natural, Historical, and Cultural Resources Section 5.3.2 Groundwater and Surface Water Protection (Aquifer Protection) states that East Lyme has delineated primary and secondary aquifer protection district boundaries, which operate as overlay zones and are regulated through zoning. Areas within the protection districts retain their underlying residential, commercial or industrial zoning but are subject to additional restrictions for protection of the underlying groundwater. Certain uses with the greatest potential for pollution of the groundwater are prohibited outright within the primary protection districts. Other uses are permitted only upon granting of a special permit by the Zoning Commission. The applicant must show, on the basis of plans and reports, that any hazardous materials used on the site will be properly stored and disposed of, that there will be no increase in storm water runoff from the site after development and that the provisions for disposal of sanitary wastes are adequate. These restrictions apply to new development only and do not affect the continued operation of prohibited or special permit uses in place prior to the adoption of the regulations.

The Zoning Commission, which has been designated the Aquifer Protection Agency, adopted Aquifer Protection regulations and designated areas as on the East Lyme Zoning Map to which those regulations apply. However, the Aquifer Protection Areas as shown on the Zoning Map are significantly smaller in area than the Primary and Secondary Recharge Districts. I would note the majority of the land within the Primary and Secondary Recharge districts is zoned Residential, either RU-40 or RU 80. The majority of the commercially zoned areas within the recharge districts will fall within the Aquifer Protection Areas. If section 13 and 30 are omitted, commercial zoned land previously within the aquifer protection district where uses such as automotive repair, fuel or petroleum storage were prohibited such uses would now be permitted. As such, the omission of Section 13 and 30 would not continue to preserve and enhance the water quality of East Lyme's inland wetlands, watercourses, and aquifers.

Therefore, I offer the following resolution:

*motion
here
w/ recs - if any.*

Attachment Planning Reg. Mts. 10/2/12