

## Planning Commission Regular Meeting Minutes

Tuesday September 1, 2015

Present: Ernie Covino, Rita Palazzo, Frank Balantic, Secretary, Brian Schuch, Chairman, Joan Bengtson, Francine Schwartz

Also Present: Gary Goeschel, Planning Director, Michael Hess, Alternate, Anne Thurlow, Alternate, Rose Ann Hardy, Ex-Officio, Bill Scheer, Deputy Director of Public Works

Absent: John Birmingham, Alternate

FILED IN EAST LYME  
CONNECTICUT  
Sept 9, 2015 AT 9:00 AM/PM  
Rita Palazzo  
EAST LYME TOWN CLERK

Mr. Schuch called this Regular Meeting of the Planning Commission to order at 7:37 pm.

### I. 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.

### II. Approval of Minutes

#### A. August 4, 2015 Public Hearing Meeting Minutes

- **\*\*Motion (1)**

Ms. Palazzo moved to approve the August 4, 2015 Public Hearing Minutes.

Mr. Covino seconded the motion.

Vote: 5-0-1. Motion passed.

Mr. Balantic abstained from the vote due to his absence from the August 4, 2015 Public Hearing.

#### B. August 4, 2015 Regular Meeting Minutes

- **\*\*Motion (2)**

Ms. Bengtson moved to approve the August 4, 2015 Regular Meeting Minutes.

Ms. Schwartz seconded the motion.

Mr. Schuch noted that under that Ex-Officio report he would like to add some of the dialogue that occurred at the end. He said that he made a statement that the Planning Commission typically acts to protect our community character and the completion of the Boardwalk will constitute a significant

change in character. He mentioned that they had a loose discussion of a committee that might be put together to help the Town adjust to the changes that are going to come with both the Boardwalk and new users of the Boardwalk. He would like to keep that conversation going and see mention of it in the minutes.

**Vote: 5-0-1. Motion passed.**

**Mr. Balantic abstained due to his absence from the August 4, 2015 Regular Meeting.**

### **III Subdivisions and Resubdivisions**

- A. Application of Roger Dawson of 1314 East Las Olas Blvd. Fort Lauderdale Fl., 3301, 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. (Public Hearing Opened July 7, 2015; Must Close by August 11, 2015.)

Mr. Schuch reminded the Commission that they closed the Public Hearing for this item at the last meeting. He reviewed the concerns of the neighbors and how they were anxious about the proposal. If the Applicant were to meet the regulations, a large amount of trees would have to be cut down and a very wide rain garden would have to be constructed.

Mr. Goeschel said that meeting the regulations would result in more adverse conditions than if they granted the waivers.

Ms. Bengtson mentioned the site walk on this property and observed that on the path they went down you could see the water runoff and that was with heavy vegetation. She thinks that could have an adverse effect on the neighbor.

Mr. Goeschel reviewed Exhibit I (his memorandum dated August 4, 2015), with the Commission.

Mr. Goeschel said that he thinks the waiver request is well justified and that more harm will result without the waiver.

#### **• \*\*Motion (3)**

**Ms. Palazzo moved to grant the Waiver request from Section 6-8-1 through 6-8-6 associated with the application submitted as Application of Roger Dawson of 1314 East Las Olas Blvd. Fort Lauderdale, Florida, 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.**

**Mr. Covino seconded the motion.**

Mr. Goeschel suggested referencing the findings in the motion.

#### **• \*\*Motion (4)**

**Ms. Palazzo moved to amend her motion to include the comments "based on the above findings indicated in the memorandum from Gary A. Goeschel II, Director of Planning, dated August 4, 2015."**

**Mr. Covino amended his second.**

**Vote: 5-0-1. Motion passed.**

Ms. Bengtson abstained from the vote.

- **\*\*Motion (5)**

Mr. Balantic stated that based on the above findings indicated in the memorandum from Gary A. Goeschell II, Director of Planning, dated August 4, 2015, the Commission moves to approve the application known as Application of Roger Dawson of 1314 East Las Olas Blvd. Fort Lauderdale, Florida, 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 plans entitled "Resubdivision Plan- Lot ID, 54/13, prepared for Quick Time, LLC, 21 Upper Walnut Hill Road, East Lyme, Connecticut; dated 12-2-14, and revised through 7-7-15, prepared by Jason Dismukes, P.E. of Jason Dismukes, LLC, Goshen, Connecticut, Sheet 1 of 1" and "Subdivision Plan-Lot Layout, property of Roger Dawson for property located at 21 Upper Walnut Hill Road, Town of East Lyme-County of New London-Connecticut, dated October 16, 2014 and revised through 5-28-15 prepared by James Bernardo, L.S. of James Bernardo Land Surveying, LLC, Waterford, Connecticut, Sheet 1 of 1" 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. A deed restriction to ensure that the level spreader and drainage swale are constructed and maintained in a functional manner. A Note shall be placed on the Record Subdivision Plan with reference to this deed restriction.
2. 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.
3. An Erosion & Sedimentation Control bond in the amount \$4,000 dollars shall be posted with the Town in a form acceptable to the Commission and satisfactory to the Town Attorney or Planning Director.

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 known as Application of Roger Dawson of 1314 East Las Olas Blvd. Fort Lauderdale, Florida, 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 plans entitled "Resubdivision Plan- Lot ID, 54/13, prepared for Quick Time, LLC, 21 Upper Walnut Hill Road, East Lyme, Connecticut; dated 12-2-14, and revised through 7-7-15, prepared by Jason Dismukes, P.E. of Jason Dismukes, LLC, Goshen, Connecticut, Sheet 1 of 1" and "Subdivision Plan-Lot Layout, property of Roger Dawson for property located at 21 Upper Walnut Hill Road, Town of East Lyme-County of New London-Connecticut, dated October 16, 2014 and revised through 5-28-15 prepared by James Bernardo, L.S. of James Bernardo

**Land Surveying, LLC, Waterford, Connecticut, Sheet 1 of 1." 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.**

**Ms. Palazzo seconded the motion.**

Mr. Goeschel said that in regards to condition 2, "Water Department" should be struck from the motion and replaced with "Planning Department." The Commission discussed the rest of this paragraph.

- **\*\*Motion (6)**

**Mr. Balantic amended his motion replacing paragraph 2 to read "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 plan and a separate as-built Mylar shall be submitted to the East Lyme Planning Department showing the location and all improvements to the property."**

**Ms. Palazzo amended her second.**

**Vote: 5-0-1. Motion passed.**

**Ms. Bengtson abstained from the vote.**

The Commission discussed shuffling the Agenda so that Mr. Scheer did not have to wait longer for his item to be heard.

The Commission took a five minute comfort break.

- **\*\*Motion (7)**

**Mr. Balantic moved that item A. of the 8-24 Referral be the next discussion item.**

**Ms. Bengtson seconded the motion.**

**Vote: 6-0-0. Motion passed.**

**V. 8-24 Referrals**

**A. Proposed Salt Shed & Public Works Fueling Facility;** Review of construction of a new 82' diameter salt shed dome and construction of a new gasoline and diesel fueling station located at 8 Capitol Drive, Niantic, Connecticut.

Bill Scheer, Deputy Director of Public Works, came forward to present this item. Mr. Scheer reminded the commission that the field services building at 8 Capitol Drive was purchased with two vacant lots to the north, the intent being the construction of a new salt dome and fueling station.

Mr. Scheer reviewed his comments and presentation from the previous meeting.

Mr. Goeschel presented the Commission with his requested memorandum dated September 1, 2015 (attached) and reviewed his findings.

Mr. Schuch asked if there is another option for the salt shed and Mr. Scheer responded that they could stay where they are but go bigger. He said this new location is where the equipment is, so it's a better option.

The Commission discussed the proposal.

- **\*\*Motion (8)**

**Mr. Balantic moved that pursuant to Section 8-24 of the General Statutes, the Planning Commission of the Town of East Lyme, exercising its authority and having reviewed the proposal for Proposed Salt Shed and Fueling Facility at 8 Capitol Drive and a Fueling Facility at 8 Roxbury Road, referenced above, the aforesaid proposal is consistent with the 2009 Plan of Conservation and Development as amended, specifically Objective 6.1 and Objective 7.1.**

**Ms. Palazzo seconded the motion.**

**Vote: 6-0-0. Motion passed.**

**B. Proposed Sewer Extension Village Crossing, Park Place; Review of municipal sewer system extension to the proposed Village Crossing Development on Park Place, Niantic, Connecticut.**

Mr. Scheer explained that Village Crossing was originally approved in 2011 as affordable housing that needed to tie into sewer. In their original approval they gave us land for a pump station but the Developer realized it would be less expensive to install a sewer line. The developer obtained an easement from one of the private landowners in order to accomplish this.

The Developer is going to install the sewer line and the property owners on Park Place have the option of tying into the sewer line at any date. They would have to pay an assessment if they tie in but they don't have to pay anything now. This is a win-win situation because the homeowners now have the potential of sewage disposal without having to pay for installation.

Mr. Scheer reported that there have been three or four system failures in that neighborhood, so there already are homeowners who want to tie in.

Mr. Goeschel discussed Objective 6.4 of the POCD, Sanitary Waste Disposal.

- **\*\*Motion (9)**

**Mr. Balantic moved to approve the 8-24 Referral Proposed Sewer Extension Village Crossing, Park Place; Review of municipal sewer system extension to the proposed Village Crossing Development on Park Place, Niantic, Connecticut as consistent with the Plan of Conservation and Development as amended, specifically Objective 6.4, *Sanitary Waste Disposal*.**

**Ms. Bengtson seconded the motion.**

**Vote: 6-0-0. Motion passed.**

**III. Subdivisions and Resubdivisions- continued.**

**B Application of Wayne & Patricia Fraser, Applicant/Owner;** Application for a 1-Lot Resubdivision of approximately 3.0-acres Zoned R-10 at 22 Gurley Road, East Lyme, Assessor's Map #37.0, Lot #20 and Waiver Request from Sec. 4-2-3 B, Sec. 4-2-3 J, and Sec. 6-8 of the East Lyme Subdivision Regulations.

The Public Hearing for this item has been continued until the next meeting.

**C Nottingham Hills Subdivision Status**

Mr. Goeschel supplied the Commission with the Resolution drafted by the Town Attorney. The Resolution is needed in order to withdraw money from the bank.

- **\*\*Motion (10)**

Ms. Palazzo stated that based on the agreement between New England National, LLC and the Town of East Lyme, it was agreed that the Town of East Lyme is to use the Public Improvement Bond for the completion of Upper Kensington Drive. As such, I move to withdraw the Public Improvement Bond in the amount of \$80,000 for the completion of Public Improvements needed for Upper Kensington Drive and hereby authorize any assurances the Bank may need to release said funds to the Town of East Lyme.

Ms. Schwartz seconded the motion.

Ms. Hardy asked who the "I" is in the drafted Resolution.

- **\*\*Motion (11)**

Ms. Palazzo amended her motion to substitute the "I" with "the East Lyme Planning Commission."

Ms. Schwartz amended her second.

Vote: 6-0-0. Motion passed.

**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 Theodore A. Harris for GDEL Residential B, LLC;** Application for a text amendment to the East Lyme Zoning Regulations Section 11.A.9.2.2 (C) to increase the number of units from 280 to 400.

This matter has been postponed until the second meeting in September and is therefore tabled.

Mr. Schuch stated that Mr. Mulholland has invited the Planning Commission to the September 17, 2015 Zoning Meeting. Mr. Mulholland thinks the history detailed will be helpful to the Commission.

Mr. Schuch asked that Mr. Goeschel post the Zoning Meeting as a Special Informational Planning Meeting in case they have a quorum show up.

Mr. Goeschel pointed to the Correspondence from Attorney Harris in the member packet which states that Gateway is the largest taxpayer in Town.

Mr. Balantic said that commercial is a true benefit but the cash flow out that is inherent in residential is often not discussed.

The Commission discussed commercial development in Town.

The Commission discussed the DOT's project being proposed as well as the need for traffic studies in Town.

**B. Application of Theodore A. Harris; Application for a text amendment to the East Lyme Zoning Regulations for a proposed brew pub regulation in LI Zone.**

This is a new application and separate from the previous brew pub application the Planning Commission heard. Mr. Balantic stated that much of the needed discussion already occurred previously, which will assist us in this new application.

This matter has been continued until the next meeting. Mr. Goeschel was asked to prepare a map of the LI Zone as well as a memorandum.

**VI. Old Business**

**A. Plan of Conservation and Development (POCD)**

This will be tabled until the next Planning Commission Meeting.

**VII. New Business**

**A. East Lyme Subdivision Regulation Proposed Changes- Section 9- Assurances for Completion and Maintenance of Improvements**

Mr. Goeschel said that this has been drafted by council and is in the member packet. Considering the bond issues we had with the Orchards, it might be prudent to bring this text forward for review.

**VIII. Reports**

**A. Chairman**

Mr. Schuch had nothing to report.

**B. Ex-Officio- Rose Ann Hardy**

Ms. Hardy stated that due to length of tonight's meeting, she will report at the next meeting instead. She plans on reporting the school enrollment figures which should help with planning.

Another kindergarten teacher had to be hired and the high school has a net loss of one student.

Mr. Schuch detailed the new Town intern from Eastern University and asked Ms. Hardy to inquire if there are any high school students who would like to intern for Engineering.

**C. Zoning Representative**

Ms. Palazzo said that the Caulkins project was up again and that there was not much to report; everything else was moved until the next meeting.

**D. Sub-Committees**

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

This has been tabled until the next meeting.

- b. Subdivision Regulations Bonding Review Subcommittee (B. Schuch, J. Bengtson, Staff: G. Goeschel) Last met November 20, 2014.)

This has been tabled until the next meeting.

**E. Staff/Communications**

Mr. Goeschel said that he and Mr. Schuch have been discussing a Side Walk Plan for Town and that the intern will be able to digitize this. They are hoping to incorporate bike paths, lanes and other projects related to the POCD.

Ms. Bengtson said she would like to see a study on the Solar Energy in Town. Mr. Goeschel said that he has a report, which he will share at the next meeting.

- **\*\*Motion (12)**

Ms. Bengtson moved to adjourn this Planning Commission meeting at 9:28 pm.

Ms. Palazzo seconded the motion.

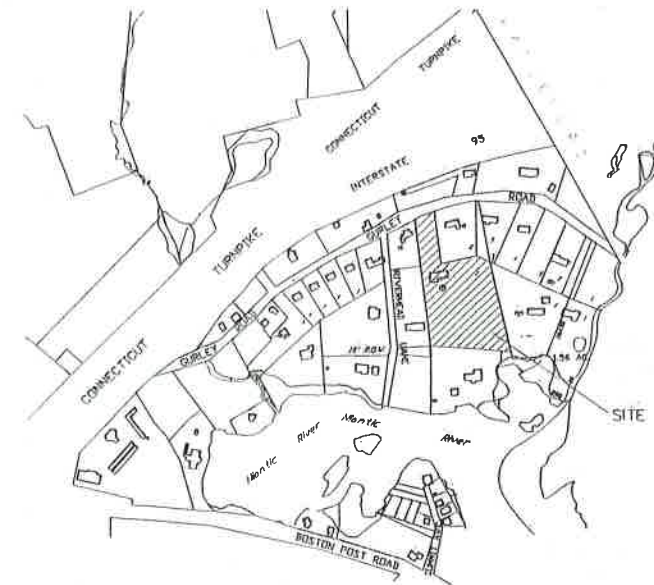
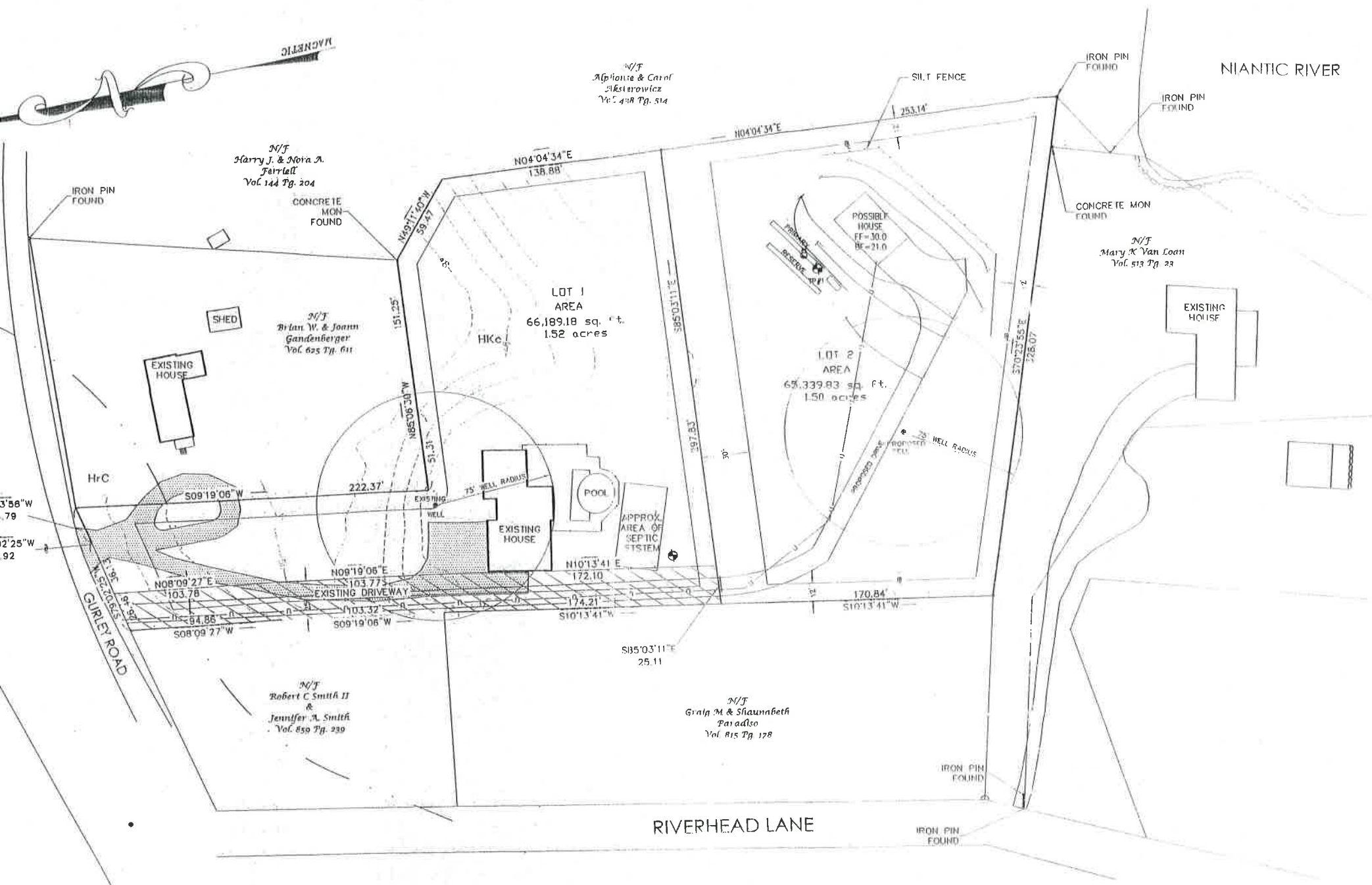
Vote: 6-0-0. Motion passed.

Respectfully Submitted,

  
Brooke D. Stevens

Recording Secretary





LOCATION MAP

NOTES

- THIS SURVEY AND MAP HAS BEEN PREPARED PURSUANT TO THE REGULATIONS OF CONNECTICUT STATE AGENCIES SECTIONS 20-300B-1 THROUGH 20-300B-20 AND THE "STANDARDS FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT" AS ADOPTED BY THE CONNECTICUT ASSOCIATION OF LAND SURVEYORS, INC. ON SEPTEMBER 26, 1996. IT IS A PROPERTY SURVEY BASED ON A DEPENDENT RESURVEY CONFORMING TO HORIZONTAL ACCURACY CLASS A-2 AND IS INTENDED TO SHOW THE PROPERTY BOUNDARIES, PROPOSED PROPERTY LINES AND EXISTING AND PROPOSED STRUCTURES.
- REFERENCE IS MADE TO THE FOLLOWING DEEDS ON FILE IN THE EAST LYME LAND RECORDS:
  - A QUIT-CLAIM DEED FROM DORIS R. FRASER TO WAYNE FRASER RECORDED IN VOL 178 PAGE 956 OF THE EAST LYME LAND RECORDS.
- REFERENCE IS MADE TO THE FOLLOWING SURVEY MAPS ON FILE IN THE EAST LYME LAND RECORDS:
  - RIVERHEAD ESTATES, PROPERTY OF LAWRENCE FRASER JR., TERRY R. FRASER, WAYNE L. FRASER, AND DORIS R. FRASER, TRUSTEE; GURLEY ROAD AND OIL MILL ROAD EAST LYME, CONNECTICUT, SCALE 1" = 40' APRIL 1972 BY W.A. MORSE ENGINEER, NEW LONDON CONNECTICUT.
  - FINAL RE-SUBDIVISION PROPERTY OF DORIS R. FRASER GURLEY ROAD EAST LYME, CONN. SCALE 1"=40' DATED MARCH 29, 1979 BY J. ROBERT PFANNER & ASSOCIATES, EAST LYME CT.
  - RE-SUBDIVISION LOT 1 PROPERTY OF KENT & JANET L. BANNING & STEPHEN B. CASSEL RIVERHEAD LANE, EAST LYME, CONNECTICUT MAY 13, 1996 REVISED THRU: 6-4-96 BY J. ROBERT PFANNER & ASSOCIATES P.C. LAND SURVEYING & CIVIL ENGINEERING.
- PROPERTY IS LOCATED IN A R-10 ZONE.
- WATER IS PRIVATE WATER SUPPLY.
- LOT HAVE ON SITE SEPTIC SYSTEM.

THIS MAP AND SURVEY CONFORMS TO A CLASS A-2 SURVEY AND TO THE BEST OF MY KNOWLEDGE AND BELIEF IS SUBSTANTIALLY CORRECT AS NOTED HEREON (SEE NOTE 1).

J. ROBERT PFANNER PE, LS No. 9442



LEGEND

- TP DEEP TEST HOLE
- PH PERCOLATION TEST
- IP IRON PIN RECOVERED
- MR MERESTONE RECOVERED
- EC EXISTING CONTOUR
- PC PROPOSED CONTOUR
- BL BUILDING LINE
- WL WATER LINE
- UL UTILITIES (PHONE, ELEC., CABLE TV, ETC.)
- FD FOUNDATION DRAIN
- UC UTILITY CULE
- 98x0 EXISTING SPOT ELEV.
- 98x0 PROPOSED SPOT ELEV.
- TL TREE LINE / LIMITS OF CLEARING
- FF FINISH FIRST FLOOR
- BF FINISH BASEMENT FLOOR
- GF FINISH GARAGE FLOOR

TEST HOLES NO.1 (NOV. 20, 2014)

0 - 12" TOPSOIL & LOAMY SAND WITH STONE (SUBSOIL)  
12- 96" MEDIUM/COARSE SAND & GRAVEL WITH COBBLES  
NO LEDGE, NO WATER, NO MAX. WATER

PERC TEST

1.67 MIN./IN.



DRAWN BY: JRP

DATE: JULY 01, 2015

J. ROBERT PFANNER & ASSOCIATES, P.C.  
CIVIL ENGINEERS & LAND SURVEYORS

GRAPHIC SCALE

TITLE:

Re Subdivision  
Property of  
Wayne & Patricia E. Fraser

SHEET NUMBER

1

OF

# 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: August 25, 2015  
Re: 22 Gurley Road – Subdivision / Site Plan Review

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

- Re Subdivision Plan – Property for Wayne & Patricia E Fraser, 22 Gurley Road East Lyme CT. Sheet: 1 of 1, Date: July 1, 2015, Revised: 8-11-15, by: J.Robert Pfanner & Associates, P.C.
- Written Waiver Request by J.Robert Pfanner PELS for 22 Gurley Road, Dated 8/6/15.

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

1. Clearing along the streetline may be necessary in order to achieve suitable sight line distances at the existing & proposed driveway cuts; additional review by Engineering Department at time of the individual Plot Plan submittal or Right of Way Permit may be necessary.
2. An Erosion & Sedimentation Control Plan is not required as long as the disturbed area does not exceed one half (1/2) acre in size. According to the Re Subdivision Plan, the proposed site disturbance appears to be less than one-half acre in size. The East Lyme Engineering Department recommends that the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control are followed during all stages of the proposed development.
3. Residential roof drain runoff is generally considered a “clean” source of runoff. The applicant’s waiver request indicates that the additional runoff from the proposed house will be treated by a drywell or raingarden. The East Lyme Engineering Department has determined that the applicant has met all of the exemption requirements as stated in Section 6-8-7 and recommends that an exemption for 6-8-1 through 6-8-6 be granted.

# 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

Date: August 4, 2015

RE: 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 Stormwater requirements under Section 6 of the East Lyme Subdivision Regulations.

Upon review of the above referenced application, supporting documentation, and proposed subdivision plans entitled "Resubdivision Plan – Lot ID, 54/13, Prepared for Quick Time, LLC, 21 Upper Walnut Hill Road, East Lyme, Connecticut; dated 12-2-14, and revised through 7/7/15, prepared by Jason Dismukes, P.E. of Jason Dismukes, LLC, Goshen, Connecticut, Sheet 1 of 1" and "Subdivision Plan-Lot Layout, property of Roger Dawson for Property located at 21 Upper Walnut Hill Road, Town of East Lyme-County of New London-Connecticut, dated October 16, 2014 and revised through 5/28/15 prepared by James Bernardo, L.S. of James Bernardo Land Surveying, LLC, Waterford, Connecticut, Sheet 1 of 1" below are my findings:

### WAIVER REQUEST

In regards to the evaluating the Waiver Request from Sections: Sec 6-8 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 Section 6-8 of the Subdivision Regulations.

**Whereas:** The Commission commenced a Public Hearing and received testimony on July 7, 2015 and conducted a Site Walk on July 20, 2015. The Public Hearing for said application was continued to August 4, 2015 closed at the Commission's August 4, 2015 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;
  - The subject property is an existing lot located in a Rural Residential (R-80) zone and currently developed with a single family dwelling. The existing lot as well as the proposed lot will have a well and septic. In addition, the parcel contains an area of wetlands adjacent to the rear and east of the lot. These conditions generally apply to other land in the area. As the requested waiver consists of waving a site design standard, Exhibit "B" indicates the proposed project will generate "modest run-off" and describes several measures that have been proposed to prevent adverse effects to wetlands and downstream flooding. Further, as evidenced by Exhibit "I" a memo from Victor Benni, P.E., Town Engineer to G. Goeschel, Director of Planning dated June 24, 2015, the applicant has met all the exemption requirements as stated in Section 6-8-7 of the East Lyme Subdivision Regulations.
- (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 to the rear and east of the lot. As the subject parcel has already been part a previous subdivision, it was subsequently disturbed and developed. I am uncertain that the wetlands to the rear and east of the property create an exceptional difficulty or unusual hardship. However, as evidenced by Exhibit "B" the proposed subdivision will not generate large volumes of concentrated run-off and the applicant has satisfied the Town Engineers concern as it pertains to run-off and potential downstream flooding.
- (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 would not have a significantly adverse effect upon adjacent property, the environment, or the public health and safety as evidenced by Exhibit "B" and Exhibit "K" East Lyme Inland Wetlands Agency Permit Number 15-10, which permits the construction of a single family dwelling and installation of a subsurface septic system associated with the proposed 1-lot resubdivision.
- (5) The granting of the waiver will not be in conflict with the Plan of Conservation and Development;
  - The proposed plan proposes the construction on the portion of the parcel best suited for development, minimizes grading and excavation, it protects environmentally sensitive areas such as wetlands by implementing best management practice such as erosion and sedimentation controls. Further, it will not increase the density any more than is allowed under the existing Zone of RU-80 as each lot will meet the 80,000 square foot minimum as required by the Zoning Regulations. As such, the proposed plan would be consistent with POCD Chapter 3, Section 3.1.1 Single-Family Housing. 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 Commission has received a report from the Town Engineer.
- (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 Stormwater Requirements of Section 6 of the Subdivision Regulations. In my opinion, as this is the only waiver being sought and as evidence by Exhibit "B" the proposed development will generate modest run-off versus large concentrated volumes that are typically associated with large lot subdivisions and road construction and will not exacerbate any downstream flooding, it is the minimum deviation from the requirements of the Subdivision Regulations necessary to permit the subdivision of the subject land.

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:**

The Commission Moves to GRANT/DENY the Waiver request from Section 6-8-1 through 6-8-6 associated with the Application submitted as 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 based on the above Findings indicated in the Memorandum from Gary A. Goeschel II, Director of Planning, dated August 4, 2015, and the following additional reasons:

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

**RESUBDIVISION APPLICATION**

In regards to my review of the above referenced application, supporting documentation, and proposed subdivision plans entitled proposed subdivision plans entitled "Resubdivision Plan – Lot ID, 54/13, Prepared for Quick Time, LLC, 21 Upper Walnut Hill Road, East Lyme, Connecticut; dated 12-2-14, and revised through 7/7/15, prepared by Jason Dismukes, P.E. of Jason Dismukes, LLC, Goshen, Connecticut, Sheet 1 of 1" and "Subdivision Plan-Lot Layout, property of Roger Dawson for Property located at 21 Upper Walnut Hill Road, Town of East Lyme-County of New London-Connecticut, dated October 16, 2014 and revised through 5/28/15 prepared by James Bernardo, L.S. of James Bernardo Land Surveying, LLC, Waterford, Connecticut, Sheet 1 of 1" 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 June 2, 2015 from 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 the associate Waiver request from Section 6 of the East Lyme Subdivision Regulations

**Whereas:** The Commission commenced a Public Hearing and received testimony on July 7, 2015 and conducted a Site Walk on July 20, 2015. The Public Hearing for said application was continued to August 4, 2015 closed at the Commission's August 4, 2015 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.

**Whereas:** The parcel of land constituting the property subject to this application is zoned Rural Residential (RU-80). The properties abutting the site to the south are zoned RU080 and the properties to the west, north, and east are zoned RU-80.

**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 RU-80 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 residential development.

**Section 5-4 Sanitation Report:** As indicated in Exhibit "J" correspondence from Kim White, Sanitarian to Jason Dismukes, PE dated July 1, 2015 indicates both lots are suitable in their current condition to support a septic system.

**Section 5-5 Water Supply Report:** As indicated in Exhibit "J" correspondence from Kim White, Sanitarian to Jason Dismukes, PE dated July 1, 2015 indicates both lots are suitable in their current condition to support a well.

**Section 5-2-2(E) and 6-8 Stormwater Management Plan:** As indicated in Exhibit "I", Memo from Victor Benni, P.E., Town Engineer, dated June 24, 2015, indicates the proposed design meets the intent of the stormwater regulations and all of the exemption requirements as stated in Section 6-8-7. The Engineering Department does recommend an Erosion & Sedimentation bond in the amount of \$4000.00 dollars be posted for the installation of the graded drainage swale, level spreader, and to secure the site.

**Section 5-2-2(G) Erosion and Sedimentation Control Plan:** The proposed Stormwater Management, Grading and Erosion & Sedimentation Plan as indicated on Exhibit "N", "Resubdivision Plan – Lot ID, 54/13, Prepared for Quick Time, LLC, 21 Upper Walnut Hill Road, East Lyme, Connecticut; dated 12-2-14, and revised through 7/7/15 , prepared by Jason Dismukes, P.E. of Jason Dismukes, LLC, Goshen, Connecticut, Sheet 1 of 1" 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 "B" and "I", previously noted above. 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.

**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 Evidence by Exhibit "D" Archeological Report from Brian Jones, PhD, State Archeologist indicates there is no need to for an archeological survey of the site.

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 "H" correspondence form William Mulholland, Zoning Official dated June 11, 2014.

Section 6-9 Requirements Regarding Flooding: As demonstrated by Exhibit "I", Memo from Victor Benni, P.E., Town Engineer, dated June 24, 2015, indicating the proposed design meets the intent of the stormwater regulations.

**MOTION FOR THE RESUBDIVISION APPROVAL:**

Based on the above Findings indicated in the Memorandum from Gary A. Goeschel II, Director of Planning, dated August 4, 2015, the Commission Moves to APPROVE the application known as 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 plans entitled "Resubdivision Plan – Lot ID, 54/13, Prepared for Quick Time, LLC, 21 Upper Walnut Hill Road, East Lyme, Connecticut; dated 12-2-14, and revised through 7/7/15, prepared by Jason Dismukes, P.E. of Jason Dismukes, LLC, Goshen, Connecticut, Sheet 1 of 1" and "Subdivision Plan-Lot Layout, property of Roger Dawson for Property located at 21 Upper Walnut Hill Road, Town of East Lyme-County of New London-Connecticut, dated October 16, 2014 and revised through 5/28/15 prepared by James Bernardo, L.S. of James Bernardo Land Surveying, LLC, Waterford, Connecticut, Sheet 1 of 1" 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. A deed restriction to ensure that the level spreader and drainage swale are constructed and maintained in a functional manner. A Note shall be placed on the Record Subdivision Plan with reference to this deed restriction.
2. 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.
3. An Erosion & Sedimentation Control bond in the amount \$4000.00 doallars shall be posted with the Town in a form acceptable to the Commission and satisfactory to the Town Attorney or Planning Director.

The above items shall be accomplished prior to the filling 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 known as 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 plans entitled "Resubdivision Plan – Lot ID, 54/13, Prepared for Quick Time, LLC, 21 Upper Walnut Hill Road, East Lyme, Connecticut; dated 12-2-14, and revised through

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The owner/applicant shall be bound by the provisions of this Application and Approval.



# 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/Inland Wetlands Agent**

**Date: September 1, 2015**

**Re: CGS 8-24 Referral for Proposed Salt Shed and Fueling Facility at 8 Capitol Drive and 8  
Roxbury Road**

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### **8-24 REVIEW:**

Section 8-24 Municipal improvements states "No municipal agency or legislative body shall (1) locate, accept, abandon, widen, narrow or extend any street, bridge, parkway or other public way, (2) locate, relocate, substantially improve, acquire land for, abandon, sell or lease any airport, park, playground, school or other municipally owned property or public building, (3) locate or extend any public housing, development, redevelopment or urban renewal project, or (4) locate or extend public utilities and terminals for water, sewerage, light, power, transit and other purposes, until the proposal to take such action has been referred to the commission for a report..."

As such, upon review of the above referenced referral, I offer the following report:

### **FINDINGS:**

#### **Chapter 1 Mission Statement, Vision, Objectives and Policies**

##### **Objectives and Policies**

**OBJECTIVE 6.1:** To provide facilities and services for a municipal government that meet future needs and maintains the quality and range of municipal services and facilities desired by the townspeople while maintaining and diversifying the tax base.

### **POLICY:**

Support the use of existing facilities, buildings and spaces within the Town of East Lyme. The Town should encourage the improved efficiency of existing Town facilities prior to the consideration of the construction of new facilities. The Town should consider that any upgrades or new facilities incorporate high standards of resource saving and energy efficient design. The

Town should also maintain an ongoing review aimed at continuously improving the conservation and sustainability activities of all municipal facilities and services.

The Town should provide high-quality educational facilities adequate to meet present and future growth needs, improve school facilities to meet a variety of community needs, provide adequate police, fire, and public-safety facilities services for a rapid response to emergencies throughout East Lyme and a safe, secure environment for all residents and visitors.

2009 POCD  
Compatibility

***The proposed salt dome will improve the Town's future storm preparedness as the dome will be capable of holding up to approximately one year's worth of salt verses the current salt shed which holds less than half a year's worth, thus reducing the potential of salt shortages in the future. The proposes fueling facilities at 8 Capitol Drive will also increase efficiency by allowing vehicles to be fueled where they are stored as well as provide staff oversight. In addition, the fueling facility at 8 Roxbury Road takes advantage of an existing Town facility as well as continues to make fueling school busses, Water and Sewer, and Public Work vehicles based in the vicinity more economical.***

In my opinion, based on the above findings the proposed public improvements are consistent with the 2009 POCD, as amended. Therefore, I offer you the following resolution:

**BE IT RESOLVED:**

Pursuant to Section 8-24 of the General Statutes, The Planning Commission of the Town of East Lyme, exercising its authority and having reviewed the proposal for Proposed Salt Shed and Fueling Facility at 8 Capitol Drive and a fueling facility at 8 Roxbury Road, referenced above, I move to find the aforesaid proposal **CONSISTENT/INCONSISTENT** with the 2009 Plan of Conservation and Development as amended, and to -

To: Gary Goeschel, Director of Planning

From: Bradford C. Kargl, Municipal Utility Engineer



Date: August 12, 2015

Re: CGS 8-24 Review  
Village Crossing Sewer Extension, Park Place

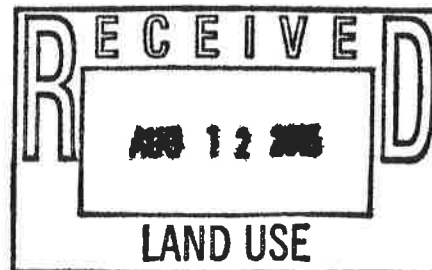
This office is requesting a CGS 8-24 review by the Planning Commission for a municipal improvement project that includes the extension of the municipal sewer system to the proposed Village Crossing Development on Park Place.

The Planning Commission approved an 8-24 request for this project in 2011 but the plans have since been modified to extend the sewers to the Village Crossing Development from the East Pattagansett/Flanders Interceptor north of Herster Drive rather than from Route 156 (see attached map). The new plan will include the extension of sewers to the Park Place residents and a new road.

A public hearing on the proposed sewer extension has been scheduled by the Water and Sewer Commission for August 25, 2015 (see attached notice).

Thank you for your attention in this matter.

C: Water and Sewer Commission





SYMBOL	DESCRIPTION
	PROPERTY LINE
	VILLAGE CROSSING SEWER LINE
	PROPOSED SEWER LINE
	PROPOSED ALTERNATE SEWER LINE
	SEWER FLOW

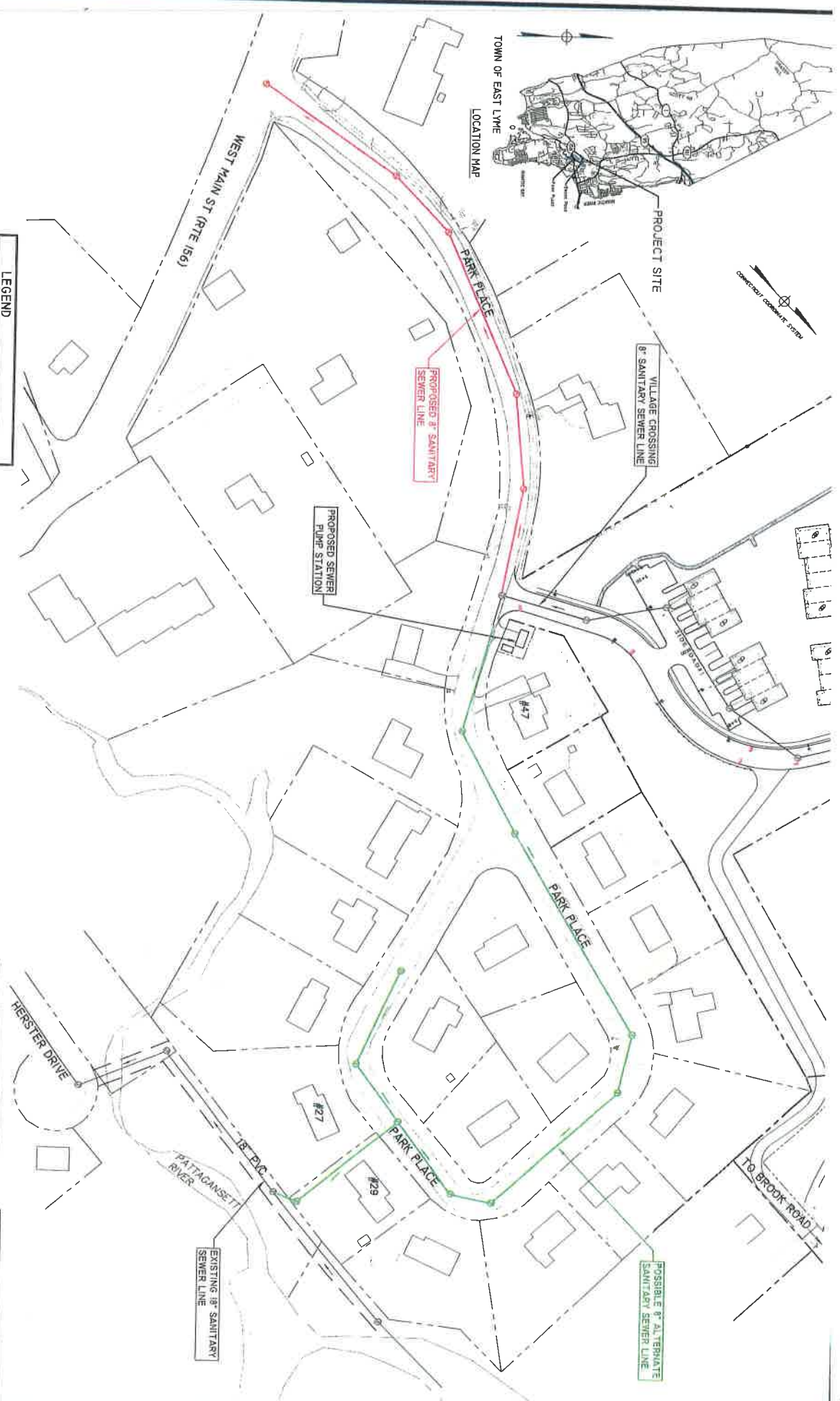


NO.	DATE	REVISION

CONCEPTUAL PLAN

ALTERNATE SANITARY SEWER  
PARK PLACE  
EAST LYME, CONNECTICUT  
Prepared by  
T. J. BASS  
ENGINEERING DEPARTMENT

INVESTIGATOR	DATE	BY	CHKD	APP'D
JAN	1988	TJB	BAS	CP-1



# 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  
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**Phone: (860) 691-4114**

**Fax: (860) 860-691-0351**

## MEMORANDUM

**To:** East Lyme Planning Commission

**From:** Gary A. Goeschel II, Director of Planning

**Date:** September 1, 2015

**Re:** Nottingham Hills Bond Status

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## **RESOLUTION**

Based on the agreement between New England National, LLC and the Town of East Lyme, it was agreed that the Town of East Lyme is to use the Public Improvement Bond for completion of Upper Kensington Drive. As such, I Move to withdraw the Public Improvement Bond in the amount of \$80,000.00 for the completion of Public Improvements needed for Upper Kensington Road and hereby authorize any assurances the Bank may need to release said funds to the Town of East Lyme.



## SECTION 9 - ASSURANCES FOR COMPLETION AND MAINTENANCE OF IMPROVEMENTS

### 9-1-1 FINANCIAL GUARANTEES FOR COMPLETION OF PUBLIC

IMPROVEMENTS BONDS – In lieu of requiring the completion of all improvements for the final approval of a subdivision plan, the Commission may accept surety bonds and shall accept cash bonds, passbook or statement savings accounts and other financial guarantees other than surety bonds, including, but not limited to, letters of credit, provided such financial guarantee is in a form acceptable to the Commission and the financial institution or other entity issuing any letter of credit.

The financial guarantee provided to the town shall be in the amount equal to the actual construction cost of the improvements as determined by the Commission upon the recommendation of the Town Engineer plus a 20% contingency amount. In estimating the amount of the financial guarantee, the subdivision owner's engineer shall include the costs of the following items:

a) The construction and installation of all required public improvements including storm drainage systems, roads and pavements, sidewalks, curbs, utility lines, trees, grading, surface restoration, setting of monuments, as-built drawings,

b) The inspection and testing of construction activities and materials by a qualified independent third party. The cost estimate shall describe the quantity and cost of each inspection and testing item.

At the discretion of the person posting such financial guarantee, such financial guarantee may be posted at any time before all approved improvements and utilities are completed, except that the Commission may require a financial guarantee for erosion and sediment control measures prior to the commencement of any improvements set forth in Section 9-2. No lot shall be transferred to a buyer before any required financial guarantee is posted or before the approved improvements and utilities are completed to the reasonable satisfaction of the commission or its agent. For any subdivision that is approved for development in phases, the financial guarantee provisions of this section shall apply as if each phase was approved as a separate subdivision.

9-1-2 If the person posting a financial guarantee under this section requests a release of all or a portion of such financial guarantee, the Commission shall, not later than sixty-five (65) days after receiving such request, (A) release or authorize the release of any such financial guarantee or portion thereof, provided the Commission is reasonably satisfied that the improvements for which such financial guarantee or portion thereof was posted have been completed, or (B) provide the person posting such financial guarantee with a written explanation as to the additional improvements that must be completed before such financial guarantee or portion thereof may be released.

a bond in an amount and with surety or other security and conditions satisfactory to it. The bond shall secure to the town the actual construction and installation of such

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improvements and utilities within one (1) year from the day of approval of the subdivision Plan. The Commission may extend the completion date for public improvements for additional periods. As a condition for such extension, the Commission may require the increase in the amount of the bond.

## 9-2 EROSION AND SEDIMENTATION CONTROL AND SITE RESTORATION FINANCIAL GUARANTEE BOND

– To secure erosion and sedimentation and site restoration as described in Sections 4-4-6, 5-3-1(C), 5-7, and 8-3-6.

The Commission may accept surety bonds and shall accept cash bonds, passbook or statement savings accounts and other financial guarantees other than surety bonds, including, but not limited to, letters of credit, as set forth in Section 9-1, a bond in an amount and with such other security and conditions as are satisfactory to the Commission for such purposes. Notwithstanding Section 9-1, the Commission may require a financial guarantee for erosion and sediment control and site restoration prior to the commencement of any improvements. it to secure erosion and sedimentation and site restoration as described in Sections 4-4-6, 5-3-1(C), 5-7, and 8-3-6.

9-3 APPLICABILITY - These financial guarantee bond requirements shall apply to improvements shown on the approved plans whether the streets are to be public or private, except that no maintenance financial guarantee bond shall be required for private improvements.

9-4 FINANCIAL GUARANTEE BOND FORM – Financial guarantees Bonds shall be duly executed on forms provided by the town and available from the Planning Department, with proper reference to all maps and plans showing the streets, drainage, and other improvements covered by the financial guarantee bond. To ensure the completion of all required improvements, including storm drainage system, erosion and sedimentation control measures, roads and pavements, sidewalks and curbs, trees, grading, setting of monuments, and any other requirements made as a condition for subdivision approval or depicted on the endorsed Record Subdivision Plan, Plan and Profile Plan, Grading Plan, Erosion and Sedimentation Control Plan, the Commission shall require, prior to the release of the signed Approved Maps (mylar copy) any one of the following:

9-4-1 The submission to the Town of a financial guaranty, as described in Section 9-1, A deposit of cash with the Town, of an amount satisfactory to the Town Engineer and approved by the Commission which, will cover the cost of the improvements.

9-4-2 A security agreement, in a form acceptable by the Commission, which provides that no lots may be sold, or building permits issued until such time that all required improvements are complete, or financial guarantee delivered cash deposited, as outlined in Section 9-4-1 for the remaining improvements.

9-5 FAILURE TO COMPLETE IMPROVEMENTS – Where a financial guarantee bond has been posted and required improvements have not been installed within the terms of such financial guarantee bond, the town may thereupon declare the financial guarantee bond to be in default and require that all the improvements be installed regardless of the extent of the building development at the time the financial guarantee bond is declared to be in default.

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9-6 PARTIAL RELEASE – When the Town Engineer determines, based on site inspection and certification by the applicant's engineer that a substantial portion of the public improvements called for in the final plan approved by the Commission have been completed, a recommendation may be made for one or more partial releases of a portion of the ~~financial guarantee surety~~, the balance to be sufficient to guarantee completion of the public improvements. Such partial release shall be authorized by the Planning Commission upon recommendation of the Town Engineer. Releases shall be granted in amounts of no less than \$1,000. In no event shall a ~~financial guarantee bond~~ be released below two percent (2%) of the actual cost of improvements or no less than \$3,000, whichever is greater.

**9-6-1 – Financial Guarantee Reduction Schedule for Private Roads – delete entire section**

9-7 FINAL RELEASE – ~~Financial guarantee Bonds~~ will not be released until the following conditions have been met:

- (A) The Town Engineer has submitted a certificate stating that all required improvements have been satisfactorily completed;
- (B) The applicant's engineer or surveyor has certified to the Town Engineer, through submission of detailed as-built plans that the layout of the line and grade of all public improvements is in accordance with the Construction Plan for the subdivision. As-built plans shall include, a Grading Plan and a Construction Plan as described in Section 5 of these Regulations. Such plans shall show any modification or changes made during construction.
- (C) All public improvements called for in the final plan have been accepted by the town. A maintenance ~~financial guarantee bond~~, as described in Section 9-8-1 shall be filed with the town.
- (D) All conditions and requirements of the Commission's approval of the subdivision application have been satisfied.
- (E) The deed to all roads has been accepted by the town.

9-8 MAINTENANCE OF IMPROVEMENTS – The applicant shall be required to maintain all improvements and provide for snow removal on streets until acceptance of said improvements by the town.

(move 9-8-1 to 9-3 and renumber?)

**9-8-1 Financial Guarantees for Maintenance of Public Improvements Bond –**

As a condition of the Town's acceptance of the public improvements, the subdivision owner shall provide to the town a financial guarantee for the maintenance of public improvements to ensure that funds are available to the Town to maintain or repair the public improvements. The Commission may accept surety bonds and shall accept cash bonds, passbook or statement savings accounts and other financial guarantees other than surety bonds including, but not limited to, letters of credit, provided such financial guarantee is in a form acceptable to the Commission and the financial institution or other entity issuing any letter of credit.

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The financial guarantee for the maintenance of public improvements shall be in full force and effect for a period of one year after the date that the public improvements are determined to be complete by the Commission, or on the effective date of the acceptance of improvements by the Town, whichever is later. The applicant shall be required to file a maintenance bond with the Town prior to the acceptance of the improvements, in order to assure the satisfactory condition of the required improvements, for a period of one (1)

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year after the date of acceptance of the improvements by the town.

The Town shall not require the establishment of a homeowners association or the placement of a deed restriction, easement or similar burden on property for the maintenance of approved public improvements, except that this prohibition shall not apply to the placement of a deed restriction, easement or similar burden necessary to grant the Town access to such approved site improvements.

Such financial guarantee for maintenance bond shall be in an amount equal to two percent (2%) of the cost of improvements and shall be of such form as described in these Regulations. Pursuant to Section 9-3 of these Regulations, no maintenance financial guaranty bond shall be required for private improvements.

If the person posting a financial guarantee under this section requests a release of all or a portion of such financial guarantee, the Commission shall, not later than sixty-five (65) days after receiving such request, (A) release or authorize the release of any such financial guarantee or portion thereof, provided the Commission is reasonably satisfied that the improvements for which such financial guarantee or portion thereof was posted have been completed, or (B) provide the person posting such financial guarantee with a written explanation as to the additional improvements that must be completed before such financial guarantee or portion thereof may be released.

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9-8-2 Snow Plowing and Other Maintenance - In the case of conditional or final approval a financial guarantee, as described in Section 9-1, cash bond in the amount of \$10,000 or five percent of the cost of improvements excluding utilities not intended to be conveyed to the town, whichever is the greater amount, shall be posted with the Town of East Lyme. Such bond shall be accompanied by an agreement under which the Director of Public Works may draw on such funds, after adequate notice, to effect snow plowing or other maintenance necessary for the public health, safety and convenience. Such monies may also be used to pay any electrical charges necessary for street lighting. The extent of such payments to the Town shall be specified in the agreement with the Town of East Lyme.

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