

**East Hampton Planning and Zoning Commission**  
**Regular Meeting**  
**June 6, 2012**  
**Town Hall Meeting Room**

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| <b>Unapproved Minutes</b> |
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1. **Call to Order and Seating of Alternates:** Chairman Philhower called the meeting to order at 7:00 p.m.

Present: Chairman Mark Philhower, Vice-Chairman Ray Zatorski, Members Peter Aarrestad, Roy Gauthier, Richard Gosselin, Rowland Rux, James Sennett, Alternate Members Paul Hoffman (7:03), Scott Sanicki, Meg Wright, and Planning, Zoning & Building Administrator James Carey were present.

Absent: No one was absent.

2. **Approval of Minutes:**

**A. May 2, 2012 Regular Meeting:**

*Mr. Zatorski moved, and Mr. Gauthier seconded, to approve the Minutes of the May 2, 2012 meeting as amended. Page No. 3, Paragraph No. 4 the text should be revised to remove the repetition of the words "of application." The motion carried 6-0-1 (Yes votes: Aarrestad, Gauthier, Gosselin, Philhower, Sennett, Zatorski. No votes: None. Abstentions: Rux).*

3. **Communications, Liaison Reports, and Public Comments:**

**Communications:**

Mr. Carey reported that the updated member contact information has been distributed in the packages for this evening's meeting.

Mr. Carey requested that the Commission add Item No. 4.B, Set Public Hearing for the application of Joseph Butler for a 2-Lot Re-Subdivision, 11 Wilkes Road, Map 08/Block 26/Lot 3 to the Agenda.

*Mr. Zatorski moved, and Mr. Rux seconded, to add Item No. 4.B, Set Public Hearing for the application of Joseph Butler for a 2-Lot Re-Subdivision, 11 Wilkes Road, Map 08/Block 26/Lot 3, to the Agenda. The motion carried unanimously.*

**Liaison Reports:**

Mr. Gauthier reported that he attended the regular meeting of the EDC on Tuesday, May 15, 2012. He explained that it was reported during that meeting that the owner of 13 Summit Street has reached an impasse with the WPCA over the availability of water. The owner is attempting to arrive at a solution. The minutes from this EDC meeting are online and on file in the Town Clerk's Office.

Mr. Zatorski reported that the IWWA met on May 30, 2012. He explained that the Cease and Desist order issued on 7 Dale Drive has been lifted. All other relevant items will be discussed during the meeting under the appropriate Agenda Item. The minutes of this meeting are available online and are on file in the Town Clerk's Office.

Mr. Sennett explained the May ZBA meeting was cancelled.

Ms. Wright reported that she attended the Conservation-Lake Commission meeting of May 10, 2012 where they discussed the new lake mascot program, water testing of the deep holes in the Lake, watershed signage, future water testing. The minutes from the meeting are online and on file in the Town Clerk's Office.

Mr. Philhower reported that he was unable to attend the Midstate Regional Planning Agency meeting on June 5, 2012.

Mr. Carey reported that he received a call from Linda Kraus. Going forward the Salmon River Watershed initiative will be housed at the Connecticut River Estuary Council of Governments. They are planning a meeting of planners and others involved in the initiative and will be planning another public meeting with town officials similar the public meeting they held two years ago. She is excited about East Hampton's involvement in previous projects and looks forward to our future involvement.

**Public Comments:** The Chairman opened the meeting to the public for comments. No one was present with comments at this time.

**4. Set Public Hearing:**

**A. East Hampton Zoning Regulations**, Revise Section 31.2 (Provision for Amendment and Zone Change - Statutory Requirements), Section 31.3.1.B.3 (Amendments Initiated by the Commission - Zone Changes - Notification), and Section 32.5 (Administration and Enforcement - Required Notification) - Notification of Abutters; and

**B. Application of Joseph Butler**, 11 Wilkes Road, for a 2-Lot Re-Subdivision - Map 08/Block 26/Lot 3.

*Mr. Zatorski moved to schedule the public hearings for the application of East Hampton Zoning Regulations, Revise Section 31.2 (Provision for Amendment and Zone Change – Statutory Requirements), Section 31.3.1.B.3 (Amendments Initiated by the Commission – Zone Changes – Notification), and Section 32.5 (Administration and Enforcement – Required Notification), Notification of Abutters and application of Joseph Butler, 11 Wilkes Road, for a 2-Lot Re-Subdivision, Map 08/Block 26/Lot 3, for the July 5, 2012 regular P&Z meeting. Mr. Rux seconded the motion. The motion carried unanimously.*

**5. Read Legal Notice:** Mr. Carey read the legal notice for tonight's public hearings into the record.

**6. Public Hearing for May 2, 2012:**

**A. Application of LCS Properties LLC**, 130 East High Street, for a Zone Change from DD to MUDD and Lake Pocotopaug Protection Area – Map 10A/Block 85/Lots 5, 5A, 5B & 5C - Continued:

Attorney Harry Heller, Uncasville, was present to represent the applicant. He submitted and discussed the Fiscal Impact Analysis requested at the last meeting.

Mr. Sennett questioned the number of residential units. Mr. Heller explained that the project proposes 226 units although the evaluation was more conservative in its approach and used a figure of 268 residential units, a more conservative approach. The statistical data shows that this project will generate about .2 school-aged children per housing unit. If 268 residential units were proposed, 54 school-aged children would be generated. The applicant would need to apply for a master plan modification if they intended to increase the number of residential units from 226 to 268.

Mr. Zatorski discussed his interest in seeing an affordable housing component in the project. The Commission discussed this option with the applicant. The discussion did not generate set-aside housing in the development.

Mr. Zatorski questioned the traffic flow planned for the project. Kent Schwendy of Fuss & O'Neill clarified the traffic flow and explained that during Phase 1a and 1b the boulevard would be a single lane one-way road. Later in the development the boulevard would be expanded to a double lane two-way road, a true boulevard, for the increased traffic flow.

The Chairman opened the meeting to the public at this time.

Roxanne Bartone, 16 Dale Drive, is the Director of KOCO. She is present to support the application and is eager to see the development get started. KOCO is an integral piece of the East Hampton community and needs this project to be approved to further serve the community, its children, and their families. KOCO's employees come into Town from several area towns. They do business here and eat lunch in the community.

Rich Leon, 8 Laurel Trail, is the Chairman of the EDC. He is concerned by interest in the application for its 8-30.g potential. This is not an 8-30.g application and should not be considered as such. Banks are not lending to those types of projects and the applicant needs to develop a project that is realistic in the current banking climate. The application should be reviewed and approved based on its own merits. Not those needs of the community to increase its affordable housing stock. The EDC does support this development.

Mr. Carey explained that the intent of the 8-30.g statute is to allow the developer to break a town's zoning rules. This application has been crafted over a very long period of time in front of the Commission and the community to create a development that is desirable for the community, developer, business, and residents.

Mr. Gauthier believes this is a unique project and should not be held up over affordable housing issues.

Mr. Philhower is concerned about the density of this project.

Mr. Sanicki discussed the benefits of compressing the environmental impact as it has been designed in this project.

Mr. Heller explained that a large portion of the parcels will be held in permanent open space. This type of development is fully supported by the State Plan of Conservation and Development. Financing is a very complex component of any development and the applicant was unable to finance the daycare, Phase 1a, without the 40 apartments proposed in Phase 1b.

Mr. Gosselin believes this project is entirely different from anything the Commission has ever seen before. It is visionary and homogeneous and cannot be torn apart at this point by forcing aspects that have not been included in the planning to date.

Mr. Sennett discussed the intent of the DD Zone.

Mr. Gosselin pointed out that the DD Zone has been around for 18 years and in that time not one development has been proposed that met the requirements of the DD Zone and he doesn't believe there will be one in the next 18 years. This project shouldn't be

held up in an attempt to preserve an area that will never be developed as its current zoning intended. The Town needs to be vibrant and move forward.

Liza Motto, applicant, explained to the Commission that the value of a building is derived from the lease rate which the owner can charge. East Hampton does not warrant the lease rates for the quality of buildings being designed here. The rate will need to be improved overtime as the project is built-out. The daycare rate is built on what the daycare is able to afford. The building is designed as a Class A building, which is a building you would find in Glastonbury or West Hartford. When the bank does a financial analysis the numbers are upside down. The project is carried by the revenue that comes off the apartments. That is what makes it financeable, as a package, the commercial and the residential components combined. The daycare facility and the apartments will all be owned by the same entity and leased to KOCO and the residential tenants. A full commercial appraisal was completed for the project. The anticipation for the 40 apartments is that they will fill up 100% within five to six months at the most. That is a conservative appraisal based on the current demand for apartments in East Hampton. The commercial building is already fully leased. The project has been designed so that at any point in time the project looks complete. As each piece is completed it will appear to be a finished project.

Dr. Sandra Haftel, 114 Laurel Ridge, discussed her pride in the Laurel Ridge community. Not a single candidate in last fall's Town Council election spoke unfavorably about mixed use developments. She fully supports this project and encourages the Commission to approve the project in its timely manner so that a key tenant will be able to take full advantage of the project.

Rob Foberg, 81 Charles Mary Drive, stated he is very impressed with the project. He believes Laurel Ridge is an excellent community and the new project will be something the whole town will be proud of.

*Mr. Zatorski moved to close the public hearing. Mr. Rux seconded the motion. The motion carried unanimously.*

*Mr. Zatorski moved, and Mr. Rux seconded, that the East Hampton Planning and Zoning Commission approve the application of LCS Properties LLC, 130 East High Street, for a Zone Change from DD to MUDD and Lake Pocotopaug Protection Area – Map 10A/Block 85/Lots 5, 5A, 5B & 5C. The motion carried unanimously.*

**B. Application of Mark G. Smith PE, 249 West High Street for a Non-Residential Site Plan Modification and Special Permit, Motor Fuel Filling Station – Map 06/Block 12/Lot 1B:**

Mark Smith of To Design, New Britain, was present to represent the applicant. He displayed a map of the site and familiarized those in attendance with the site. He reported that the building would remain the same. The area in the building currently unoccupied would be converted into a 750 sq ft convenience store. The plan includes four gasoline dispensers with a total of eight fueling positions underneath a canopy. The project will include a little re-grading. Currently the site has 5 curb cuts. These will be reduced to two curb cuts, one on Route 66, which will be limited to easterly traffic only and one on Route 16 for both easterly and westerly traffic. The applicant will be adding 2000 sq ft of new green space and has included a full planting plan.

Currently there is not stormwater management system. Half the site drains to Route 16 and into a catch basin at the intersection. The other half of the site drains to Route 66 and flows to the same catch basin at the intersection.

The design proposed captures all the pavement runoff in deep sump catch basins on the lower end of the site. The stormwater treatment unit is oversized for the purpose and will provide a capacity sufficient for a 100-year storm. After the water is treated it will flow to a plunge pool, level spreader, and sheet flow over land through 100' of vegetation before it flows into the state storm sewer system.

Mr. Aarrestad questioned the location of the fuel storage tanks.

Mr. Smith indicated the location on the plan and explained they would be underground in a location where the tankers will not interfere with the traffic patterns on the site. They will be constructed of double wall fiber-reinforced plastic (FRP) per DEEP guidelines. This system will meet or exceed the guidelines. The dispensers are installed on a liquid type stump with a sensor.

There will be one 12,000 and one 20,000 gallon storage tank. This will not be a truck stop. It is possible that they will sell diesel fuel as well.

Mr. Carey explained that originally this site had been mapped as part of the Pine Brook Aquifer. Under a previous application before this Commission, as well as the ZBA, testimony was received from Hynen Teale Engineers indicating that a hydro-geologic survey revealed, and State DEP agreed, that considering the soil types and angle of the bedrock there was no influence on the Pine Brook Aquifer. DEP indicated that since the whole aquifer has not undergone this type of study the map cannot be wholly amended. The amendments will need to be done on a case by case basis.

Mr. Carey has discussed the application with the WPCA and they have inquired of DEEP and the State Health Department as to whether this site is fully recognized as being cleared of the aquifer. They have not responded to these questions as of yet. All the documentation available to the Commission as of this time indicates that this site is out of the aquifer. The Town's current zoning map indicates that it is within the aquifer.

Mr. Aarrestad is troubled by the current regulations and zoning map which simultaneously limit underground storage tanks in an aquifer protection area and locate the tanks in the aquifer.

Mr. Carey explained that if the evidence presented to the Commission at the time of application indicates clearly and with scientific certainty that the site is out of the aquifer protection area, the Commission could not apply the regulation because there is a flaw in the regulation. The Commission will step outside the regulation and re-map after the proximity to the aquifer is clearly identified.

In 2005 the applicant brought this project to the Commission which was prepared to go to public hearing when the applicant requested that the plan be withdrawn. The applicant has now returned with the application. The State regulations may have changed since the previous application. This site housed a gas station previously which was discontinued under ownership prior to this owner. The proposal does improve traffic flow but the aquifer situation does need a definitive answer from the State Health Department and DEEP.

Steve Majeski, applicant, spoke to the Commission regarding his previous applications. The ZBA did approve this location for a filling station in 1992. In 1993 he was able to prove that this site was not in the aquifer. The reports were submitted to the State and were approved by the State DEP. In 2005 the application was withdrawn due to concerns of the applicant regarding time constraints as a result of reluctance on the part of the WPCA.

Mr. Carey explained that due to the time that has elapsed he must ensure that the regulations have not changed and that the WPCA and appropriate State agencies are in concurrence.

Mr. Smith explained that reports all indicate that there is a dividing line in the subsurface topography which shifts the watershed to the Connecticut River rather than the Pine Brook Aquifer. Additionally the soil materials identified will provide additional barriers to the aquifer.

Mr. Majeski reported that the tanks are going back into the same location from which they were removed.

Mr. Carey explained we were given the coordinates of the Pine Brook Aquifer by a company that provided aerial information to municipalities. They were gross representations that were not carefully checked for accuracy. The State indicated to us in the previous application that we must have the accurate areas defined individually.

At this time the Chairman open the meeting to the public. There was no one present to comment at this time.

*Mr. Zatorski moved to continue the public hearing for the application of Mark G. Smith PE, 249 West High Street for a Non-Residential Site Plan Modification and Special Permit, Motor Fuel Filling Station, Map 06/Block 12/Lot 1B, to the next regularly scheduled meeting of July 5, 2012. Mr. Gosselin seconded the motion. The motion carried unanimously.*

*Mr. Zatorski moved to continue the Application of Mark G. Smith PE, 249 West High Street for a Non-Residential Site Plan Modification and Special Permit, Motor Fuel Filling Station, Map 06/Block 12/Lot 1B, to the next regularly scheduled meeting of July 5, 2012. Mr. Gauthier seconded the motion. The motion carried unanimously.*

The Chairman recessed the meeting for five minutes.

The meeting was reconvened at 8:47.

**C. Application of LCS Properties LLC, 130 East High Street, 138 East High Street & 0000 East High Street, for Phase 1a & 1b Site Plan Review and Lake Pocotopaug Protection Area – Map 10A/Block 85/Lots 5, 5A & 5B:**

Attorney Harry Heller, Uncasville, was present to represent the applicant. He explained that this application is for site plan approval for 14000 sq ft of commercial development. Ten thousand square feet being the KOCO daycare facility and 4000 sq ft of retail/restaurant space in the same building. Additionally 40 apartment units in five buildings of eight units each as depicted in the site plan. The property is located in the Lake Pocotopaug Protection Area. The Commission will be reviewing the application to ensure that the uses and methodology of the proposed infrastructure are consistent with the goals of the Lake Pocotopaug Protection Area regulation. The applicant has developed this

project with both that and the MUDD regulation in mind. Mr. Heller discussed the plan and explained that the project has been designed to create both a zero net increase in peak runoff and a zero net increase in the volume of runoff during the design storm events. The stormwater runoff calculations have been reviewed by the Town Engineer and meet these goals through a variety of methods. Edgewater Hill dedicates 60% of the project to open space.

Kent Schwendy of Fuss & O'Neill discussed the engineering design with the Commission. He explained that the primary entrance to the piece will ultimately be a four lane boulevard; however initially only half the boulevard will be constructed and will provide two-way traffic.

As the development progresses the other side of the boulevard will be built as the traffic needs increase. Phase 1a and 1b include temporary water treatment facilities in the area that will be Market Square. These are bio-filtration basins. Ultimately they will be replaced with infiltration units. In order to address the phasing appropriately the developer has planned features that change overtime as the development changes.

Phase 1b will include bio-filtration areas where the stormwater will be treated on the surface through contact with both soil and vegetation. This phase will also include underground infiltration areas for the overall plan which will be observed during construction for future stormwater management needs of the greater project. The first bio-filtration basin will direct the water flow into a second bio-filtration basin. They are separated as a precautionary measure due to potential failure in one of the basins. A third basin provides additional treatment before it discharges through a pipe into the existing wetlands. The water on the east side of the phase is effectively treated three times before it enters the wetlands. The peak flows are no longer an issue because the total volume has been decreased and the water has been slowed down.

The west side of the phase has stormwater directed into a bio-filtration basin, into a second bio-filtration and settling area, piped into an outlet to a level spreader, and is discharged into an existing wetland. This is actually the same drainage pattern that currently exists; however, the water is being treated and reduced before entering the wetland. The intent is to ensure that the water patterns are not being redirected.

In Phase 1a will have infiltration as well. In the short-term bio-filtration basins will be used to manage water running off the road, flowing to the bio-filtration areas described previously for Phase 1b and into a bio-filtration area existing naturally and finally to the State storm sewer system. Again by the time it gets to the State's system the volume has been decreased, the peak runoff rate has been decreased and the phosphorus and nitrogen have been treated by removal of sediment. This plan will decrease the flows from the State system into the Town's system which have historically had problems. All water that lands on this site will go through the treatment train as described and be treated multiple times before it escapes from the site.

Mr. Schwendy explained that the road system works as a system of loops. The Town Fire Marshal and Fire Department were involved in the actual planning of the road systems. They have been designed to allow maneuverability of the largest trucks and ladder access. The development will have two entrances. If there is an accident blocking one entrance, there is another one available. At full build of the development it will be necessary to have a traffic signal on Route 66. There will be a designated school bus drop-off area at KOCO.

The apartment buildings will have roads both in front and in back. This is to accommodate the need for buildings to face the street and be part of the community and not further removed from the community by a parking lot. The parking is addressed in the rear of the apartment buildings much like a private service area. All additional pieces of the community will be built the same way, with a public and a private area. All the roads are privately owned roads and will not be transferred to the Town.

Mr. Schwendy described the architecture of the buildings in both Phases 1a and 1b. The renderings used in this presentation were submitted to Staff to be included in the record of the public hearing. The commercial building in Phase 1a will house a restaurant and retail on the first floor and the daycare facility on the second floor. They will each be accessed by opposite sides of the building and will not be interconnected internally. The apartments in Phase 1b will be garden style apartments with eight units in each for the five buildings. There will be four unit types, two of each in each building. The buildings will all be alike but will be finished differently. All buildings currently on the site will come down as part of Phase 1.

As discussed during the Master Plan review, Mr. Schwendy reiterated that the water will be Connecticut Water which will be served by their existing systems until further in the development. The project will be sewer. The heat will be propane gas.

The parking was calculated at a rate of 1.75 cars per unit with additional parking in front for visitor parking at a rate of .75 cars per unit. The overall numbers are 2.5 parking spaces per unit. The mixed use nature of the project allows parking to be shared during different peak times for the various uses.

The lighting on the buildings will be down lighting. The goal is to keep the lighting natural. They will not be using up lighting. On the back side of the apartments there will be a combination of pack lights and decorative lights. The front will have street lights and porch lights by the doors. The retail areas will not have backlit signs. The signage will be lit by indirect lighting and not internally lit.

The Chairman opened the meeting to the public.

Jack Welch, 21 Laurel Ridge, questioned the traffic generation of the project and how it would be addressed.

Mr. Schwendy described the traffic study that was conducted and the requirements of the DOT regarding the installation of a traffic light.

Dr. Sandra Haftel, 114 Laurel Ridge, questioned the location of the access on Laurel Ridge Drive and the projected build-out date for the project.

Lisa Motto, applicant, explained that the access to Laurel Ridge would be directly across the street from the dentist's office driveway.

Mr. Carey reported that CLA Engineers have reviewed the sightlines for this access and are comfortable with them.

Steve Motto, applicant, explained that the residents of Laurel Ridge will be free to use the roads through the new development as well.

John Parra, 8 South Hollow, questioned the location of the school bus stop location.

Mr. Schwendy explained that there is an easement in place allowing access to Laurel Ridge and that the bus stop location has been approved by the parties involved as well.

Bruce Marsh, 104 Laurel Ridge, questioned the timing of the full build-out and the installation of a traffic light.

Mr. Schwendy explained how the State DOT works and what warrants the installation of a traffic light. The trigger will probably be hit after the construction of the next two commercial buildings.

Mr. Rux pointed out the improved safety for the children being dropped off and picked up by the school bus at KOCO by moving the bus stop off Route 66.

Lisa Motto indicated that they hope to be breaking ground by August of this year.

Mr. Carey read comments from CLA Engineering into the record. Mr. Schwendy indicated that it is appropriate for CLA Engineering to participate in the future management of the stormwater treatment plan and system.

*Mr. Zatorski moved, and Mr. Rux seconded, to close the public hearing for the application of LCS Properties LLC, 130 East High Street, 138 East High Street & 0000 East High Street, for Phase 1a & 1b Site Plan Review and Lake Pocotopaug Protection Area, Map 10A/Block 85/Lots 5, 5A & 5B. The motion carried unanimously.*

*Mr. Zatorski moved, and Mr. Rux seconded, that the East Hampton Planning and Zoning Agency approve the application of LCS Properties LLC, 130 East High Street, 138 East High Street & 0000 East High Street, for Phase 1a & 1b Site Plan Review, as represented in plans dated March 21, 2012, and Lake Pocotopaug Protection Area, Section 7.12, Map 10A/Block 85/Lots 5, 5A & 5B, with the following conditions:*

- All comments from Town Staff, Town Engineer, and other Town Departments must be addressed; and*
- The Town Engineer must recommend a bond amount which will be posted by the applicant.*

*This application is approved for the reason that this meets the East Hampton Planning and Zoning Regulations including the requirements of the Lake Pocotopaug Protection Area, Section 7.12, and will provide rental housing and commercial space to the Town. The motion carried unanimously*

**7. New Business: None.**

**8. Old Business:**

**A. P&Z Bylaws Discussion - Possible Revisions:**

Mr. Carey explained that he had provided the commission with the **Town of East Hampton Appointed Boards and Commissions Attendance Policy** last revised March 8, 2005. The Commission discussed the attendance expectations and remedy as stated in the Policy.

*Mr. Zatorski moved, and Mr. Rux seconded, to amend Article IV, Section 7 of the Bylaws for the Planning and Zoning Commission of the Town of East Hampton, Connecticut, to read: Section 7. Attendance of Commission Members. (Refer to the attached Attendance Policy "Appointed Boards and Commissions Attendance Policy", adopted by the Town*

*Council, effective May 11, 1993 and as amended by the latest revision). The motion carried unanimously.*

9. **Adjournment:** *Mr. Zatorski moved to adjourn the meeting. Mr. Rux seconded the motion. The motion carried unanimously.*

The meeting adjourned at 10:09 p.m.

Respectfully submitted,

Daphne C. Schaub  
Recording Secretary