

**AGENDA**  
**OLD LYME ZONING COMMISSION**  
**REGULAR MEETING MINUTES**  
**MONDAY JANUARY 9, 2023, 6:30 P.M.**  
**MEETING HALL, MEMORIAL TOWN HALL**  
**52 Lyme Street, Old Lyme, CT**

**Present:** Paul Orzel (Chair), Tammy Tinnerello (via phone), Mike Miller, Jane Marsh (Secretary), Mary Jo Nosal, Alternate Michael Peter Barnes, Alternate Sloan Danenhowe, Alternate Sherry Johnston

**Absent:** Amy Huot, ZC Clerk

**Also present:** Eric Knapp, Zoning Enforcement Officer/Land Use Coordinator

Petition by the Lyme Academy, College of Fine Arts, Inc., to amend the Zoning Regulations to include a new overlay zone, Section 5.14, for the purposes of creating a more flexible arts and social district or districts.

**PUBLIC HEARINGS:**

Chair Orzel opened the meeting at 6:30 PM.

Petition for Application to create the Halls Road Overlay District Proposal (HROC), Town of Old Lyme applicant.

Rezoning of 23 parcels running the length of Halls Road from C-30S to the Halls Road Overlay District.

Special Permit Application – 26 Town Woods Road, (Senior Center) Town of Lyme and Old Lyme, applicants

Special Permit Application to allow applicants to replace existing non-conforming Barn with a new Barn which will be built in a conforming location and also, will be built to FEMA standards on property located at 47 Seaside Lane, Frank and Jessica Antonacci, applicants.

**REGULAR MEETING:**

1. Petition by the Lyme Academy, College of Fine Arts, Inc., to amend the Zoning Regulations to include a new overlay zone, Section 5.14, for the purposes of creating a more flexible arts and social district or districts.

Ms. Marsh opened the discussion with following exhibits:

**Exhibit P:** Copy of the new regulations

**Exhibit Q:** Letter from John Noyes, Old Lyme HDC Co-Chair

**Exhibit R:** Letter from Tom Schellens

The letters are in the record.

Attorney Terry Lomme, representing the applicants, summarized the request and the discussions that have taken place over the past few meetings. Mr. Lomme noted that the current regulations have been put together in a “patchwork manner” making it unclear exactly what each organization is allowed to do. He stated that the request is to make reasonable accommodations to allow the applicants/organizations to do what they are doing now but make it clear and equal for all involved.

Mr. Lomme stated he has had multiple meetings with the members of the Old Lyme Historic District Commission (HDC) and believes the updated petition incorporates the needs of the non-profit organizations while considering the concerns of the HDC. Chair Orzel inquired further about the conversations. Mr. Lomme noted that the conversation was primarily a question-and-answer session. No concluding next steps were determined. Mr. Lomme then noted he received the letter from the HDC on January 9<sup>th</sup>, 2023 with a position that is not significantly different from their prior position. Mr. Lomme noted that they added a few requested conditions. Mr. Lomme stated he hopes progress has been made and they have allayed the concerns of the district without overly restricting the four non-profits so much that they cannot operate.

Mr. Lomme continued and noted that the four non-profits in question are currently in a residential zone (it is later noted that the Florence Griswold Museum is partly zoned for residential and commercial use). He noted that bulk size and setback regulations are still in effect. When asked if there was a guarantee that the overlay would only be offered to non-profits, Mr. Lomme confirmed that yes, the overlay would only be used for non-profits. This led into more discussion concerning a for profit entity purchasing or operating from one of the four non-profit businesses. How would the overlay zone be affected then? Per Mr. Lomme, if one of the businesses sells to a “for profit” corporation, the business would not have the benefit of the uses as outlined in the proposed regulations, but the new owners are not required to take down any previous updates to the property. The size and scope would comply of the regulations.

Ms. Marsh asked if it is good for land use if it is only approved for specific owners? Per Ms. Marsh, it is either appropriate for cafes or bistros or it is not. Why does owner matter from land use perspective? ZEO/LUC Knapp noted that enforcement of the regulation’s prior history of the sites is uneven at best making zoning enforcement a challenge.

When asked, Mr. Lomme clarified that “recreational” is a reference to recreational activities- no recreational facilities will be built. ZEO/LUC Knapp stated a special permit approval will specify uses that are allowed to occur as part of the permit. It is incumbent on the applicant to specify uses.

Mr. Michael Duffy, Chair of the Board of Lyme Academy of Fine Arts stated they are fighting to make their organizations viable. He noted they are looking for a framework for the future so the work they do is sustainable. Artistic director Mr. Jordan Sokol noted this would greatly improve registrations at the Academy. They would like for the town of OL to provide a predictable set of guidelines so they can plan and know that their activities are in conformance with the regulations. He also countered Ms. Marsh’s comment that this is not appropriate for land use. Mr. Sokol said it seems appropriate for zoning commission to decide who gets to do these various activities.

Mr. Lomme stated that the draft for the proposed regulations they have represents their best attempt to incorporate the HDC ideas. Some of those ideas are in the modified proposal that was submitted the day of the hearing. Mr. Lomme urged the Zoning Commission to adopt the framework provided so the applicants can predictably plan and provide a vital part of the Old Lyme community for years to come.

Elsbeth Dowd, Executive Director of the Lyme Art Association, spoke in support of the application. Claudia Weicker, Chair of Roger Tory Peterson Estuary Center, spoke in support of the application. She noted they requested that recreational activities be included in the language because they were not sure how to define the activities that can take place at the Estuary Center.

The Chair paused the public hearing to ensure that the presentation was finished prior to moving onto public comments. Mr. Lomme stated they had finished their presentation, so the Chair opened the floor for public comments.

A second-year student at Lyme Academy spoke in support of the application.

Ms. Lynn Fairfield of 40 Lyme Street spoke against the application.

Ms. Dini Mallory, Co-Chair of the Historic District Commission brought **Exhibit T**, a letter of opposition from other residents. She also presented **Exhibit R**, a short summary of her statement to the Commission.

Ms. Cheryl Poirier, Chair of the Old Lyme Economic Development Commission, clarified that 96 Lyme Street (the Florence Griswold Museum) is a C-30S commercial property.

Ms. Deborah Moore, Chair of the Florence Griswold Museum, stated that they are in a period of transition and considering opportunities for growth. Ms. Moore noted that they need more time to understand the proposal.

ZEO/LUC Knapp notes that the Florence Griswold Museum is zoned partly for commercial use and partly for residential use

Ms. Claudia Weicker clarified that the proposal states the Roger Tory Petersen Estuary Center requested indoor/outdoor space and a rear deck. She noted they are not looking at an expansion of indoor space and they are in the application process, so the statement is incorrect.

Mr. Gregory Stroud inquired about future commercial use. Could someone contract out part of their use to a commercial outfit? Per Atty Lomme, the answer is no. A “for profit” will not be able to run part of the business if it affects the owner’s nonprofit status. The overriding use of the property must be done by a nonprofit organization.

Discussion continued about “for profit” entities getting access to the overlay zone.

Ms. Carol Jones of 54 Lyme Street and Board Member at Lyme Academy spoke in favor of the petition and feels that these changes will ultimately make Old Lyme something to be very proud of.

Ms. Debi Czarnecki, member of the HDC, spoke favorably about the discussions being held with the applicants. Ms. Czarnecki asked that the Zoning Commission please consider HDC’s stance.

Mr. Lomme thanked the Commission and the HDC for their collective work on the petition. Mr. Lomme stated the updated petition is strong and he appreciates the Commission’s consideration.

Chair called for a motion to close the public hearing. See separate Record of Votes document for more information.

Chair Orzel asked to adjust the agenda and requested a motion to move 26 Town Woods Rd up in the agenda. See separate Record of Votes document for more information.

2. Petition for Application to create the Halls Road Overlay District Proposal (HROC), Town of Old Lyme applicant.

Ms. Marsh read the legal meeting notice dated Monday, Nov. 14 2022.

**Exhibits:**

**A:** HROD proposal binder, 9/12/2022; **B:** Legal notice in New London Day dated 10/14/22; **C:** Letters from Edi Twining; **D:** Certificate of mailings to abutters on 10/20/22; **E:** HDC letter dated 10/3/22; **F:** Referral dated 3/18/22 from Ms. Marcy Blint at DEP; **G:** Referral to planning commission dated

10/24/22; **H**: Referral to the Town of Old Saybrook (abutting neighbor) dated 10/24/22; **I**: Letter from Mr. Russ Todd, representing the HDC dated 10/11/22; **J**: Referral dated 10/18/22 to Mr. Sam Gold and Mr. Torrence Down; **K**: Referrals dated 10/18/22 to the towns of E. Lyme, Lyme, Old Saybrook plus a letter to Ms. Marcy Blint; **L**: LCRVDOT letter dated 10/28/22; **M**: Mr. Torrence Down, Lower CT Valley COG response; **N**: Letter from Mr. Thomas Schellens dated 11/14/22; **O**: HDC letter dated 11/14/22; **P**: Letter from ZEO/LUC Knapp dated 11/14/22; **Q**: Letter from Mr. David Kelsey dated 11/14/22; **R**: Email from Attorney Matthew Willis dated 12/2/22; **S**: Email from ZEO/LUC Knapp dated 12/2/22 in response to Atty Willis; **T**: Forwarded email request dated 12/8/22 from Ms. Edi Twining asking to further delay the public hearing to the Jan 9<sup>th</sup>, 2023 regular meeting; **U**: Questions about proposed overlay zone; **V**: Bulk standards in the HROD; **W**: HROD design review guidelines; **X**: Old Lyme Regulations Proposed Zoning Regulation Changes Mixed Use Halls Overlay District; **Z**: Notices to abutters dated 1/5/23; **A1**: Letter of support from Ms. Candace W. dated 1/3/23; **A2**: Applicant presentation handout delivered 1/9/23.

Ms. Edi Twining, Chair of the Halls Road Improvement Committee (HRIC), went through the history of the HRIC and the activities that have taken place so far. She also emphasized that overlays are optional, no one is required to use them. Ms. Twining noted that the improvements will create more opportunities and more competition on Halls Rd. She also stated that the design is mixed use and the idea of having mixed use allows it to be a much more walkable and interesting town center. Ms. Twining also stated it will also increase the town's tax base.

Ms. Twining stated applicants must build a commercial property up against the street, then they can build behind and/or above, mixed use, multi-family housing, or commercial business. They are asking that the overlay district create a town "street" in return for a little commercial and more residential opportunities.

Attorney Bill Sweeny, Land Use Attorney in New London reviewed the Old Lyme Zoning Regulations Proposed Zoning Regulations Changes Mixed-Use Halls Road Overlay District document. He noted the regulations that are being presented are primarily written by town residents and emphasized it is an optional overlay zone that sits on top of the C-30S district. A revised version of the regulation was submitted Dec. 16 which incorporates all Atty Willis' comments, and he has signed off on the regulation.

Atty Sweeny noted that the key aspect is that a qualifying project must be proposed. The owner must go before the commission and get a special permit. They have certain minimal eligibility requirements for mixed use, commercial or residential. It must have a commercial element to take advantage of the regulation.

Atty Sweeny noted that C-30S applies to all properties until someone comes before the commission with a qualifying project. He reiterated that the goals are to create a pedestrian friendly environment; safe and convenient mixed-use neighborhood; fostering mix of businesses; creating mixed use neighborhood that is appropriate for this community and something that promotes commercial development. Atty Sweeny noted the special permit turnaround is 35 days and he referred to the Halls Road Overlay District Design Review Guidelines to help applicants and committees understand what they are trying to achieve in the district.

Atty Sweeny clarified a stand-alone parking garage would not be allowed per current guidelines. He commented that if the Commission would like to restrict it further to disallow standalone parking garages, he welcomes the change.

Mr. Barnes asked if sidewalks will be required on private property. Atty Sweeny noted that if there is not enough room in the right of way, then yes, sidewalks would need to be installed on private property per regulations. Atty Sweeny was asked about street parking and noted that there is no requirement to provide on street parking. If parking is required, it would have to be proposed and go through the DOT process.

The chair opened the public hearing for public comment.

Ms. Christina Gotowka of 25 Library Lane: Question, is Hall's Rd going to stay the same width? Chair Orzel stated it is a state highway and the state could widen it by eminent domain to widen if need be. Other questions: Is there a possibility that the town will meet some of the affordable housing commitment in the residential space above the residential buildings? Is there a commitment to make that possible? Atty Sweeny: Regulations do not include a set aside or mandatory percentage for affordable housing. He noted that developers that follow the section 830G will not have to meet these requirements. Atty Sweeny said there is nothing preventing a developer from proposing that.

Atty Marjory Shansky, representing SJC Consulting and Development LLC (owners of property on Halls Rd), spoke in favor of the application. She brought her own letter of support and a letter of support from Dr. Don Poland, professional Land Use Planner. She noted that the amount of work that went into the proposed overlay zone regulations are impressive.

Mr. John S., owner of property on Halls Rd, spoke in support of mixed use of Halls Rd. He asked a few questions and objected to the requirement that the commercial property be up front. He is concerned that from an economic standpoint these updates will not be possible for businesses on Halls Rd.

Atty Sweeny responded to Mr. S's concerns. He noted he cannot speak to discussions with developers about financial feasibility in the area. Atty Sweeny did state that overlay zoning has been implemented for at least 50 years in CT. This regulation is one of a kind, specifically for Old Lyme. But similar plans have been in place successfully for years around the country. He believes there are creative approaches that are financially feasible and that can be used on Mr. S's property and other properties.

Mr. Brian Farnham of 29 Neck Rd. asked about qualifying projects as they pertain to a few properties on Halls Rd. Atty Sweeny responded and said there are less than 5 parcels that are within the C-30S district that do not have frontage on Halls Rd. Those properties could be utilized in the HROD but must have frontage to take advantage of the proposed regulations. Properties without frontage are not eligible to participate. Mr. Sweeny noted that there is a separate agenda for the placement of the overlay zone.

Architect Alex Twining of 13 River Bank Lane spoke in strong support of the application. He noted it will be economically beneficial to the town.

Ms. Cheryl Poirier, Chair of the Old Lyme Economic Development Commission, spoke on behalf of the EDC to express support of the application.

Mr. BJ Bernblum spoke in strong support of the application.

Mr. Olaf Bertram of 3 Jean Drive spoke in support of the application.

Mr. Howard Margules, serving on the Halls Road Improvement Committee, spoke in support of the application. He stated that the struggling art community in Old Lyme will be helped by this plan.

Atty Sweeny made closing comments and said he would like to specifically list a standalone parking garage as a prohibited use/non-qualifying project. He suggests making the document update a condition of approval.

When asked about max lot coverage calculations, Atty Sweeny stated that max lot coverage is based on the building footprint. Ms. Marsh asked about a square footage cap for businesses and if it would be considered. Atty Sweeny stated that there is a max coverage of 10,000 SF for certain businesses but did not include a cap because there are some very large lots, and the intent is to have buildings cover large sections on Halls Rd. Atty Sweeny said they would like 75% of the frontage to be occupied by a building. He also noted that each plan will have to undergo a design review and approval process. Ms. Marsh asked

if there was a max size they would be able to adopt to mitigate the risk of less desirable buildings. Atty Sweeny stated it could be added as an additional eligibility criterion, however, he would not go below 15,000 SF. He also noted that if the building is too massive and does not meet the design review requirements, a special permit would need to be obtained allowing the Zoning Commission to deny those types of buildings.

Ms. Tinnerello asked if any businesses have expressed interest yet. Ms. Twining said she heard of two businesses that might be interested in starting after the regulations are approved.

A member of the public asked if there was a max number of residential units that could be built in the district. Atty Sweeny stated he cannot answer that question, but he does know there is an absolute cap of 40 units per acre.

Ms. Jennie Enman of 145 Neck Rd, spoke against the application.

No additional comments from the public.

Chair Orzel suggested that the hearing stay open to facilitate further review and discussions. After discussion with the Commission and the applicants, the Commission agreed to close the public hearing. Chair called for a motion to close the public hearing. See separate Record of Votes document for more information.

### 3. Rezoning of 23 parcels running the length of Halls Road from C-30S to the Halls Road Overlay District.

Atty William Sweeny noted that the purpose of the hearing is to review the placement of the overlay over the C-30S district. No changes or modifications have been made to the map submitted to the Zoning Commission. ZEO/LUC Knapp stated that the notice concerning the potential rezoning was sent to the 23 properties being rezoned and to the neighboring properties that are within 500 FT of the 23 businesses. They were notified twice about the public hearings on this issue.

Chair Orzel opened the public hearing for public comment.

A member of the audience asked if there was a list of the properties that were notified. The Chair and ZEO Knapp looked for a list of the property owners during the hearing. Mr. Miller was able to confirm the property in question is an abutter.

Chair Orzel asked if the public hearing should be kept open for another month to ensure everything has been covered. Ms. Marsh stated the petition for application to create the HROD proposal and the rezoning of the 23 parcels should go together.

No more public comments.

Chair called for a motion to close the public hearing. See separate Record of Votes document for more information.

### 4. Special Permit Application – 26 Town Woods Road, (Senior Center) Town of Lyme and Old Lyme, applicants

Public hearing opened with Ms. Marsh reading the legal notice to the attendees and listing the **exhibits**:

**A/A1:** Special Permit application

**B:** Legal notice that was read, published in the New London Day, December 27th, and January 5th, 2023

**C:** Certificate of mailing to abutters

**D:** LLHD12 application

**E:** LLHD comments

Ms. Jeri Baker, Chair of the Board of Directors of the senior center, started the presentation and introduced architect Mr. Greg Nucci, with Point One Architects, and Mr. Mike Ott, civil engineer. Mr. Nucci presented the proposed site plan to the Commission. He noted the center was built in the late 70's/80s and needs renovations. Mr. Nucci stated that an early feasibility study was done, and they determined that they would try to keep as much of the existing building as possible while still solving some of the issues it currently faces. Along with building updates, they will be expanding the parking lot (adding about 6 spaces), making the lot contain more than 30 spaces.

Mr. Nucci stated that the building height and coverage are acceptable per the zoning regulations. Mr. Ott presented the engineering plans of the proposal. He stated that exterior lighting will be replaced, there will be updates to the wells for more usable space outside and new signage will be created. He also noted that the site uses propane, and they are exploring using solar panels, but nothing is in the plan yet.

The Chair opened the public hearing for public comments.

Jan Wysocki of 22 Town Woods Rd. stated concerns about additional usage, bigger space, and requested more details about how the facility will light the parking lot. Mr. Nucci noted that the design eliminates upright and backlight, making the lighting much better. Ms. Wysocki asked if there will be property greenery or a buffer to limit the views from her property. Mr. Nucci stated that could be accommodated.

No other comments from the public.

The Board questioned whether a condition of approval be that there is a buffer between the property and 22 Town Woods. Further discussion required.

Public hearing was closed. See separate Record of Votes document for more information.

The Commission took a 5-minute break at 8:37 PM.

5. Special Permit Application to allow applicants to replace existing non-conforming Barn with a new Barn which will be built in a conforming location and also, will be built to FEMA standards on property located at 47 Seaside Lane, Frank and Jessica Antonacci, applicants.

Ms. Marsh read the legal notice to the public. No exhibits submitted.

Mr. Antonacci presented the new plans for the proposed structure. He noted that the building will be 100% compliant and meets the strict standards of FEMA. A permitted, engineered, fully compliant septic system has all necessary approvals. Mr. Antonacci stated that 100% of the property is permeable. Ms. Marsh asked about the use of the barn. Mr. Antonacci said it will not be used as a garage; it will be used for storage. This is an accessory structure, and no habitable space will be in the structure.

Ms. Nosal was concerned about the various references to the structure in documents submitted and reviewed by the Commission. ZEO/LUC Knapp noted it is an accessory structure and the name it is given is almost entirely irrelevant. He stated it is part of the Commission's discretion as to whether they should grant a special permit or not. Ms. Tinnerello noted that the old "barn" was already torn down and is being replaced by something that is entirely compliant.

Mr. Tony Hendriks, land surveyor, continued discussion about the design and noted that they have taken great care ensuring all water that falls on the site, stays on the site. The neighbors have impervious

landscape, and the runoff would be detrimental to them per Mr. Hendriks, so all the water will remain on the site.

The Chair opened the public hearing for public comments.

Ms. Susan Mayne of 49-4 Seaside Lane submitted a letter of opposition to the Zoning Commission. Ms. Mayne's read a written statement that expressed concern about the elevation and questions if it is correct. Chair Orzel read her letter into the record.

There are 5 letters of support from neighbors that were sent to the Zoning Commission. Chair Orzel proposed that the public hearing be continued to the February 13, 2023 regular meeting. Mr. Todd Habicht, of 49 Seaside Lane, disagreed with this proposal as he will not be available in February. He urged the Commission to extend to March. Mr. Todd also spoke in opposition to the application and submitted a written statement plus pictures to the Commission.

Motion was made to continue to the February 13, 2023 regular meeting. See separate Record of Votes document for more information.

6. Receipt of new applications – \*\*Receive and Set a Public Hearing: Special Permit Application – 250 Shore Road, Kids Realty LLC & Pond Road LLC (TIC), applicants.

Motion made to receive and set the application. See separate Record of Votes document for more information.

7. Zoning Enforcement: Skipped this month due to late hour.

8. New Business– Election of Officers

The Board nominated and voted on the following positions:

Secretary of the Zoning Commission: Jane Marsh

Vice-Chair: Tammy Tinnerello

Chairman of Zoning: Commission: Paul Orzel

Alternate Michael Peter Barnes, Alternate Sloan Danenhower and Alternate Sherry Johnston will be suggested and voted on by Board of Selectman.

9. Approval of Minutes – Minutes of the December 12, 2022 Public Hearing and Regular Meeting Skipped due to late hour.

10. Correspondence – None

11. Miscellaneous/Adjournment

Meeting adjourned at 12:06 AM.

Respectfully submitted,

Amy Huot, Clerk

**THE NEXT REGULAR MEETING OF THE ZONING COMMISSION IS MONDAY,  
FEBRUARY 13, 2023  
AT 6:30 P.M. IN THE MEETING HALL, 52 LYME STREET, OLD LYME, CT**