

Jennifer Lindo

From: Kris Lambert <ksl-bnl@sbcglobal.net>
Sent: Tuesday, September 29, 2020 9:29 AM
To: Jennifer Lindo
Subject: Zoning Commission Meeting - October 1
Attachments: EL Zoning Letter 8-2020 ltrhd FINAL.docx

Jennifer -

On behalf of the Friends of the Oswegatchie Hills Nature Preserve, I am submitting a letter regarding the application of Landmark Development Group for a text amendment revision of the Zoning Regulations, Section 32, Affordable Housing District. Please forward this letter to the chair of the commission, Matt Walker, as well as the remaining members of the commission. We would like this letter to be read into the record of the public hearing scheduled for this Thursday, October 1.

If you have any questions, you may reach me at 860-501-0074.

Thank you for your help.

Kris Lambert
President
Friends of the Oswegatchie Hills Nature Preserve



Friends of the
**OSWEGATCHIE HILLS
NATURE PRESERVE**

P.O. Box 163 • Niantic, Connecticut • 06357

September 28, 2020

Dear Chairman Walker and Commissioners of the East Lyme Zoning Commission:

I am writing to you as President of the Friends of Oswegatchie Hills Nature Preserve to express our opposition to the proposed amendment to the East Lyme affordable housing regulations. As you know, our organization, in coordination with the Town of East Lyme and the East Lyme Land Trust, is chiefly responsible for the maintenance of the nature preserve known as the Oswegatchie Hills Nature Preserve, which abuts the property of Landmark Development. Our organization has reviewed and opposes the application to amend Section 32 of the East Lyme Affordable Housing Zoning Regulations (hereafter "Section 32") submitted by Landmark Development Group LLC and Jarvis of Cheshire LLC (hereafter "Landmark").

The proposed amendments to Section 32 are yet another attempt by Landmark to establish a zoning approval scheme that substantially minimizes the detailed information that this Commission is required by law to receive and to review, in order to determine whether a development application will cause health, safety, environmental and coastal concerns.

This request is striking in that it was Landmark itself that drafted Section 32 and stipulated to this approval and review process with the Town. And now, they propose to "cherry pick" many sections of those very regulations to favor their one specific application.

By Landmark's own admission in its counsel's cover letter to this application, it represents that "the intent of this amendment is to prohibit and avoid the demands for unnecessary and costly engineering at the first stage." In requesting this change, Landmark is attempting to remove the Commission's discretion and to make approval mandatory at the first stage. This attempt to provide as little information to the Commission as possible up front, and to then lock in a mandatory approval with no discretion completely violates the 2011 court order of the Connecticut Superior Court. The Court ordered that the approval process must not eliminate the requirements that a developer submit the type of detailed information before approval has become mandatory that the Commission needs to determine whether environmental, health and safety impacts would result from the proposal. In compliance with that order, Section 32 was adopted by both this Commission and Landmark in a stipulated agreement in 2013.

These affordable housing regulations have been used successfully in their current format by developers who have obtained approvals based on these regulations and built affordable residential housing in town currently and in the past. They are in place to be applied uniformly and fairly to all future applications and must be appropriate for use town-wide. In fact, in 2015 Landmark itself utilized these regulations and obtained zoning approval subject to certain conditions imposed by this Commission. Rather than taking "Yes" for an answer and attempting to comply with your conditions, Landmark has now filed this application to again try to change the rules that apply to all solely to benefit itself.

To accomplish this goal, Landmark proposes that you now adopt a Master Development Plan sequence similar to that which was adopted for the Gateway development for affordable housing projects, and to "cherry pick" certain elements of that planning process that it deems beneficial to its plans. This continues a pattern that Landmark has tried to use over the years of comparing approvals of other projects in other parts of town to itself. In this case, the differences between the Gateway and Landmark developments and properties are substantial and stark.

The Gateway Planned Development District (hereafter "GPDD") was added as Section 11A of the zoning regulations in 2001. The first sentence states "Purpose – Coordinate development of **properties under separate ownership**...". Section 11.A.9 adds the Master Development Plan (hereafter "MDP") as "an alternative to the traditional parcel by parcel development..." Section 11.A.9.1 states that "The **purpose** of the MDP process is to encourage the comprehensive planning and coordinated **mixed-use** development of **multiple parcels** within the district..."

Furthermore, the Gateway District and Master Plan was conceived by the town, rather than a particular developer, as a way to attain very specific town goals. In fact, Landmark's proposal in Oswegatchie Hills meets NONE of the four approval criteria as the Zoning Commission defined in 2001 (eleven years before the affordable housing regulations were adopted). The Approval Criteria as listed in (11.A.9.5) is:

1. Consistency with the Plan of Conservation and Development (hereafter "POCD")
2. Consistency with the goal to broaden the tax base...
3. Consistency with the purpose of the alternative MDP process
4. ... provisions for necessary utility and traffic infrastructure...

A master plan can be denied for any one of those criteria. The Landmark Oswegatchie Hills plan fails on all four criteria.

1. The POCD shows Oswegatchie Hills as Open Space and reiterates that that has been the wish of the town for decades and well before Landmark began its development efforts. By contrast, East Lyme engaged the Yale Urban Design Workshop to interview towns people about desired uses, and the ZC incorporated as Fig A in Section 11.A.8 Yale's proposed April 1997 sketch for Gateway.
2. Numerous studies show that residential development adds more municipal costs for services than is generated by the tax revenues.
3. As stated above, "The purpose of the MDP process is to encourage the comprehensive planning and coordinated mixed-use development of multiple parcels within the district..."
4. Landmark's proposed text amendment removes from 32.9.2 the requirement that the developer demonstrate it can provide water and sewer or community septic and water or a combination of public and onsite or community water waste disposal.

The differences between Gateway and Landmark's proposed project are substantial. Gateway includes a large commercial/retail component: it had multiple land owners: it was targeted for development: the GPDD was proposed by the town: and it was fully within the town's sewer service district. By contrast, Landmark proposes a residential only development: it has single ownership: its development is inconsistent with the POCD: its regulations were drafted by the developer: and it is only partially within the town sewer service district. While all of these contrasts between Gateway and Oswegatchie Hills are important, the most important by far is the fact that the Gateway property slopes down to one of the nation's largest highways, I-95, and Oswegatchie Hills slopes down to the beautiful, but very environmentally sensitive, Niantic River.

The net result of this proposal is a watered-down AHD regulation portion and a watered-down master plan portion customized and combined to suit the specific goals of one particular application. We urge the Commission to deny Landmark's self-serving proposed amendments so that it will continue to be provided with all the necessary information in order to make informed decisions on all affordable housing proposals that come before it.

Thank you for your consideration.



Kristin S. Lambert
President