

FILED IN EAST LYME  
May 15, 2006 AT 8:20 M

**EAST LYME ZONING COMMISSION  
PUBLIC HEARING I  
Thursday, MAY 4, 2006  
MINUTES**

*J. Blain*  
EAST LYME TOWN CLERK

The East Lyme Zoning Commission held the Continuation of the Application of Landmark Development Group, LLC. for an Affordable Housing Development to be known as "River View Heights V (A Residential Community)" and (a) approval of a new section of the East Lyme Zoning Regulations entitled "Special Use Affordable District" (AHD); (b) rezoning the land of Jarvis of Cheshire, LLC and Sargents Head Realty Corporation., on May 4, 2006 at the East Lyme Town Hall, 108 Pennsylvania Avenue, Niantic, CT.

**PRESENT:** Mark Nickerson, Chairman, Rosanna Carabelas, Secretary,  
Marc Salerno, Norm Peck, Ed Gada, Pamela Byrnes, William  
Dwyer, Alternate, Joe Barry, Alternate, Bob Bulmer,  
Alternate

**ALSO PRESENT:** William Mulholland, Zoning Official  
Glenn Russo, Applicant, VP Landmark Development Group  
RoseAnn Hardy, Ex-Officio, Board of Selectman  
Ed O'Connell, Town Counsel  
Andrea Stillman, State Senator, 20<sup>th</sup> District  
Meg Parulis, Town Planning Director  
Sarat Kalluri, Sr. Transportation Engineer

**PANEL:** Mark Nickerson, Chairman, Rosanna Carabelas,  
Secretary, Marc Salerno, Ed Gada, Norm Peck, Pamela  
Byrnes

**Pledge of Allegiance**  
The Pledge was observed.

**Public Delegations**  
There were no public delegations.

**Public Hearing I**

- 1. Continuation of the Application of Landmark Development Group, LLC. for an Affordable Housing Development to be known as "River View Heights V (A Residential Community)" and (a) approval of a new section of the East Lyme Zoning Regulations entitled "Special Use Affordable District" (AHD); (b) rezoning the land of Jarvis of Cheshire, LLC and Sargents Head Realty Corporation. Chairman Nickerson opened the Public Hearing and called it to order at 7:32 PM.**

Mr. Nickerson read the following correspondence into the record:

- ◆ Letter dated 5/4/06 to East Lyme Zoning Commission from Michael Zisca, Attorney representing Landmark Development Group, LLC. Re: Landmark's Affordable Housing Application – Requesting that the application be granted a continuance due to the unfortunate circumstances requiring Landmark Development Group to seek a new engineering firm. Because of the understanding that the commissions schedule for the May 18<sup>th</sup> hearing is extremely full, he is requesting that the Public Hearing for the Landmark Development Application be continued to June 1, 2006. This letter was marked as **Exhibit 14**.

Mr. Nickerson asked if they needed to take a motion to continue the Public Hearing.

Mr. Mulholland explained that since Landmark Development is requesting the continuance, no motion will be needed.

Mr. Nickerson explained that they will be reading testimony into the record, then taking testimony, and then the public will have a chance to speak and ask questions.

Mr. Nickerson asked Ms. Carabelas to read the following correspondence into the record:

- ◆ Letter dated 4/4/06 to William Mulholland, East Lyme Zoning Official from George Calkins, East Lyme Town Sanitarium. RE: Riverview Heights V (A Residential Community), Boston Post Road, East Lyme, Conn.; Applicant/Developer: Landmark Development Group. The letter detailed that the plans provided by Landmark Development Group lack any specific declaration of the manner or location of wastewater disposal and/or water supply and could only be described as very preliminary and incomplete due to the lack of technical content. This letter was marked as **Exhibit 15**.

Mr. Nickerson asked Ms. Carabelas to read the following correspondence into the record:

- ◆ Letter dated 4/4/06 to William Mulholland, East Lyme Zoning Official from Keith Hayden, East Lyme Conservation Enforcement Officer. RE: Plans entitled "Riverview Heights V (A Residential Community)", Boston Post Road, East Lyme, Connecticut. The letter indicated that a permit would be required because the plans show proposed construction within wetland boundaries and included a Checklist which listed information to be submitted as part of the Conservation Permit Application. Also, additional comments may result from reviews of more detailed plans. This letter and checklist were marked as **Exhibit 16**.

Mr. Nickerson asked Ms. Carabelas to read the following correspondence into the record:

- ◆ Letter dated 4/20/06 to William Mulholland, East Lyme Zoning Official from Michel Giannattasio, P.E., East Lyme Director of Public Works. RE: Transmittals. This letter included 4 attachments detailing comments, plans and referrals detailing necessary information that was not provided in the applicant's plans. Due to the lack of information, Mr. Giannattasio was not able to provide detailed comments on the plans. This letter was marked as **Exhibit 17**.

Mr. Nickerson asked Ms. Carabelas to read the following correspondence into the record:

- ◆ Letter dated 4/20/06 to William Mulholland, East Lyme Zoning Official from Meg Parulis, East Lyme Director of Planning. RE: Riverview Heights V – Affordable Housing Development – Landmark Dev. Group, LLC. This letter included 5 attachments. Ms. Parulis requested that the Public Hearing be held open to allow time for Wilbur Smith & Associates to conduct a peer review of the traffic study submitted by the applicant. This letter was marked as **Exhibit 18**.

Mr. Mulholland noted that the letter from Ms. Parulis was from the last meeting.

Mr. Nickerson asked Ms. Carabelas to read the following correspondence into the record as a part of **Exhibit 18**:

- ◆ Letter dated 4/7/06 to Mark Nickerson, Chairman, East Lyme Zoning Commission from Mark Powers, Chairman, Niantic River Gateway Commission. RE: Landmark Development Group, LLC Application – Approval of Zone Change. This letter stated that on March 30, 2006, the Niantic River Gateway Commission DISAPPROVED the referenced Zone Change granted by the Zoning Commission related to the land within the Niantic River Gateway Conservation Zone. The letter included the referenced Resolution.

Mr. Nickerson asked Mr. O'Connell, East Lyme Town Counsel to speak to the noted resolution from the Niantic River Gateway Commission.

Mr. O'Connell presented a map of the Niantic River Gateway Conservation Zone which Mr. Nickerson marked as **Exhibit 19**.

Mr. O'Connell explained that the Niantic River Gateway Commission has territorial jurisdiction over any areas located in the Conservation area and reminded the commission that their previous approval of the zone change for the Landmark III application was contingent on the Niantic River Gateway Commissions approval as per the state statutes. In the previous Landmark III application, the Zoning Commission had approved a zone change from an RU-120 district to an Affordable Housing district. This approval was then sent to the Niantic River Gateway Commission and after a Public Hearing, they disapproved the zone change for two small parcels of land on the west side of the sewer shed boundary that fell into their territory. Therefore, the two parcels are to be considered as a RU-120 zone.

Mr. Nickerson thanked Mr. O'Connell for his explanation and commented that he believes that the current application before the commission moves even further into the jurisdiction of the Niantic River Gateway Commission.

Mr. O'Connell added that the Niantic River Gateway Commission would only become involved again when and if the Zoning Commission decided to make another zone change within their territory. Also, that their decision did not revert the entire zone change of the Landmark III decision, but only the two small parcels that fell within the boundary of their territory.

Ms. Parulis informed the commission that the reason that the zone change was disallowed was because it did not conform to the conservation standard adopted by the Niantic River Gateway Commission and that the Zoning Commission had agreed to abide by. She indicated that a copy of those standards is included in the packet of information that she provided.

Mr. Nickerson asked Ms. Carabelas to read the following correspondence into the record:

- ◆ Letter dated 2/23/06 to Margaret Parulis, East Lyme Town Planning Director, from Nicholas Bellantoni, Connecticut State Archaeologist. RE: Riverview Heights V, East Lyme, Connecticut. This letter recommended that an archeological reconnaissance survey be conducted to identify and preserve significant cultural resources prior to any land use activities because of the historical use of the land along side the Niantic River by Native Americans. Included with the letter is an extensive list of organizations that would be capable of conducting such a survey. This letter was included as a part of **Exhibit 18**.

Mr. Nickerson noted that the legal add was run correctly and invited Senator Andrea Stillman to read her letter and speak to the commission.

Senator Stillman introduced herself and explained that she is the Senator for the 20<sup>th</sup> district, which includes the town of East Lyme. She explained that although her feelings about this project have previously been made public, she has not had the opportunity to state them for the record. As the previous Senate Chair of the Environment Committee in the State Legislature she is very concerned with the environmental impact on the sensitive area along the Niantic River and feels that it should be preserved for future generations. It is an extraordinary resource that will not be able to be replaced once it is destroyed by this development. This location is not the place for a housing development. She indicated that she has received an overwhelming number of letters from the public expressing concerns over loss of the (Oswegatchie) Hills which have been declared a conservation Zone by the State legislator. She believes that this previous action by the legislator was meant to send a message as to the importance of this land and they have authorized 2 million dollars for it's preservation. Senator Stillman thanked the Zoning Commission for all the work that they have done to preserve the hills and said that she will continue to do all that she can do to ensure their preservation as well. She acknowledged that this is the forth case to come before the commission from Landmark development in an attempt to develop the hills and urged the commission to deny this one, just as previous applications have been denied.

Mr. Nickerson marked the read letter from Senator Stillman as **Exhibit 20**.

Mr. Nickerson asked Sarat Kalluri, Sr. Transportation Engineer, to come up and present the traffic study.

Mr. Kalluri introduced himself as a Sr. Transportation Engineer with Wilbur Smith Associates, a licensed professional in the State of Connecticut. He indicated that he was asked to do a peer review of the site plan submitted by the applicant, dated December 12, 2005. It was a site plan application for 840 units at that time. In April, he also received a copy of the traffic study done by Fuss and O'Neil done in October 2005. He expressed that there are still lingering issues with the access to the site from River Road. Issues existing include the side distance issues, site line, and grade of the road. After a preliminary review of the report from Fuss & O'Neil did indicate some improvements, but that he was not comfortable with those improvements because there were not any engineering plans detailing necessary improvements and their impact. As a result of that, the town asked them to conduct an independent traffic study, which they did based on the 1564, or 1760 proposed units. They used the background volumes from the Fuss & O'Neil report and assumed that access to the site would only be provided at River Road. The results of the analysis indicate

that US Rte 1 and Old Mill Road, US Rte 1 and Calkins Road, and US Rte 1 and Summit Ave would operate at acceptable levels of service. US Rte 1 and River Road would not operate at acceptable levels though and would require improvements. Improvements needed would include a traffic light, as well as separate turn lanes from both directions. With those improvements, the level of service at that intersection could be acceptable. The resulting issue would be a queue issue at the light. Mr. Kalluri indicated that this queue would be a stacking of about 280 feet of cars (12-14 cars) in the morning waiting to turn at that intersection, even with the proposed improvements. The intersection of Hill Rd and Calkins Road would see about 645 vehicles in 1 hour in the evening commute resulting in a 320 foot stacking distance of cars. This only counted vehicles coming into Calkins Road and did not take into account vehicles using alternate routes to get to the site.

Ms. Carabelas asked for clarification if the numbers being presented include existing traffic on those roads, or if these are only the numbers being generated as a result of the proposed development.

Mr. Kalluri indicated that this does in fact include background traffic in the area and that they added the numbers generated by the development to existing traffic patterns.

Mr. Nickerson asked Mr. Kalluri's opinion about the ability to put the proposed turning lanes and traffic lights in to the development in light of the existing retaining walls and marsh in the area.

Mr. Kalluri indicated that they would have to go through the state permit process and have a design review of a concept plan or drawing showing those improvements.

Mr. Nickerson asked who determines how much improvements would need to be done on River Rd, Calkins Rd, Hill Rd, etc, because that is not state highway.

Mr. Kalluri said that typically you would have to submit drawings to the local town for approval, as well as send a copy of the improvements to the state for their records. The state will be most interested in what will happen with River Rd, because it intersects with a state highway.

Mr. Nickerson entered the road map of the area as **Exhibit 21**.

Mr. Nickerson entered the traffic study from Wilber Smith Associates as **Exhibit 22**.

Mr. Russo asked Mr. Kalluri for clarification on the impact of the traffic study.

Mr. Kalluri summarized that based on the proposed improvements, the proposed development would cause stacking on River Rd (12-14 cars) and Route 1 East of about 297 feet (10-15 cars) extending 100 feet past Summit Ave in the morning. Also, this development will trigger a review by the State Traffic Commission. He also re-emphasized that site lines are an issue, but could be mitigated with traffic lights on Route 1.

Mr. Russo reconfirmed that ultimately, whatever is approved by this commission would go before the State Traffic Commission.

Mr. Kalluri explained that there is no written policy as to what the state will and will not approve and that it is very much based on individual circumstance. In addition, they will take into consideration the impact of the proposed improvements on the surrounding area.

Mr. Nickerson said that they did not hear anything in detail about site lines in this presentation.

Mr. Kalluri explained that all of the previous concerns from prior applications are still a factor, but as this is the fifth time he has been before the commission, he did not want to reiterate previously stated concerns that were already on the record.

Mr. Nickerson opened the floor to the public. He asked for anyone who wishes to speak against the application.

Marvin Schut of 29 Edgewood Rd, North, Niantic, CT spoke to his concern with the procedure that the public is speaking prior to hearing the full application and worried that they would not have the opportunity to speak after the applicant makes his full presentation. He requested assurance from the commission that the public will have the opportunity to speak once the full presentation has been made by the applicant.

Mr. Nickerson said that he could not in good conscience close a Public Hearing without making sure that they have given every opportunity to hear from the public. The application has been continued to June 1, 2006 and that they will stay as long as needed to ensure there is enough time to hear from everyone after the applicant speaks.

Mr. Mulholland suggested hearing from Landmark Development on May 18, 2006 instead of June 1, 2006.

Mr. Nickerson asked Mr. Russo if he would consider moving the date to May 18, 2006 instead of the agreed upon June 1, 2006.

Mr. Russo said that he would not be prepared to meet on May 18<sup>th</sup>, but expressed that he would allow for another extension of the application after his full presentation if there were significant changes and the public felt that they needed more time to speak in order to give them every opportunity to voice their concerns.

Ms. Parulis noted that if there were significant changes to the application, it would not only be a matter for the public, but the town would also need additional time to re-evaluate the plans.

Mr. Nickerson called for a short recess at 8:47PM.

Mr. Nickerson called the meeting back to order at 8:55PM.

Mr. Nickerson asked if there was anyone else from the public that wished to speak against the application.

Chris Barrett of 301 Old Black Road, Niantic Ct read prepared remarks. He explained that he is a strong believer in property rights, but that this development should not be legally forced upon the town by a perversion of the laws. The land in the Oswegatchie Hills is an environmentally rich, irreplaceable area that should not be developed. He urged the Zoning Commission to disapprove the application based on environmental reasons alone.

Mr. Nickerson entered the letter from Chris Barrett as **Exhibit 23**.

Mike Dunn, VP Friend of the Oswegatchie Hills, 9 King Arthur Dr, Niantic, CT spoke against the application. He feels that the plan is absurd as it builds in wetlands, on cliffs and requires blasting and clearing of a majority of the Hills. He also read an editorial from the New London Day, dated November, 23, 2005. This editorial detailed the unimaginable idea of developing the Oswegatchie Hills.

Mr. Nickerson entered the Editorial from The New London Day, dated November 23, 2005 as **Exhibit 24**.

Patricia Frank Sher of 4 North Pine St, Niantic, CT, Director with the Friends of the Oswegatchie Preserve, presented a factual illustration of the proposed plan. She has had the site plans proposed by Mr. Russo overlaid on an aerial photo of the area to show to total destruction that the development would cause of the area.

Mr. Nickerson marked the advertisement from the Friends of the Oswegatchie Hills as **Exhibit 25**.

Chris Oliveira, 7 Hefflon St Old Lyme, CT. He stated that as an attorney, he acknowledges the difficulties with concerns for legal actions in cases like this, but as a Senate candidate, he wants to encourage the commission to continue to vote their conscience.

Truxtun Brodhed, 58 Oswegatchie Hills Rd, Niantic, CT expressed his concerns that with all the money that Mr. Russo is spending on the court cases and presenting his application so many times, how can this development ever become affordable housing.

Mr. Nickerson assured him that if the development were to be approved, that the state has very strict guidelines and regulations in place to ensure that at least 30% of the development would be sold at an affordable housing rate for 40 years. Therefore, the adherence to that is not a concern of the Zoning Commission.

Mr. Nickerson asked if there was anyone who would like to speak in opposition to the application. There were none.

Mr. Nickerson asked if there was anyone that would like to speak in favor of the application. There were none.

Mr. Nickerson asked if there was anyone that would like to speak neutral to the application. There were none.

Mr. Nickerson called for a motion to continue this public hearing to June 1, 2006.

**\*\*MOTION (1)**

**Mr. Salerno moved that the Public Hearing be adjourned and continued to June 1, 2006.**

**Ms. Carabelas seconded the motion.**

**Vote: 6 – 0 – 0. Motion passed.**

Mr. Nickerson adjourned and continued this Public Hearing at 9:15 PM.

Respectfully submitted,

Beth Ricker,  
Recording Secretary (Pro-Tem)