

**EAST LYME ZONING COMMISSION
PUBLIC HEARING I
Thursday, APRIL 12th, 2007
MINUTES**

FILED IN EAST LYME TOWN
CLERK'S OFFICE

Apr 23 20 07 at 2:25 AM PM

Esther B. Williams

EAST LYME TOWN CLERK

The East Lyme Zoning Commission held a Public Hearing on the Application of Theodore Harris for a Special Permit and Coastal Area Management Site Plan review to construct a multi-family, multi-story dwelling at property identified in the application as 12B and 10 Black Point Road, Niantic, CT and the Application of Demetrios Orphanides for a change of zone for a portion of lots 12B and 10 Black Point Road from RU-40 to a Commercial CB Zoning District for property identified in the application as 12B and 10 Black Point Road, on April 12, 2007 at Town Hall, 108 Pennsylvania Avenue, Niantic, CT. Chairman Nickerson opened the Public Hearing and called it to order at 7:35 PM.

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

ALSO PRESENT: William Mulholland, Zoning Official
Robert Bulmer, Alternate
Attorney Theodore Harris, Representing the Applicant
Demetrius Orphanides, Applicant
Gary DeWolfe, Architect
Robert Pfanner, Engineer
Alan Mess, Traffic Engineer, Barkan & Mess Associates
Rose Ann Hardy, Ex-Officio, Board of Selectmen

ABSENT: William Dwyer, Alternate, Joe Barry, Alternate

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

Pledge of Allegiance

The Pledge was observed.

Public Hearing I & II

1. Application of Theodore Harris for a Special Permit and Coastal Area Management Site Plan review to construct a multi-family, multi-story dwelling at property identified in the application as 12B and 10 Black Point road, Niantic, Connecticut. Property is further identified in the application as Lots 200 and 201 on East Lyme Assessors Map 11.2. and –
2. Application of Demetrios Orphanides for a change of zone for a portion of lots 12B and 10 Black Point Road from RU-40 to a Commercial CB Zoning District for property identified in the application as 12B and 10 Black Point road, Niantic, Connecticut. Property is further identified in the application as Lots 200 and 201 on East Lyme Assessors Map 11.2.

Chairman Nickerson said that they had moved these two public hearings up as there were many people in the audience present for them. He opened both of them and explained the public hearing process to everyone.

Ms. Byrnes said that she would like to note for the record that she has read all of the minutes and that she is current on all of the information presented at the meeting that she had missed.

Mr. Nickerson asked Ms. Carabelas, Secretary to read the correspondence into the record.

Ms. Carabelas read the following correspondence into the record:

- ◆ Letter dated 4/12/07 to EL Zoning Commission from William Mulholland, Zoning Official – Re: 12B and 10 Black Point Road – noting that the applicant has proposed to rezone the subject property from RU-40 residential to CB commercial and offering the various considerations available to the Commission.

Mr. Salerno read the following correspondence into the record:

- ◆ Letter dated 4/12/07 to Mark Nickerson, Chairman, EL Zoning Commission from Francine Schwartz, Secretary, EL Planning Commission - Re: Application of Demetrios Orphanides for a Zone Change 12B & 10 Black Point Road – finding the proposal CONSISTENT with the Plan of Conservation and Development objective to permit multifamily housing development in designated growth areas when such development is used to combat housing sprawl to rural areas of Town.
- ◆ Letter dated 2/27/07 to Bill Mulholland, from Marcia Balint, Sr. Coastal Planner, CT DEP Office of Long Island Sound Programs – Re: 12B and 10 Black Point Road Multi-Family Coastal Site Plan Review Application - finding that the proposal should meet DEP storm water standards including the retention of the 1st inch of rainfall as well as removal of 80 percent total suspended solids.

Mr. Nickerson noted that the legal ad had run in the New London Day on 3/30/07 and 4/9/07. He also said that there was no Regional Planning Commission letter.

Mr. Nickerson called for the applicant or their representative to present their case.

Attorney Theodore Harris, place of business, 351 Main Street said that he represents the applicant Demetrios Orphanides and that they are seeking three things here. The first is a zone change for a portion of the RU-40 area to CB; the second an application for a special permit for 41-units of multi-story, multi-family housing and the third they have a CAM review for a small area of property. He noted that there is no impact on the coastal resources as they are not in or adjacent to the coast and they do not affect it. He submitted the Certificates of Mailing for the zone change which was entered into the record as Exhibit A; a picture of the sign posted at the site which was entered as Exhibit B; a Site Plan Index Sheet for Windward Village Phase 2 dated 10/2/06 revised thru 4/10/07 that was entered as Exhibit C and a site plan dated 3/10/07 entitled Proposed area of Zone Change that was entered into the record as Exhibit D.

Attorney Harris said that the 60 units that are known as Windward Village were built in 1998 and that the principal residents of these units are empty nesters and some elderly. Of these 60 units, 18 are two bedroom units and the predominant number is one bedroom units. In the phase that is being proposed there would be 41 units comprised of 28 one bedroom units and 15 two bedroom units. The building would look the same as the one that is there and the older height regulations would apply to this application. Here they are asking for a zone change and special permit concurrently. The reason for the zone change is that the parcel is divided by three zones. He explained that the blue shaded area is the RU-40 and that the properties adjacent to it are in the CA zone and the first phase of Windward Village is in the CB zone – making up the three different zones on one parcel. He noted that if they were to look at the regulations that items such as convalescent homes and tennis clubs are allowed in all three zones – also Bed and Breakfasts and greenhouses are available by special permit in that zone. He submitted to them that what he is presenting here is more in line and a significant resource to the downtown Niantic District than the other items mentioned. The goal they had in mind when designing this building was that of creating the least amount of impact. They have buffers of 25' to 45' away from the residential areas when they are only required to have 6' in some of those areas. They have also chosen to surround that area with an architectural fence 5' in height on their property with landscaping. There is an extensive landscaping scheme. There are also landscaping berms that will be installed to mitigate sound and light issues. There will be very little lighting on site and the fixtures will be 12' high with a maximum foot candle of 5. The buffer areas are virtually dark and the building has been moved up close to Main Street. The farthest parking spots will be the least used.

Attorney Harris continued - regarding the purposed of the zone change, the Plan of Conservation and Development seeks to focus on multifamily housing in Town rather than urban sprawl. If they look at the use being presented and how the proposed placement of the building, they are providing a uniform development scheme for this area. There could certainly be many other things on this property that would have more impact that what is being proposed here. The Special Permit is allowed under the zoning regulations. He noted that there is access to Rte. 156 and that there would also be an outlet to Black Point Road however

that is set up to deter people cutting through that area. They have made provisions for 102 parking spaces and the requirement is 1½ spaces per bedroom. They meet the current standards with seven (7) extra spaces. He noted that there have been no problems with the current parking according to the owner. Regarding regulatory issues in Section 24, they comply with the criteria and have chosen an architectural fence although they could have used just evergreens in that area. He presented **Exhibit E – Drainage & Grading Plan Windward Village Phase II** and **Exhibit F – Windward Village Phase II** by DeWolfe Architects for the record. He noted that based on the Fire Marshal that they might have the parcels might have to remain as separate parcels to allow for fire access – as such there would be a buffer area within the parcels however they would operate as one parcel. Section 22 is parking and they do meet the standards as indicated above. Section 25.5 criteria covers density and they are required to have 150 sq. ft. of space and they have over 250,000 sq. ft. He said that they have indicated the size of the units and they will have elevators and will be connected to the municipal water and sewer system just as the current building is.

Mr. Mulholland asked Attorney Harris to identify what and where the items are that neighbor this property. Attorney Harris submitted **Exhibit G** for the record an Aerial photo of the property and the surrounding properties.

Mr. Gada asked that they put some pencil lines on the map to indicate where the residential houses are. Attorney Harris did so and noted that they are residential homes in a CA zone. He also noted the Manwaring property and the drive in and that the original property had been purchased from Mr. Manwaring and that he had also indicated that he was not in opposition to this type of development. Mr. Mulholland noted the Silver Skate property in relation to this.

Attorney Harris introduced Gary DeWolfe of DeWolfe Architects to present the building details. Gary DeWolfe, DeWolfe Architects, 319 Peck St., New Haven, CT said that the parcel is 2.5 acres in size and that the building that they are proposing would be about 11% lot coverage when they are allowed 40% lot coverage. There is plenty of parking as was previously indicated. He said that they were also the architects for the first phase which is the existing three-story building in a flipped 'C' shape. He said that was designed to accommodate future development on the parcel and that the new building can be tucked into the hillside so that from the Main Street view it would look to be the same height as the existing building. He then explained the fencing and plantings around the perimeter to buffer the residential area. He said that the parking areas would also have plantings within them and that the road configuration to go out to Black Point Road will have a 10' drop and go around a building so this would be discouraging to people who might think that they could cut through to try to beat a light. He said that this does about a CA zone with residential homes. He submitted **Exhibit H – the 2nd thru 4th floor plans – Windward Village schematic plan for building.**

Mr. Mulholland asked if any of the units are set up as handicap accessible.

Mr. DeWolfe said that any of them can be easily converted to handicap accessible and that they would do it as requested so that people are not locked into a unit that they do not want. He added that 650 sq. ft. is the smallest unit with some over 1000 sq. ft. and that all of the units have private decks. They have cottage style windows and there will be no visible HVAC or other mechanicals. The following exhibits were entered into the record – **Exhibit I – Exterior Elevations Windward Village Phase II; Exhibit J – Exterior Elevations Windward Village Phase II and Exhibit K – Site sectional Windward Village Phase II.**

Ms. Bymes asked about the transformer box in the old section and said that it is very noticeable from the street and thought that something should be done about it.

Mr. DeWolfe said that CL&P handles them and dictates where to put them.

Mr. Nickerson asked if they would dress up the transformer box that is there and also any new one that would be placed.

Mr. Mulholland said that when the transformer was put in that CL&P wants 10' around the box free of any plantings or obstacles so that they have easy access. He noted that it is a constant battle with them over how these boxes look.

Ms. Carabelas asked about the amount of parking per unit and the large are of parking as there is a slope there and there would be water run-off.

Attorney Harris said that there is a drainage system designed for the entire site and that Mr. Pfanner would go over that catch basin system and how it works. He added that the parking is not figured on a per unit but rather on a per bedroom basis.

Mr. Orphanides, applicant said that the parking is assigned and that there are also handicap spaces.

Ms. Carabelas said that if there are 41 units and there are 80 cars that the driveways seem narrow.

Mr. Orphanides said that they have a lot of elderly who live there and that they only have one car.

Mr. DeWolfe said that the drives are 24' wide standard and that the curb cut to Black Point Road is also 24'.

He added that he has discussed the transformer issue with the owner and that he has indicated that he will work to put plantings around the transformer and also work on plantings for the old transformer.

Mr. Nickerson asked about a trash receptacle and its location.

Attorney Harris said that it will be fenced in with vinyl fencing with gates and that there is sufficient area for two units.

Ms. Bymes asked about the lighting on the perimeter and that they had indicated that it would be very low.

Mr. DeWolfe said that the lighting in the parking area would be the brightest and the perimeter would be minimal.

Ms. Bymes said that she was also concerned about safety.

Mr. Nickerson asked how many poles would be in the parking area.

Mr. DeWolfe said that there would be around 11 poles with minimal light pollution. They would use the same poles and fixtures as the ones that exist there today.

Ms. Bymes noted that they have been concerned about Affordable Housing and if any of these units would be affordable.

Attorney Harris said that they are all market rate apartments, no affordable housing units.

Mr. Gada asked if the mailboxes would be indoors or outdoors.

Mr. DeWolfe said that they would be indoors.

Attorney Harris said that Bob Pfanner would now explain the drainage system.

Mr. Pfanner, Engineer said that regarding the run-off down the hill that no drainage would be leaving the old parking lot as all of the drainage on the parking lot and building is routed by an underground retention system that holds the water and allows it to infiltrate or if it goes over a 25-year storm, it goes into the Town system.

The solids are retained and the system can be maintained and cleaned out. He said that they have also promised that the drainage down the road will be upgraded by them and that approximately 500' of road will be repaired.

Mr. Mulholland recalled that the Town Engineer had given them a punch list of items to be revised and that he has heard from the Town Engineer that the list has been taken care of and that it has been signed off on. He asked Mr. Pfanner if that was so.

Mr. Pfanner said that it was.

Mr. Salerno asked if the drainage system is gravity feed.

Mr. Pfanner said yes, it gravity feeds now and will continue to do so.

(Note: 9:05 PM – Ms. Hardy arrived and a short break was taken here)

Attorney Harris introduced Alan Mess of Barkan & Mess Associates, Traffic Engineers and Transportation Planners to give an overview of the traffic study.

Alan Mess, President of Barkan & Mess of Branford, CT said that they recently celebrated 31 years in the business. He said that he is a Professional Engineer and submitted and passed out to the Commission members Exhibit L, the Traffic Study for Windward Village Phase II. He said that Phase II would increase the current property by 41 units and provide access to Black Point Road. In looking at the site lines of the existing drive to Rte. 156 and the proposed one to Black Point Road he said that he found that both meet the CONN DOT guidelines per speed. For Phase II they looked at the peak hour in the AM and the peak hour in the PM with respect to trip generation. In the peak AM hour they found that there would be 21 additional trips

and in the peak PM hour there would be 25 additional trips. If they apply these figures to the total development, they would get 51 peak AM trips and 63 peak PM trips. He noted that they did it this way as with the two drives, the people could choose which one they wanted to use. They found that there would be no change in level of service operation and that Phase II would not create or exacerbate traffic congestion. The second point of access also has the availability for emergency vehicles which is one of the other advantages of having the two drives.

Ms. Carabelas said that she had heard 51 trips and asked about it.

Mr. Mess said yes, the 51 trips are for the total development (Phase I and Phase II) during the peak AM hour.

Ms. Carabelas asked about traffic back up and how far that would go.

Mr. Mess said that one drive is 400' from the intersection and the other is 300' from the intersection and that the traffic signal will give priority movement.

Mr. Salemo asked about the number of parking spaces and how it was figured.

Attorney Harris said that they actually only need 84 spaces as the breakdown on the proposed units are 26 one-bedroom units and 15 two bedroom units. At 1½ spaces per bedroom they would need to have 84 and they have proposed 102. He said that he would then propose to remove the row of parking spaces that abut the residential zone and put in a planted buffer in the area that would have been parking spaces. This would provide an added buffer to the residential area and they would still be increasing the number of required spaces by seven (7).

Mr. Nickerson explained the public portion of the public hearing and called for anyone wishing to speak in favor to this application -

Hearing no one -

Mr. Nickerson called for anyone wishing to speak against this application to please raise their hand to be recognized and he would call on them to come forward to the podium -

Thomas & Margaret Blundon, 8 Champlin Hill Court thanked them for the information and said that they have a petition with 98 names on it opposing this development that they would like to submit. This was entered into the record as Exhibit M. He said that they also have photos of the area taken from various views. They submitted a photo package for the record of 19 - 8 x 10 color Xerox pictures and 26 - 4 x 6 glossy color photos which were entered into the record as Exhibit N. He said that when they purchased their property that they wanted it to stay as a residential area.

Margaret Blundon said that they are a neighborhood of single family homes and that Windward Village I is obtrusive and an eyesore to look at and that Phase II would be four stories and trees or a buffer do not help a building of this size. There are children at the apartments and the property has dead trees and is generally not maintained. She said that she also has a letter from another resident of Champlin Hill Court that she would like to submit for them.

Mr. Nickerson read Exhibit O - a letter from the Casey Family of 12 Champlin Hill Court indicating that they were not in favor of this development.

Mr. Blundon noted the residential area in the area of the requested zone change. He also said that they are affected by the parking lot lights.

Mr. Nickerson went over the rules of the public hearing and asked that they please try not to repeat something that has already been said.

Mary Irene Clark, 5 Faulkner Drive asked when the traffic study was done - in the summer when it is busy or in the winter when there is less traffic. She said that she lives off of Black Point Road and that it sometimes takes her five minutes in the summertime to get out of her street and that there is a poor site line there. She noted that one time that she was almost hit by a police cruiser racing by. She said that drainage is also a big problem and that the water pools on the road in that area. There is also the question of water use as they are always asked to conserve in the summertime. She asked if children are allowed at these apartments and the height of the buildings.

Mr. Nickerson said that they are market rate apartments and that children are allowed.

Mr. Mulholland said that the height is about 38'.

Mr. Nickerson explained that if the applicant has property that he is allowed to do things with it, just as anyone else would. He added that the water is from the municipal water system which they are allowed to connect into.

Mr. Peck said to Ms. Clark that he would like more information about the drainage situation that she had mentioned.

Ms. Clark said that water puddles on the road and that there is standing water on the road mostly where there are drainage ditches that cannot take it. It remains on the road after a storm.

Robert Lewis, 10 Champlin Hill Court said that lives in Lyme and that his father lives in East Lyme and is from a long generation of Lewis' in this area. He said that he is not interested in the logistics of this proposal but rather the philosophical view. He said that he has watched the evolution of this area approaching city life and feels that it may be better to look toward more public space.

Ms. Byrnes asked Mr. Lewis if he had said that he lives in Lyme.

Mr. Lewis said yes and added that his family lives at 10 Champlin Hill Court.

Beth Manwaring, 8 Black Point Road said that Attorney Harris had said that the driveway is accessible to her (property) but she has two children and this is also her home. She said that she realizes that they are businessmen and that she does not mean any disrespect but she does not find the area accessible to her property. She said that she knows that her father has agreed not to speak against this development but she wants them to know that the area is not that accessible to her property and that there is a safety issue.

Mr. Nickerson asked her is she is the owner of the property.

Ms. Manwaring said no her father is the property owner.

Margaret Parrette and her husband Kim Prey, 12 Champlin Hill Court said that they live in the Casey's house (letter submitted previously as Exhibit O) and that they have an arrangement with them. They have made some improvements to this house and they are located on the corner. She said that they are concerned about the fence that is there now and how it looks and the new fence that they are proposing as it will look like a trailer park. She said that she is concerned about the maintenance as some of the fence pieces are falling out and the wind blows garbage over the fence into their area. The lighting there is noticeable and with the fence the noise level is amplified. She said that they can hear conversations from Phase I as if it were in their yard. While the parking may not be a problem now, with the other Phase there and the extra vehicles coming in and out – there will be an issue.

Gary Traystman, 18 Black Point Road said that he just moved here some months ago from a quiet area of Waterford and that he had heard about the density in East Lyme but figured that where he was moving to would remain residential. He said that this would decrease their property values.

Paul Kramm, 9 Columbus Avenue said that he lives in the carriage house and that the lighting goes into his house and that people stare at him watching TV so he has had to close his curtains. He asked that they fix the fence and do numerous plantings.

John D'Amico, 24 Black Point Road said that he has lived here for nine (9) years and that he fixed his house and put an addition on it. He thought that it would stay residential. They have two kids and they see kids walking all of the time, plus there is a school nearby that children walk to. He also said that there is a floodlight there that shines directly into his house.

Attorney Harris and Mr. Orphanides obtained information on the location of the light as Mr. Orphanides said that he does not have a flood light there. They said that they would look into this.

Carol Kelly Hindman, 6 Champlin Hill Court said that in the minutes of the November 7, 2002 Zoning meeting that she had read that the property was bought with the understanding that what was residential would stay that way. She said that she does not think that this should benefit one person but rather all of the people in the area. She said that she is a teacher in another area and that from 3:30 PM that there is a terrible load of parents, cars and kids moving around to get home from the school.

Nancy Hutchins, 32 Black Point Road said that she does not have anything to add but agrees with what has been said. She said that this is a big impact on the area.

Martha Parrette, 12 Champlin Hill Court said that in the event that this is approved that she would suggest that all of the improvements that they have discussed be made provisions of the approval.

Vito Fatone Jr., 456 Main Street said that the big deal for him is watching the traffic come out of the apartments and that some of them actually cut off his customers trying to get in or out of his business. However, he said that is really his only issue, as the apartment always looks clean and is maintained impeccably. He thinks that the traffic study is flawed.

Mary Ilene Clark, 5 Faulkner Drive said that she guarantees that the people will use the cut through drive from Black Point Road, regardless of the road design.

Tom Blundon, 5 Champlin Hill Court said that they may have to wait two to three times for the light to change to move the traffic along as he thinks that the traffic will definitely be impacted.

Mr. Nickerson asked if there was anyone from the public who wished to speak neutrally on the application – Hearing no one, he asked if Attorney Harris wished to respond to any of the issues raised.

Attorney Harris said that he would respond categorically to the issues that were raised. Regarding the impact on the neighborhood he said that anything done there would have an impact on the area. Champlin Hill Court is probably potentially the most impacted area and they will have a buffer of up to 70' there.

Regarding the traffic, he said that clearly there is traffic in the area and in the summer there is more traffic and most of it is not from this Town. The second entrance and exit allows the ability to use both areas and Mr. Mess' study shows that the traffic would not have a negative impact.

With respect to the children, yes, they are allowed and there are sidewalks and other businesses in the area. The parcel access that Ms. Manwaring spoke about was part of the purchase and there is written acknowledgment with respect to this type of activity on this site from Mr. Manwaring.

Overall, he said that he believes that this residential use, albeit dense, is a better transition for the site than other uses that could be put here.

Mr. Salerno said that some comments were made about if this was approved, of making certain items conditions of the approval such as the old fence. He asked if they would be agreeable to the conditions that were mentioned by the people who spoke.

Attorney Harris said that he believes that his client would be willing to match the fence style and replace the old fence with the new style. He said that there is however the issue that the old fence was required to be 8' high for the wind load.

Mr. Orphanides said that the 8' fence was actually placed on a 2' berm making it overall 10' high.

Mr. Nickerson said that he would prefer that they keep it 10' high.

Mr. Mulholland said, for clarification, that Mr. Orphanides is required to maintain the fence and the plantings on the original site.

Attorney Harris said after conferring with the applicant, that they would match it.

Mr. Peck said that he wants it put on the record that the project is on two (2) zones and that the CA part of the parcel is about one-third of the total parcel.

Attorney Harris said that the CA part only involves the parking area.

Mr. Mulholland said that the building would be on CB and that the parking is an ancillary use to the commercial activity and can be in the CA or CB zone.

Mr. Peck said that it almost looks like the building is right on the line of the zone.

Mr. Nickerson entered a reference map from the GIS into the record as **Exhibit P**.

Mr. Mulholland cautioned that those maps are not that accurate and said that he would suggest that they continue the public hearing so that he can obtain some legal information regarding the issues that they have just discussed.

Attorney Harris said that he would tidy up any issues at the next meeting.
Mr. Nickerson asked if the Commission members had other comments –
Hearing none –

Mr. Nickerson called for a motion to continue this Public Hearing.

****MOTION (1)**

Ms. Byrnes moved that this Public Hearing be continued.

Ms. Carabelas seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Mr. Nickerson adjourned this Public Hearing at 10:30 PM and continued it to the next available regular meeting date.

(Note: A brief break was taken prior to the next Public Hearing)

Respectfully submitted,

Karen Zmitruk,
Recording Secretary