

**EAST LYME ZONING COMMISSION
REGULAR MEETING
Thursday, NOVEMBER 17th, 2005
MINUTES**

PRESENT: Mark Nickerson, Chairman, Rosanna Carabelas, Secretary,
Pamela Byrnes, Norm Peck, Ed Gada, William Dwyer,
Alternate

ALSO PRESENT: Marc Salerno, Alternate, William Henderson, Alternate,
William Mulholland, Zoning Official, Atty. Josh Foley,
Town Counsel, Glenn Russo, VP, Landmark Development
Group, Peter Springsteel, Architect.

ABSENT: Shawn McLaughlin

FILED IN EAST LYME
Nov 23, 2005 AT 2:15 P

L. Blais, atc
EAST LYME TOWN CLERK

1. Call to Order

Chairman Nickerson called the Regular Meeting of the Zoning Commission to order at 7:34 P.M.

Pledge of Allegiance

The Pledge of Allegiance was observed.

Public Delegations

Mr. Nickerson called for anyone from the public who wished to address the Commission on subject matters not on the Agenda.

Mr. William Henderson, Alternate Zoning Commission member, addressed the Commission thanking the board for making his time served on the Commission a meaningful experience for him.

2. Approval of minutes for meeting of September 15, 2005 Public Hearing I, II, III, and Regular Meeting, minutes for meeting of October 6, 2005 Public Hearing I, Public Hearing II, Public Hearing III, Public Hearing IV, Public Hearing V, and Regular Meeting, minutes for meeting of October 20, 2005 Public Hearing I, Public Hearing II, Public Hearing III, and Regular Meeting, and Public Hearing I and Regular Meeting Minutes of November 3, 2005.

Mr. Nickerson asked that the approval of the minutes be moved the end of the meeting due to the points of business to be covered. Mr. Nickerson suggested that this item be moved to the end of the Agenda for future meetings.

3. Affordable Housing Application of Landmark Development Group, LLC for (a) amendment of Section 32 of the East Lyme Zoning Regulations ("Affordable Housing District") and (b) rezoning the property identified in the Application as land of Jarvis of Cheshire, LLC and Sargent's Head Realty Corporation, identified on East Lyme Tax Assessor's Map 27, Lot 14; Map 31, Lot 4; Map 31.2, Lots 3 & 8; Map 32.1, Lots 2 & 36; Map 32, Lot 1, from its existing Zoning Designation to an Affordable Housing District Designation.

Mr. Nickerson opened the discussion regarding the subject application.

Ms. Carabelas recused herself from the panel due to her absence at the two previous meetings.

Mr. Nickerson asked that Mr. Salerno, Alternate and Mr. Dwyer, Alternate be seated for the discussion. Mr. Nickerson inquired if Mr. Salerno and Mr. Dwyer were familiar with the subject application.

Both Mr. Salerno and Mr. Dwyer replied in the affirmative.

Mr. Peck noted that a memo from Atty. Foley, Town Counsel was submitted to the Commission. Mr. Peck inquired if the Commission could review the memo before the discussion.

Mr. Nickerson agreed and stated that he would ask Atty. Foley to give a brief synopsis of the memo to clarify any points of confusion.

Atty. Foley presented a memo dated November to the Commission reminding the Commission members about how to correctly evaluate the subject application. Atty. Foley reminded the Commission that the subject application has three sections to consider. 1. Text Amendment to Section 32 Affordable Housing Regulations, 2. Zone Change Request, 3. A Preliminary Site Plan Evaluation. Atty. Foley stated that as a whole these three items should be treated as an Affordable Housing application and reminded the Commission that the burden of proof is on the Commission, if the application is denied. The Commission would be required to demonstrate that the public benefit of denying is greater than the need for affordable housing. (See attached memo.)

Ms. Byrnes inquired about what would happen if the Zoning Commission did approve the application and it then was forwarded to the Niantic River Gateway Commission and they deny the zone change.

Atty. Foley stated that this type of question had not been litigated and his answer would be based on speculation. Atty. Foley noted that Affordable Housing applications do not need to follow the zoning regulations, and whether or not the Niantic River Gateway Commission's decision is going to have any affect is a decision that the court will have to decide.

Mr. Dwyer stated his concerns about the Commission approving portions of the application and the legalities.

Atty. Foley stated that the effective date of the approval would be set for a date after the publication of the approval.

Mr. Mulholland noted that the effective date of the zone change when it takes effect would be at a later date after the publication. Mr. Mulholland also noted that in the past effective dates have been litigated.

Atty. Foley stated that the zone change would have to happen before the site plan approval, and that making the effective dates sequential would ensure that it is legal.

Mr. Salerno inquired if the second portion of the application would become a regular affordable housing application, which did not require the application to meet the zoning regulations. He noted that the applicant presents his application in such a way that they are asking for a text amendment and then a change of zone to meet the zoning regulations.

Mr. Dwyer noted that regarding the regulations that it appears that this application could only be denied based on a health and safety issue regardless of what is stated in the regulations.

Atty. Foley agreed that reasons for denial are primarily regarding public health and safety.

Mr. Nickerson moved the conversation to discussion of the three portions of the proposed application. The first item discussed was the proposed text amendment.

Mr. Peck inquired about the consistency of the text in the existing regulations for the purpose of similar projects. Mr. Peck noted that the regulations were written to ensure consistency with already existing multi-family dwellings.

Mr. Nickerson inquired if any Commissioners have the differences highlighted between the existing affordable housing regulations and the proposed amendment.

Ms. Byrnes noted that there were a few inconsistencies stating that the proposed amendment loosens up the requirements in each of the areas as far as the proximity to commercial districts, public transportation, having access to Town sewer and water, maximum allowable density (maximum number of units) for building, buffers, and minimal standards for open space. Ms. Byrnes also noted that the buffers are put into the calculation of the ten percent (10%) open space requirement and inquired if it is open space or not.

Mr. Nickerson stated that the subject application has a significant amount of open space. Mr. Nickerson stated his concern was the fact that there are residents on the other side of the property line.

Ms. Byrnes stated that she would be reviewing and comparing this amendment to the Special Use-Elderly section of the regulations. She noted that there were issues raised with consistency and stated that the Commission is supportive of affordable housing. Ms. Byrnes stated that the Commission wants to ensure consistency in a way that creates opportunity.

Mr. Nickerson inquired about the maximum height stated in Section 32.4 of the Zoning Regulations.

Ms. Byrnes stated that it was thirty feet, and has not changed.

Mr. Nickerson inquired if there was a multi-family dwelling height restriction.

Mr. Salerno stated that in the multi-family regulations there was a requirement for buffers of one hundred feet (100') adjacent to each property line. He stated that the special use regulations are where most of the multi-family regulations stem from because they tend to be more like affordable housing. He noted that municipal water and sewer are required in the multi-family regulations and in the affordable housing regulations that currently exist. He also said that in the proposed text these requirements were being eliminated.

Ms. Byrnes noted that there were previous arguments made throughout the process that the applicant would not have to get deeper into the application until there was an indication from the Commission that there was a preliminary agreement with the direction that the applicant was going.

Mr. Peck stated that the proposed section 32.4.7 appeared to be acceptable where the applicant addresses the affordable housing zone where it abuts another affordable housing zone the buffer would be waived.

Mr. Nickerson stated that it was not appropriate. He also stated that the requirement is one hundred feet (100') for buffers.

Mr. Salerno stated that multi-family regulations require one hundred foot buffers.

Mr. Peck stated that these requirements are consistent with the SU-E zones abutting another SU-E zone where the buffer could be waived.

Mr. Mulholland noted that when the SU-E regulations were originally drafted it was derived from the SU regulations for consistency. He also stated that the Commission should keep in mind that they have existing affordable housing regulations while deliberating.

Mr. Peck inquired if the Commission could adopt part of the proposed regulations.

Atty. Foley stated that there could be an approval in its entirety, a denial in its entirety, an approval with restrictions, and a denial with findings on how they are inconsistent.

Mr. Mulholland inquired about how substantially the Commission could cut and paste with this regulation and could they Commission incorporate parts of the proposal into the existing regulations.

Mr. Peck inquired if the application was approved with restrictions and there were more eliminations than approvals, would it be an illegal act that would require another notice of a hearing.

Mr. Nickerson inquired if there were any comments or questions about the zone change.

Mr. Mulholland inquired if the Commission would like to view a site map of the property.

Mr. Nickerson called for a two-minute recess.

Mr. Nickerson called the meeting back to order and inquired if anyone had comments or questions about the last section of the application. Mr. Nickerson stated that the rest of the discussion regarding this application would be tabled until the December 1, 2005 Zoning Commission meeting.

4. Application of George P. Mitchell for a Special Permit to construct a multi-family/multi-story dwelling and Coastal Area Management Site Plan Review at property identified in the Application as 308 Main Street, Niantic, CT. The property is further identified in the Application as East Lyme Assessor's Map 12.1, Lot 120.

Mr. Nickerson asked that Ms. Carabelas return to the panel. Mr. Dwyer remained seated during this discussion. Mr. Salerno returned to the audience.

Mr. Mulholland showed the Commission renderings from the beginning of the proposed project to a new and improved set of renderings. Mr. Mulholland noted that there were improvements made by the applicant. Mr. Mulholland noted that the stairwells were now incorporated into the roofline and windows would be added to the tower. A copula would be added to the top of the elevator tower and the shape of the building would not be as boxy as shown in previous renderings. The brick has also been eliminated and will be constructed with the wooden material used on the stairwell towers to soften the look.

Ms. Byrnes noted that there was an improvement in the design.

Mr. Nickerson stated that the new renderings showed vast improvement in the design and that he could picture this building existing in downtown Niantic. He noted that he did not like the site due to dumpsters located behind the existing business in the front of the proposed area.

Mr. Mulholland stated that Mr. Mitchell did not own the front property. He also said that he has been in contact with the owner and has discussed resolving the issue of the appearance behind the building.

****MOTION (1)**

Ms. Carabelas moved to approve the application of George P. Mitchell for a Special Permit to construct a multi-family/multi-story dwelling and a Coastal Area Management Site Plan Review at property identified in the application as 308 Main Street, Niantic, CT. The property is further identified in the application as East Lyme Assessor's Map 12.1, Lot 120 and to grant an exception/waiver of the requirement to provide a buffer along the northern and western property lines. The building design was approved as presented in the final rendering.

Mr. Dwyer seconded the motion.

**Vote: 6-0-0 Unanimous
Motion Passed.**

5. Application of Peter J. Springsteel for a Coastal Area Management Site Plan Review to construct an addition and renovate a single family dwelling at property identified in the application as 1 Point Road, Niantic, Connecticut. The property is further identified in the application as East Lyme Assessor's Map 04.14, Lot 6.

Ms. Carabelas read into the record a memo from Mr. Mulholland to the East Lyme Zoning Commission dated November 17, 2005 regarding the subject application. (See attached memo.)

Mr. Nickerson invited Mr. Peter Springsteel to the podium to make his presentation on the application.

Mr. Springsteel stated that he was not the architect of the project but only a consultant to the architect who has designed the addition. He noted that the homeowners were looking to construct a porch, which would go around two sides of the house and adding a two-story addition to the rear of the house. He said that the Giants Neck Beach Zoning Commission has approved the project and showed the Commission a stamped copy of the approved site plan for the project. He noted that there are four coastal resources that are impacted on this site, but there would be no adverse impacts to these resources. He said that there would be excavating performed on site and the material would be removed off site and no regrading would be performed.

Mr. Nickerson asked for any comments from the board.

Mr. Mulholland noted that the jurisdiction for setbacks, lot coverage, etc. were monitored by the Giants Neck Beach Zoning Commission and that the board was to evaluate the coastal resources.

****MOTION (2)**

Ms. Byrnes moved to approve the application of Peter J. Springsteel for a Coastal Area Management Site Plan Review to construct an addition and renovate a single family dwelling at property identified in the application as 1 Point Road, Niantic, Connecticut. The property is further identified in the application as East Lyme Assessor's Map 04.14, Lot 6.

Mr. Dwyer seconded the motion.

**Vote: 6-0-0 Unanimous
Motion Passed**

- 6. Approval of minutes for meeting of September 15, 2005 Public Hearing I, II, III, and Regular Meeting, minutes for meeting of October 6, 2005 Public Hearing I, Public Hearing II, Public Hearing III, Public Hearing IV, Public Hearing V, and Regular Meeting, minutes for meeting of October 20, 2005 Public Hearing I, Public Hearing II, Public Hearing III, and Regular Meeting, and Public Hearing I and Regular Meeting Minutes of November 3, 2005.**

(Continued from the opening of the meeting.)

****MOTION (3)**

Ms. Carabelas moved to approve the East Lyme Zoning Commission September 15, 2005 Public Hearing I, Public Hearing II, Public Hearing III, and Regular Meeting Minutes as amended.

Mr. Gada seconded the motion.

Ms. Carabelas asked that her name be correctly spelled throughout the minutes; Ms. Rosanna Carabelas.

**Vote: 4-0-2
Abstained: Ms. Byrnes & Mr. Peck
Motion Passed**

****MOTION (4)**

Ms. Byrnes moved to approve the East Lyme Zoning Commission October 6, 2005 Public Hearing I minutes.

Mr. Gada seconded the motion.

Vote: 4-0-2
Abstained: Ms. Carabelas & Mr. Peck
Motion Passed

****MOTION (5)**
Ms. Byrnes moved to approve the East Lyme Zoning Commission October 6, 2005 Public Hearing II minutes.

Mr. Gada seconded the motion.

Vote: 5-0-1
Abstained: Ms. Carabelas
Motion Passed

****MOTION (6)**
Ms. Byrnes moved to approve the East Lyme Zoning Commission October 6, 2005 Public Hearing III minutes as amended.

Mr. Dwyer seconded the motion.

Ms. Byrnes asked that it be noted that Mr. Peck recused himself from the Sea Spray Affordable Housing Application discussion.

Vote: 4-0-2
Abstained: Ms. Carabelas & Mr. Peck
Motion Passed

****MOTION (7)**
Ms. Byrnes moved to approve the East Lyme Zoning Commission October 6, 2005 Public Hearing IV minutes.

Mr. Peck seconded the motion.

Vote: 5-0-1
Abstained: Ms. Carabelas
Motion Passed

****MOTION (8)**
Ms. Byrnes moved to approve the East Lyme Zoning Commission October 6, 2005 Public Hearing V minutes.

Mr. Dwyer seconded the motion.

Vote: 5-0-1
Abstained: Ms. Carabelas
Motion Passed

****MOTION (9)**
Ms. Byrnes moved to approve the East Lyme Zoning Commission October 6, 2005 Regular Meeting minutes.

Mr. Dwyer seconded the motion.

Vote: 5-0-1
Abstained: Ms. Carabelas
Motion Passed

****MOTION (10)**

Ms. Carabelas moved to approve the East Lyme Zoning Commission October 20, 2005 Public Hearing I minutes as amended.

Mr. Dwyer seconded the motion.

(See attachment for changes to minutes.)

Vote: 4-0-2

Abstained: Ms. Byrnes & Mr. Peck
Motion Passed

****MOTION (11)**

Ms. Carabelas moved to approve the East Lyme Zoning Commission October 20, 2005 Public Hearing II minutes as amended.

Mr. Dwyer seconded the motion.

(See attachment for changes to minutes.)

Vote: 5-0-1

Abstained: Ms. Byrnes
Motion Passed

****MOTION (12)**

Ms. Carabelas moved to approve the East Lyme Zoning Commission October 20, 2005 Public Hearing III minutes as amended.

Mr. Dwyer seconded the motion.

(See attachment for changes to minutes.)

Vote: 5-0-1

Abstained: Ms. Byrnes
Motion Passed

****MOTION (13)**

Ms. Carabelas moved to approve the East Lyme Zoning Commission October 20, 2005 Regular Meeting minutes.

Mr. Dwyer seconded the motion.

Vote: 5-0-1

Abstained: Ms. Byrnes
Motion Passed

****MOTION (14)**

Ms. Byrnes moved to approve the East Lyme Zoning Commission November 3, 2005 Public Hearing I minutes.

Mr. Peck seconded the motion.

Vote: 5-0-1

Abstained: Mr. Dwyer

Motion Passed

****MOTION (15)**

Ms. Byrnes moved to approve the East Lyme Zoning Commission November 3, 2005 Regular Meeting minutes.

Ms. Carabelas seconded the motion.

Vote: 5-0-1

Abstained: Mr. Dwyer

Motion Passed

7. Approval of the East Lyme Zoning Commission 2006 Meeting Schedule.

****MOTION (16)**

Ms. Byrnes moved to approve the 2006 East Lyme Zoning Commission Meeting Schedule.

Mr. Dwyer seconded the motion.

Old Business

1. Stormwater

This is a work in progress.

2. Aquifer Protection

This is a work in progress.

3. Subcommittee – Niantic Village – CB Zones (Mark Nickerson & Marc Salerno)

Mr. Nickerson stated that he would present some ideas at the next meeting.

New Business

1. Application of David Coonrod for a Coastal Area Management Site Plan Review to demolish and construct a single family dwelling at property identified in the application as 11 Cherry Street, Niantic, Connecticut. The property is further identified in the application as East Lyme Assessor's Map 17.7; Lot 18.

Mr. Nickerson asked that Mr. Mulholland schedule this item.

2. Application of David Coonrod for a Coastal Area Management Site Plan Review to repair an existing foundation at property identified in the application as 299 Giants Neck Road, Niantic, Connecticut. The property is further identified in the application as East Lyme Assessor's Map 4.11; Lot 3.

Mr. Nickerson asked that Mr. Mulholland schedule this item.

3. Any other business on the floor, if any, by the majority vote of the Commission.

There was none.

4. Zoning Official

Mr. Mulholland noted that they continue with a heavy schedule.

5. Comments from Ex-Officio

Ms. Hardy thanked the Commission for their hard work and dedication. She said

6. Comments from Zoning Board liaison to Planning Commission

There was no one present and no report.

7. Comments from Chairman

Mr. Nickerson thanked Ms. Emelie Napolitano for covering the position as Recording Secretary for this meeting and thanked her for the hard work she does in the zoning office.

8. Adjournment

****MOTION (17)**

Ms. Byrnes moved to adjourn the meeting of the East Lyme Zoning Commission.

Ms. Carabelas seconded the motion.

Vote: 6-0-0 Unanimous

Motion Passed

Meeting adjourned at 9:50 p.m.

Respectfully submitted,



Emelie Napolitano,

Recording Secretary (Pro-Tem)

Memorandum

To: Bill Mulholland
From: JHF
Re: Decision criteria
Date: November 2005

The Landmark application consists of three parts:

- A. The proposed amendment to the text of the zoning regulations (a new Section 32);
- B. The request for a zone change, that applies to the entirety of the approximately 240 acres referenced in the application (i.e. the same parcels that were the subject of the previous Landmark applications);
- C. The request for approval of a "Preliminary Site Plan" according to the newly adopted regulations.

These applications should be considered and be treated as an affordable housing application. As a consequence, any denial or approval with restrictions for any part of this application that has a substantial adverse impact the viability of the development can be appealed under the affordable housing statute and its heightened standard of review: the burden is on the Commission to support its decision. If any part of the Commission's decision is appealed, a court will look only at the **stated reasons** for the decision and at the following:

(1) whether there is **sufficient evidence** in the record to support the stated reasons for the denial (or restrictions);

(2) whether the stated reasons for the decision protect a **substantial public interest(s) or other matters which the commission may legally consider**;

(3) whether the stated public interest(s) **clearly outweighs** the need for affordable housing; and

(4) whether there are **any modifications that reasonably can be made** to the application that would permit the application to be granted.

Applying these standards to the structure of this application may raise the following questions:

(A) The proposed text amendment (a new Section 32):

- Is there a substantial public interest against the adoption of the new Section 32 that clearly outweighs the need for affordable housing (i.e. the new regulations lack certain requirements that are present in the current regulations, change the current regulations in unsafe ways, etc.)?
- Are there any modifications to the text amendment that could reasonably be made that would permit the application to be granted?

- Is there sufficient evidence in the record to support the stated reasons for the denial or approval (or restrictions or modifications)?

(B) The request for a zone change for the subject parcels

- Is the proposed text amendment approved or denied? *If the text amendment is approved*, is there a substantial public interest against the approval of the zone change that clearly outweighs the need for affordable housing?
- Are there any modifications to the application for a zone change that could reasonably be made that would permit the application to be granted (i.e. approval of a zone change to only part of the applicant's property)?
- *If the text amendment is denied*, are there any modifications to the application for a zone change that could reasonably be made that would permit the application to be granted (i.e. approval of a full or partial zone change under the *existing* affordable housing regulations)?
- Is there sufficient evidence in the record to support the stated reasons for the denial or approval (or restrictions or modifications)?

(C) The request for approval of a "Preliminary Site Plan"

- First, is the proposed text amendment approved or denied? If denied, then the current regulations do not provide for a "Preliminary Site Plan": should it be denied for this reason? Or could it be treated like a "Conceptual Site Plan" under the current regulations? Does it meet the requirements for a Conceptual Site Plan?
- Is the zone change approved or denied? Under which regulations, the Town's current regulations or the applicant's proposed regulations? If approved with modifications, how does this affect the (preliminary or conceptual) site plan?
- Is there a substantial public interest against the approval of the applicant's (preliminary or conceptual) site plan that clearly outweighs the need for affordable housing?
- Are there any modifications to the applicant's (preliminary or conceptual) site plan that could reasonably be made that would permit the application to be granted?
- Is there sufficient evidence in the record to support the stated reasons for the denial or approval (or restrictions or modifications)?

The Commission can act on the application in the following ways: (1) approve the application; (2) deny the application; (3) approve the application with restrictions; or (4) deny the application with findings on how the application may be reasonably modified.

It should be noted that if the Commission approves a change in zone for any portion of the property designated as a "conservation zone" that change shall **not** be effective until it has received the approval of the Niantic River Gateway Commission. The Zoning Commission is required to submit its decision to change the zone by certified mail to the Niantic River Gateway Commission for approval.

Town of

P.O. Drawer 519
Zoning Department



East Lyme

108 Pennsylvania Ave
Niantic, Connecticut 06357
(860) 691-4114
Fax (860) 739-6930

TO: East Lyme Zoning Commission
FROM: William Mulholland, Zoning Official
DATE: November 17, 2005

WM EN

RE: CAM Application Addition/Alteration
1 Point Road, Niantic, Connecticut.

The applicant is proposing to renovate the existing two story single family dwelling at 1 Point Road in the Giants Neck Beach Area of Niantic.

Technically, Giants Neck Beach Association has zoning jurisdiction. This occurred as a result of a Special Act granted by the State of Connecticut.

The East Lyme Zoning Commission has jurisdiction for the Coastal Area Management Review. As the Commission is aware, you are charged with assessing whether the proposed activity would have any adverse impacts on coastal resources and whether the applicant has taken all reasonable measures to mitigate any potential adverse impacts.

Mr. Springsteel, architect for the project, will make a presentation to discuss the specifics of the proposal.

MOVE TO APPROVE: Application of Peter J. Springsteel for a Coastal Area Management Site Plan Review to construct an addition and renovate a single family dwelling at property identified in the application as 1 Point Road, Niantic, Connecticut. The property is further identified in the application as East Lyme Assessor's Map 04.14, Lot 6.

REASON: _____

MOVE TO DENY: Application of Peter J. Springsteel for a Coastal Area Management Site Plan Review to construct an addition and renovate a single family dwelling at property identified in the application as 1 Point Road, Niantic, Connecticut. The property is further identified in the application as East Lyme Assessor's Map 04.14, Lot 6.

REASON: The applicant has not demonstrated that the application is consistent with all applicable coastal policies and has not taken all reasonable measures to mitigate potential adverse impacts on coastal resources.

WM/en

Please correct Rosanna's name too on all thanks.

FILED IN EAST LYME
Oct 31, 2005 AT 8:40 M

**EAST LYME ZONING COMMISSION
PUBLIC HEARING I
Thursday, OCTOBER 20th, 2005
MINUTES**

Soblais, ATC
EAST LYME TOWN CLERK

The East Lyme Zoning Commission held the Application of Theodore A. Harris, agent for Real Estate Service for approval of a zone change and site plan for an affordable housing development to be known as Sea Spray Condominiums. The affected properties are identified in the application as 15 Freedom Way, (Lot 28 East Lyme Assessor's Map 9.0) and 22 Liberty Way (Lot 28-1, East Lyme Assessor's Map 9.0). The Public Hearing on October 20, 2005 at Town Hall, 108 Pennsylvania Avenue, Niantic, CT. Chairman Nickerson opened the continued Public Hearing and called it to order at 7:34 PM. (Continuation)

PRESENT: Mark Nickerson, Chairman, Rosana Carabelas, Secretary,
Norm Peck, Ed Gada, William Dwyer, Alternate, Shawn
McLaughlin, Marc Salerno, Alternate (Left at 7:50 PM)

ALSO PRESENT: William Mulholland, Zoning Official

ABSENT: Pamela Byrnes, William Henderson,

PANEL: Mark Nickerson, Chairman, Rosana Carabelas,
Secretary, Ed Gada, William Dwyer, Alternate, Shawn
McLaughlin, Marc Salerno, Alternate

Pledge of Allegiance
The Pledge was observed.

Public Hearing I

1. Application of Theodore A. Harris, agent for Real Estate Service for approval of a zone change and site plan for an affordable housing development to be known as Sea Spray Condominiums. The affected properties are identified in the application as 15 Freedom Way, (Lot 28 East Lyme Assessor's Map 9.0) and 22 Liberty Way (Lot 28-1, East Lyme Assessor's Map 9.0).

Mr. Nickerson Seated Mr. Dwyer in place of Mrs. Byrnes, and Mr. Salerno in place of Mr. Peck.

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

- Memo Dated October 19, 2005 to Mr. Mulholland, Zoning Enforcement Officer from Edward O'Connell of Waller, Smith & Connor, East Lyme Town Attorney. RE: Sea Spray Affordable housing application. Follow-up to on letter dated September 15, 2005. In response to the inquiry in regards to Sea Spray being in a Light Industrial Zone; Connecticut general statutes single out affordable housing applications in a Light Industrial zone only in the context of appeals to the court and should not have any bearing as to whether or not the Zoning Commission approves the application. On appeal the applicant will bear the burden of proof due to the Zoning change requested that would change the proposed site from a Light Industrial use zone, to a Residential use.
- Memo dated October 20, 2005 to the East Lyme Zoning Board from Tess Teader, 103 Sleepy Hollow Rd, Niantic, CT. She feels that East Lyme does not have enough affordable housing for young workforce people and that the proposed Sea Spray development would provide that housing.
- Memo from Reverend Michael Crane, Pastor, Niantic Baptist Church. RE: Sea Spray Condominiums Development plan. The cost of housing in East Lyme is a problem that he frequently encounters within his work. Urges the East Lyme Zoning commission to approve the Sea Spray Development plan.

Dear

Zoning Comm. attachment
Nov. 17, 2005 Item # 2

Mr. Nickerson reminded the Zoning Commission that the Public Hearing was left open specifically to ~~review~~ ^{review} the traffic questions that had come up but that they would entertain any other items that come up as well. He asked Mr. ^{Marty} Mary Smith to come forward and present his information.

Mr. Nickerson excused Mr. Salerno from the hearing. He stated for the record that there will only be five (5) on the panel for this hearing.

Mr. Marty Smith, Vice President of Real Estate Services of Connecticut explained that Attorney Harris is out of the country tonight and he is filling in. He explained that his company was asked by the Commission to consider an affordable housing project when he originally went to them with a request to expand the Spinnaker development. They have designed a development that has 110 units on 10 acres of land. Of the 110 units, 33 will be at an affordable housing rate. They will consist of a combination of 1 bedroom flats and 2 bedroom townhouse units. The location that they selected has adequate water a sewer already available on the site. The location also provide 35 acres of land between the buildings and the near by highway. They are at the end of a cul-de-sac, it has nice views of the water and provides the opportunity for people to both work and live in the Industrial Park. He said that they did not expect that the traffic impact would be a problem because the use of the property as a commercial development would generate more traffic then it would as a residential development. He submitted a copy of the traffic study also explained that the application will still need to be approved by the State Traffic Commission, but based on their studies, the worst case scenario is Level "F" traffic. He also explained that the traffic of the development will not have a significant impact on current traffic patterns because most of the traffic will be following in the opposite direction. At the very worst, at peak summer months the estimated delay to make a left hand turn from Liberty way is 61 seconds which is well within the approval level of service and is typical of state roads that have an intersection without a traffic signal. The said that the STC Approvals will not be given until the Zoning Commission makes there decision.

Mr. Nickerson asked if there will be any road improvements made due to the increased volume from the current usage.

Mr. Smith said that the current road condition is suitable for what they are proposing because the traffic patterns are in the opposite direction.

Mrs. Carabelas asked if they study took the Rocky Neck Connector into consideration when doing their traffic study.

Mr. Smith said that is something that STC would have to take into account.

Mr. Nickerson asked if they will need additional approvals from the STC for this Project.

Mr. Smith said that they will need the additional approvals because the use of the roads will be changing even though the volumes of the are less then was originally approved for the full build out of the park.

Mr. Dwyer asked Mr. Mulholland if there is a children's Day Care center in the park.

Mr. Mulholland explained that they had approved a special permit for a Gym on Industrial Park Road, but that it is not there right now. He also has another application currently before him for a Children's Entertainment Center but that there is not anything there now. There is a child care facility for the employees of the Bride Brook facility. But that is for employees only and is not a public day care.

Mr. Smith said that having an economic place for people to live is just as important to the economic development of an area as having a suitable place for businesses. The residential use of this land in a commercial area is part of an economic package that every community needs.

Exhibit H – Site Plan for Sea Spray

Exhibit I – Hesketh Associate Traffic Study, dated October 12, 2005

Exhibit J – Economic Value of Sea Spray Condominiums

Mr. Smith explained that the Economic Value was based on 110 units with an average sale price of \$205,000 (includes the sale rate of both the affordable units and the market rate units) with a 70% assessed value of \$143,500. The personal property figure of \$22,000 (the assessed value is \$15,400) was based on one car per unit. The projected mill rate for 2006 is 20.0. This brings the Projected Annual Tax Revenue from Sea Spray to \$349,580. The estimated potential children per unit is .16 which would generate an annual expenditure of \$113,944 for the East Lyme School System. The Net Annual Projected Tax Revenue after the potential education costs is \$235,636 as compared to the current tax revenue of \$177,019 from all the buildings currently in the business park.

Mr. Nickerson asked if the 33 "Workforce" units meet the State "Affordable" Housing guidelines.

Mr. Smith said that they do.

Mr. Nickerson asked if they are Condos, not apartments? Is there anything with the Condo Association?

Mr. Smith explained that they can not be investor owned. They have entered into a contract with Home Inc. who will verify that all of the income and monitor the compliance with the State Guidelines so that there will be a third party separation.

Mrs. Carabelas asked Mr. Mulholland what it was that he had been concerned about at the last meeting that he had been waiting to get.

Mr. Mulholland said that they were waiting to get the traffic information and that even though this application will have to go for STC permit, he felt it was important for the commission to review the information.

Mr. Dwyer asked about the infrastructure cost such as garbage.

Mr. Smith said that she did not calculate the cost for things such as police services but they will have a private garbage pickup and the development is on a private road. he

Mr. Nickerson asked Mr. Smith to go over the Buffers and set back on the units.

Mr. George Smilas, professional engineer, land surveyor went over the Set backs for the development. The front yard will be 43.6 feet, the minimum side yard will be 23 feet and the minimum rear yard will be 22 feet.

Mr. Nickerson asked what the buffers are to the adjoining properties.

Mr. Smith explained that there's 35 acres of DEP land between the buildings and the state highway, a natural ledge to the cliff overlooking the Long Island Sound and a fence separating the property to the other building.

Mr. Nickerson asked how many feet there are to the property line.

Mr. Smilas explained that there's 22 feet in the rear of the development to the property line, 44 feet to another edge and 29 feet to the other edge of the property line.

Mrs. Carabelas asked about the water run off on the steep slope between the units on Liberty Way and Freedom way. What is going to prevent the bottom units from being flooded by the run off?

Mr. Smilas explained that the grading of the slope has been designed to redirect the water flow away from the units at the bottom of the hill as well as a retaining wall behind the units that will further protect the units. There will be a swell in the slope behind the retaining wall that will redirect any water that falls directly on the slope.

Mr. Nickerson asked what the difference in elevation is on the slope.

Mr. Smilas said that there is a 40 foot difference in elevation and over 100 feet in distance. It's a 4/1 slope.

Mr. Mulholland also assured Mrs. Carabelas that the engineering staff has gone over the plans in regards to that slope.

Mr. Nickerson called for comments from the public in favor of this application –

Betty Mhon of 53 Corodock Rd, Niantic, CT spoke in favor of the Sea Spray application. It will bring affordable housing into the town for those who work in the area and could be a boom to the businesses located on Liberty Way. She feels that any traffic problems would be minor and no worse than the problems that the town already faces in the area. *Mahon Quarry Dock*
than

Betty Mhon read the following into Record:

Exhibit K – Memo from Ann B Davis of 36 Attawan Rd, Niantic CT. The letter expressed that Ms. Davis supports the development of Sea Spray Condominiums and that the town needs to provide opportunities for young families and workforce families in order to maintain the diversity that made East Lyme such a wonderful place to raise her own children.

Jeana Johnston of 265 Whistle Town Rd, Niantic CT spoke in full support on the development. She is Social Worker for "Project Learn" in the East Lyme. She explained that many of the people she works with would love to live in East Lyme, but because of their limited income, they have to live in other areas of South Eastern Connecticut.

Jonathan Harger of 19 Wildwood Dr, Niantic CT spoke in support of the Sea Spray project. He is a teacher whose own son was not able to move back to East Lyme as an adult because he was not able to afford it. *Whose*

Evelyn Ferguson of 15 Foxtrot Rd, Niantic CT spoke in favor of the Sea Spray application. She is a teacher who purchased her home in East Lyme in 1974. If she tried to do so now, she would not be able to afford to.

Mr. Nickerson called for comments from the public opposed to this application –

Chris Barrette of 301 Old Black Point Rd, Niantic CT spoke against the application. He is the owner of the Bridal Mall in Business Park West and is in favor of affordable housing but feels that this is the wrong location for this development. He disagrees with the traffic evaluation and says that the left turn out of Liberty Way is already virtually impossible. He says that the town needs more workspace rather the affordable housing. There are 240 acres of industrial space and that using this land for residential use is a mistake and that in the future, the town may want to have that commercial property. He said that the development should go into a residential area. He feels that the motivating force is the financial benefit of using the commercial property vs. the residential property that it should be on. He is concerned about children being in that area because it is so close to the Rocky Neck Connector and worries that a child will fall off the cliff.

Exhibit L – Memo from Chris Barrette

Bob Gadbois of 358 Boston Post Rd, Niantic CT spoke in opposition to the application. He feels that the land should be held for business. He said that the town already has water and sewer problems and that there are other areas of the town that need sewers.

Mr. Nickerson called for any Neutral comments from the public or questions from the Commission members –

Luann Lang of 160 Pennsylvania Avenue asked how much land is left at the Industrial Park if this is approved.

Mr. Nickerson said that there would be 5 building lots at about 1-2 acres per lot left in the park.

Mr. Nickerson asked if there were any more questions.

Hearing none-

Mr. Nickerson asked if there was anything that Mr. Smith would like to add.

Mr. Smith said no.

Mr. Nickerson called for a motion to close this public hearing.

**** Motion (1)**

Ms. Carabelas motioned to close the Public Hearing for the Application of Theodore A. Harris, agent for Real Estate Service, for approval of a zoning change and site plan for an affordable housing development to be known as Sea Spray Condominiums.

The Motion was seconded by Mr. Gada.

Motion Passed. 5-0-0

Respectfully submitted,

Beth Williams,
Recording Secretary (Pro-Tem)

**EAST LYME ZONING COMMISSION
PUBLIC HEARING II
Thursday, OCTOBER 20th, 2005
MINUTES**

L. Blain, etc.
EAST LYME TOWN CLERK

The East Lyme Zoning Commission held the Application of Niantic Main Street to amend the East Lyme Zoning Regulations to permit outdoor dining/patios and to modify Section 25.5 by eliminating the restriction permitting apartments (Mixed Use) only over retail and office uses in CB Zones for Public Hearing on October 20, 2005 at Town Hall, 108 Pennsylvania Avenue, Niantic, CT. Chairman Nickerson opened the continued Public Hearing and called it to order. (Continuation)

PRESENT: Mark Nickerson, Chairman, Rosana Carabelas, Secretary,
Norm Peck, Ed Gada, William Dwyer, Alternate, Shawn
McLaughlin

ALSO PRESENT: William Mulholland, Zoning Official

ABSENT: Pamela Byrnes, William Henderson, Marc Salerno (Left at
7:50 PM)

PANEL: Mark Nickerson, Chairman, Rosana Carabelas,
Secretary, Ed Gada, William Dwyer, Alternate, Shawn
McLaughlin, Norman Peck

Public Hearing II

1. Application of Niantic Main Street to amend the East Lyme Zoning Regulations to permit outdoor dining/patios and to modify Section 25.5 by eliminating the restriction permitting apartments (Mixed Use) only over retail and office uses in CB Zones

Mr. Nickerson stated for the record that Mr. Norman Peck Rejoined the panel.

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

- Memo to Mr. Marc Nickerson dated July 6, 2005 from Jane Bredeson in favor of the application. She feels that welcoming outdoor dining on attractive patios would promote a "pedestrian friendly Main St". It would actively encourage dining and help to add to the ambiance of the Niantic Main St. She feels that with the proper restrictions, it could allow for development opportunities on Main St and keep with the goal of restoring the historic downtown.
- Memo from Gene Lohrs, Chairman, Southeastern Regional Council of Governments, Regional Planning Commission, dated July 22, 2005 to Rosana Carabelas. Based on a review of the plan submitted, they do not feel that the proposed text amendments would have any adverse inter-municipal impact.
- Memo from the Greg Ellis, Secretary, Town of East Lyme Planning Commission to Mr. Marc Nickerson, Chairman, East Lyme Zoning Commission, dated August 23, 2005. RE: Referral 8-3A, Section 25.5 amendment. At a regular meeting on August 16, 2005 the Commission found that the proposed regulation change would be consistent with the plan to attract tourists to the town of East Lyme and allowing the additional housing would help to meet the regional need for different types of housing at affordable costs.
- Memo from Mr. William Mulholland, Town of East Lyme Zoning Official dated October 20, 2005 RE: Application of Niantic Main Street to Amend Zoning Regulations. The proposal, as written, will add standards for outdoor dining in CB Commercial Zones. Briefly, all applications for outdoor dining will require issuance of a Special Permit by the Zoning Commission, subject to the standards found in Section 25 "Special Permits" and the proposed standards of the text amendment. The proposal addresses allowable patio area, management control of the space, alcoholic beverage and bar service, refuse, hours of operation, lighting, parking, lot coverage, setbacks, and outdoor

entertainment. Included within this request is also an amendment to eliminate the restriction in Section 25.5, limiting the residential units in mixed-use buildings over retail and office use in CA & CB Commercial Zones.

Mr. Nickerson asked for Barbara Richardson Crouch to give her presentation.

Barbara Richardson Crouch, Executive Director of Niantic Main Street commission has Shapiro and Associates do a market study of downtown. There were two things that were evident of the study. There is a need for more restaurants, and for those restaurants to be able to supplement their income during the summer months through outdoor dining. Also, there's a need for housing in the area. Current regulations do allow outdoor dining, however they make it virtually impossible for a restaurant that does not have its own parking lot to be able to do this. Because the downtown area is an overlay district, this has prevented most of the restaurant from being able to do this. One of the issues that some people have concerns over is the "0" lot line. Even though downtown is zoned for commercial use, there is still some residential use in the area. They have received phone called from residents who are concerned about having people consuming alcohol next to their property. The other issue that people have concerns over is the ability to handle the overflow of parking. It allows 600 square feet to the service area. This may or may not be an issue depending on the location of the restaurant. Because of this, one of the conditional uses of outdoor dining that they would like the Commission to consider is the proximity of the restaurant to residential areas and the ability of the area to handle the overflow of parking in the area without infringing on the private parking in the area. The third issue that they are aware of relates to the fire and safety codes. They do not want to allow the residential use of a space over a restaurant in a situation where there could be a health and safety issue.

Mr. Mulholland said that the Building Code and Health Code will take care of the fire and safety issues.

Mr. Nickerson asked if the restaurant at the Morton House have outdoor dining.

Mr. Mulholland explained that the restaurant at the Morton House made a trade off of interior dining space for the outdoor dining area in order to still meet the parking requirements.

Mr. Mulholland explained that this is an attempt to clarify the current outdoor dining regulations. The proposal with enable the Zoning Commission to disallow the outdoor dining regulations,

Mrs. Carabelas asked if anyone wishing to have outdoor dining will still have to come to the Zoning Commission for a special permit.

Mr. Mulholland said that they will still need to get a special permit and that one of the concerns that exists is over outdoor entertainment. He highly recommends that the Zoning Commission retains the requirement for an application to be filed for outdoor entertainment.

Mr. Nickerson called for comments from the public in favor of this application –

Mr. Nickerson called for comments from the public opposed to this application –

Frank Grundman, Attorney on behalf of Mitchell Trust, 22 Pennsylvania Avenue, Niantic CT requested that the Zoning Commission extend this Public Hearing once more in order to give him the opportunity to go over some of his concerns over the application with Barbara Richardson Crouch in the interest of Mitchell Trust in making these regulations something that will be acceptable to all of the businesses in Niantic. There are adverse affects that this change would have on other businesses. He thinks that some of the wording in the proposal could be changed to better protect these businesses. He is concerned that the notice does not adequately put people on notice that this regulation may make several of the businesses in the town nonconforming.

Exhibit A – Letter from Frank Grundman

Mr. Nickerson asked which businesses would be nonconforming and in what why?

Mr. Grundman said that Burks Tavern would be nonconforming because it's over 600 square feet and asked for an opportunity to get together with Barbara to go over the concerns.

Mr. Mulholland said that he believes that they need to close out the application tonight and that if the applicant wishes to reapply that would be their prerogative.

Mr. Grundman asked Barbara is she would be willing to reapply if the commission closed the hearing tonight. He also encouraged the Zoning Commission not to have anyone on the panel who has an interest in Niantic Main St. He believes he know of at least one person who is a Director on the Niantic Main Street Board and that and alternate should sit for hearings such as this.

Mr. Nickerson said that they will take that under advisement.

George Mitchell of 48 Attawan Rd, Niantic CT said that there are other issues that would make a business non-conforming, such as an outdoor bar, or closing at 10pm. He is concerned that this regulation would open this door for businesses to use there patio very much like an outdoor bar, which is a valuable thing to a bar. Another minor issue he has is the umbrellas with no signage. Are they going to make the restaurants that currently have dining remove the umbrellas that have signage on them. He feels that they should not accommodate one person at the expense of another.

Mr. Nickerson called for any more comments from the public; For, Against, Neutral?

Mr. Nickerson asked if there were any more questions.

Joe Barry of 111 South Edgewood Rd. Is this the process of a public hearing? He has seen several things entered into the record without being read into the record. Is this the process?

Mr. Nickerson said yes, this is the process.

Mr. Mulholland explained that it is not time effective to read every item that the commission receives into the record. The information is always available to the public, but reading it into the record would take several more hours than is available. The public can come in and view the records at any time.

Mr. Nickerson called for a motion to close this public hearing.

**** Motion (2)**

Mr. Peck motioned to close the Public Hearing for the Application of Niantic Main Street to amend the Zoning Change to permit outdoor dining/patios and to modify Section 25.5 by eliminating the restriction permitting apartments (Mixed use) only over retail and office uses in CB Zones.

The Motion was seconded by Ms. Carabelas.

Motion Passed. 6-0-0

Mr. Nickerson asked for the record if anyone on the commission that sits on the Niantic Main Street Board of Directors.

The panel responded into the negative.

Respectfully submitted,

Beth Williams,
Recording Secretary (Pro-Tem)

**EAST LYME ZONING COMMISSION
PUBLIC HEARING III
Thursday, OCTOBER 20th, 2005
MINUTES**

L. Blain
EAST LYME TOWN CLERK

The East Lyme Zoning Commission held the Application of George P. Mitchell for a Special Permit to construct a multi-family/multi-story dwelling and Coastal Area Management Site Plan Review at property identified in the application as 308 Main Street, Niantic CT. The property is further identified in the application as East Lyme Assessor's Map 12.1, Lot 120 for Public Hearing on October 20, 2005 at Town Hall, 108 Pennsylvania Avenue, Niantic, CT. Chairman Nickerson opened the Public Hearing and called it to order.

PRESENT: Mark Nickerson, Chairman, Rosana Carabelas, Secretary,
Norm Peck, Ed Gada, William Dwyer, Alternate, Shawn
McLaughlin

ALSO PRESENT: William Mulholland, Zoning Official

ABSENT: Pamela Byrnes, William Henderson, Marc Salerno (Left at
7:50 PM)

PANEL: Mark Nickerson, Chairman, Rosana Carabelas,
Secretary, Ed Gada, William Dwyer, Alternate, Shawn
McLaughlin, Norman Peck

Public Hearing II

1. **Application of George P. Mitchell for a Special Permit to construct a multi-family/multi-story dwelling and Coastal Area Management Site Plan Review at property identified in the application as 308 Main Street, Niantic CT. The property is further identified in the application as East Lyme Assessor's Map 12.1, Lot 120**

Mr. Nickerson asked for the record if there is anyone on the panel that has cause to remove themselves from the panel for this Public Hearing. He further asked if anyone on the panel is a Director on the Niantic Main Street Board of Directors.

Mr. Nickerson noted for the record that they are going to hear the Special Permit and the Coastal Area Management application at the same time; otherwise they're going to have cross-over testimony. However, they will most likely make two separate decisions on the applications.

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

- Memo to East Lyme Zoning Commission from William Mulholland, Zoning Official dated October 20, 2005, RE: Mitchell / Special Permit & CAM Application Multi-family, Multi-Story Building, 308 Main Street. The applicant proposes to construct a multi-family building consisting of 12 single bedroom apartments. Currently the parcel is occupied by an existing apartment building. The new building would be constructed to the east of that building. The application, for special permit purposes, is submitted under the following regulations: Sections 9.2.5, 25, 25.5, 24 and 22.0. Section 14 regulates CAM. He has reviewed the proposal for conformance to the zoning regulations and has concluded that it conforms to the technical requirements of the code. However, a buffer waiver is needed for compliance on the western property line.

Mr. Nickerson noted that the Legal Ad has been run for this application.

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

- Memo to the East Lyme Zoning Commission from Carol Tyler, Manager, Rings End Lumber Company, 28 Hope St, Niantic CT dated August 4, 2005. RE: Application for Special Permit of Mitchell Trust, LLC. to construct a Multi-Family/Multi-Story dwelling. As the owner of the adjacent rail

road company at the West boundary of the site of the referenced project, they believe that Section 24.6e3 for a buffer strip or fence between the adjacent property should be waived. Such a buffer or fence would restrict the rail road company personnel from accessing the trains delivering materials to Rings End. Further, a buffer strip should not be required for adjacent properties in a CB Zone.

- Memo to the East Lyme Zoning Commission from Allen Arlow, Member/Manager of 286 Main St LLC, Niantic CT. RE: Application for Special Permit of Mitchell Trust, LLC to construct a Multi-Family/Multi-Story dwelling. As owners of the property to the North of the site of the referenced project they believe that the requirement of section 24.6e3 to have a buffer/fence should be waived. Such a buffer would cause a hardship because it would restrict the flow of traffic and cause them to loose access to 9 valuable parking spaces.

Mr. Nickerson asked for the presentation from the applicant.

Mr. George Mitchell of 48 Attawan Rd, Niantic CT, Member and Manager of Mitchell Trust LLC. He pointed out the buffers that are being requested to be waived. Having a fence at the western side of the property would restrict access to the trains by the workers and would prevent to workers from flagging traffic. The other buffer is between the proposed site and the post office which they won; which means that they would be putting a buffer between two of their own properties. The Northern buffer is where Grampy's and Big A Auto are located. If a fence were put at that property line it would prevent the owners of Grampy's and Big A from accessing several parking spaces on their own property. He also feels that keeping the free flow of traffic would be in everyone's best interest and would better conform to the "feel" that the Zoning Commission is trying to create in downtown Niantic. The new police department will be to the right and there's already a fence and buffer in place there as well as an already existing fence to the southern boundary of the property. The building that they intend to build is a 3 ½ story building that is less then 40 feet high and will house 12 single family 1 bedroom apartments. It will have an elevator and two stair towers. He says that this is a perfect site for the new building and has a nice view of the Sound. Even though the area is a commercial area, the views from the building all look out onto the Sound and not back towards the Main Street. In regards to the Coastal Area Management Site Plan Review, the application says that most of the issues are not applicable because they have no affect on the Coastal Resources because they have no access to them due to the rocks, rail road tracks and boardwalk all between the site and the Niantic Bay. For that reason he asks that the Commission approves the CAMS part of the application.

Mr. Mitchell introduced Mr. Robert ^{Fanner} to explain the technical details of the project. He also noted that the proposed site does also have water and sewer available.

Mr. Fanner, 2 Ferrell Court, Engineer on the proposed project explained that the shaded area on the site plan is all paved areas. With the new site plan there will be less impervious surfaces then currently exists. They will also be recharging the ground water with the new design. They will use the existing septic system and have the overflow water go over the train track and out into the Long Island Sound. This will results in no more adverse affects to the Coastal Management system then currently exists. There is existing water and sewer at the site. They will also be running a new service and water line into the site.

Mr. Mulholland explained that there will be a walkway that will tie into the hole in the wall parking lot and will be used as an auxiliary lot to support events on Main Street.

Mr. Nickerson asked what prevents someone from being on to the train tracks and going onto the Amtrak tracks.

Mr. Fanner explained that there is a gateway at the end and that the spur comes down, makes a 90 degree turn and that there is a locked gate.

Mr. Mulholland asked Mr. Fanner to go over the parking counts for the site.

Mr. Fanner explained that based on 24 bedrooms and 1 ½ parking spaces per bedroom, they are required to provide 36 parking spaces. There are providing 37 spaces, 2 of which are handicap designated spaces. They are well within the limit of the required square footage for parking. They are required to have 26,400 square feet of space for parking, they have 32,000 square feet. This provides 30% extra space then is required.

Mr. Nickerson asked exactly how tall the building is.

Mr. Fanner said that is something that the architect will have to address for the commission.

Mr. Peck said that currently, that parking area is used by moviegoers at the theater across the street. Is there a training program lined up to re-train the movie patrons so as not to bother the residents of 286 Main St?

Mr. Fanner said that is something that the owner of the theater will have to handle.

Mr. Mitchell explained that the theater does have spaces available in the back of the building and that the moviegoers will have to learn that they will no longer be able to park in that area. The parking spaces in that lot will be assigned for residents of the apartment building and will be signed that way accordingly. They will be marked for "Residents Only".

Mr. Nickerson asked if this is a part of the shared parking for downtown.

Mr. Mulholland said that the project will have to stand on it's own as far as parking spaces. He explained that 36 spaces are required and that they are able to meet that requirement.

Mr. Dwyer asked if that is not allowed to sign parking spaces under the shared parking regulations.

Mr. Mulholland explained that is something that does not apply because the owner of the proposed development and the owners of the surrounding building have an informal agreement. Therefore it's not something that the Zoning Commission should be concerned with. They require 36 spaces and the owner of the proposed development is providing 37 spaces.

Mr. Nickerson said that under the shared parking regulations they are not allowed to put up "Residents Only" signs in the parking lot.

Mr. Mitchell explained that they are not claiming shared parking. They will ensure that every resident has a reserved parking space. They will not be assigning the spaces by apartment number, but that the spaces will be signed appropriately and that there will be an assigned space for every resident.

Mr. Nickerson asked about the proposed storm water flow. He said that he has never heard of such a system that has the storm water going through a system like that.

Mr. Fanner explained that the water will go into the galleys of an old unused septic system and then infiltrate into the ground and that if that cant accommodate the over flow, the water will run into a system around the building and over the tracks into the sound.

Mr. Nickerson asked if there should be a filter system.

Mr. Mulholland assured the Commission that the Town Engineers have reviewed and endorsed the proposed storm water plan.

Mr. Fanner explained that it is an existing system that is already in place and is a working system that has not created any problems over the years.

Mr. Nickerson asked if this is in the aquifer system.

Mr. Fanner said it is not.

Mr. Nickerson asked if a tanker truck full of oil spilled, what would happen.

Mr. Fanner explained that they would be all set because it goes through a 2,000 gallon grid chamber that has two catch basins that would hold most of it. If it overflowed from there it would go through two rows of four foot galleys that would hold another 1,000 gallons.

Mr. Nickerson said that he will trust the town engineers as far as the overflow system.

Mr. Nickerson asked if Mr. Mitchell wants to bring the architect out.

Mr. Bill Upjon, from Portland Ct, is the site architect. He showed a series of pictures of the area and said that they are supposed to accommodate the character of the neighborhood in their building design. The intention of the photos was to demonstrate that matching the character of the neighborhood is not easy to do.

Mr. Mitchell went through each photo telling what is pictured.

Mr. Upjon explained that the original intention was to take down the old existing apartment building and construct one large building that would go across the property. They were not able to make the financial numbers work to be able to do that. The proposed design will have a central elevator and two stair tower silos on either side of the building. The side of the building that will be facing that water will be almost entirely glass in order to give the residents the best possible views of the Long Island Sound.

Mrs. Carabelas asked why they didn't try to make the design more consistent with the design of the apartment building that is already there.

Mr. Upjon said that if they went with that kind of design, it would be a very tall building with a small ~~band-saw~~ ^{Namsard} roof on the top and that they didn't think that would look like the other building. Their intention is to renovate the other building to bring it in line with the new design.

Mr. Dwyer commented that the two designs are not compatible in any way.

Mr. Nickerson said that the commission is trying to convert Niantic back to a Colonial, Old Style New England and that he feels that the design of the proposed building does not fit with that goal and needs to be moved into the second phase of thought.

Mr. Gada said that they are looked to develop and promote "harmony" in the design and theme of the Niantic Main Street district.

Mrs. Carabelas said that she feels that the proposed building design is not appropriate for the town theme, or for a residential building. The building style that they brought before the Zoning Commission is more appropriate for an office building in another area, but is not appropriate for an apartment building in Niantic Main Street. It's a very contemporary design.

Mr. Nickerson said that this will be one of the biggest buildings in the town.

Mr. Upjon said that that is part of the difficulty is making such a large building appear to be "cutesy and quaint".

Mr. Peck asked if there is any regulation that allows for a higher elevation with a pitched roof.

Mr. Mulholland said that in this particular zone the answer is no.

Mr. Peck said he understands that downtown Main Street is looking to bring boaters into Niantic. Right now from the water, there are two things people notice, the Morton House and the existing apartment house. So this new building needs to be in harmony not only with the street, but also from the other side to attract boaters.

Mr. Upjon said that he doesn't know what they're going to do about that, because they're trying to get as much glass to the Long Island Sound side of the building as they can. They presume that will be the reason that people are going to want to rent there units. In his feeling, an apartment house is going to look like an apartment house and there's nothing that they can really do about that.

Mr. Nickerson said that there's a certain vision that Niantic Main Street is trying to put together and said that maybe they could provide the applicant with some of the other designs of colonial style buildings that were recently built downtown.

Mr. Nickerson called for any technical questions from the panel. He asked for any other thoughts on the architectural design. He asked how tall is the other building that's next to it.

Mr. Nickerson asked for any other questions from the Commission and any other issues with the CAMS part of the hearing.

Mr. Nickerson opened the floor to Public Comment.

Mr. Nickerson called for comments from the public in favor of this application –
Hearing none-

Mr. Nickerson called for comments from the public in opposition to this application –
Hearing none-

Mr. Nickerson called for comments from the public neutral to this application –

Barbara Crouch, Executive Director of Niantic Main Street commission said that Niantic Main Street does support living downtown but is looking for some kind of unified theme and unified look to downtown. She acknowledged that part of the difficulty in this is that they have lost many of the historical buildings in their downtown. She realizes that this lack of historic design in the downtown district does make it difficult for a developer to work around the theme that they are trying to achieve. However, Niantic Main Street does support living downtown and feels that it will help the economic development of the downtown area.

Joe Barry, 111 South Edgewood Rd, Niantic CT said that he does agree that the town needs housing downtown. His concern is that one of the reasons that the town did not accept the Dominion building is because of the PCB's in the ground. He said that years ago transformers were stored in that area. He feels that there needs to be an environmental study of on the sub-surface to ensure that it is a clean area before the town accepts the application.

Mr. Gada asked if he is saying that there was no environmental study done on the Dominion site and that the town is using it.

Mr. Barry that that he feels that is correct. He claims that Dominion said that they conducted a study when it was North East but that the documentation for that study has never been produced. He claims that is why the town entered into a twenty year lease and did not purchase the property outright.

Mr. Nickerson asked that they address that in the context of the CAM.

Mr. Mulholland asked Mr. Fanner if they expect to do a sub-surface study for containments.

Mr. Fanner said that they do not plan to do a study on the site because they do not feel there is reason to because the site has been paved since the transformers were stored. Also that they were not stored on Mr. Mitchells property and that if something did leak out of one of the transformers, it wouldn't have gone very far.

Mrs. Carabelas asked how long has the current apartment building been there. Was it there prior to anything being stored near the site.

Mr. Mitchell said that it was built in 1976. He also said that this new building will not have a basement so that will alleviate some of the problem. There will be a small utility room.

Mr. Mulholland asked Mr. Mitchell if he as the property owner has ever been contacted by CL&P about containments.

Mr. Mitchell said he has not been.

Mr. Dwyer said the building design is not in line with the design theme they contemplate doing on Main Street.

Mr. Nickerson asked for any more public comments.

Mr. Mulholland said that he seems to get a sense from the commission that they feel the design if the building is not something that is appropriate for that area. He suggested that the applicant be given the opportunity to come up with an alternative design for the building.

Mr. Nickerson suggested that they keep the public hearing open to allow the applicant the opportunity to come up with a new design.

Mrs. Carabelas asked if they can separate the CAM report from the application.

Mr. Nickerson said that will not be necessary.

Mr. Mulholland said that he suggests keeping the application and CAM report open.

Mr. Nickerson said that they should keep both open because if the building design changes and the footprint of the building changes, that will impact the CAM report.

Mr. Nickerson called for a motion.

**** Motion (3)**

Mr. Peck motioned to continue the Public Hearing for the Application of George P. Mitchell for a Special Permit to construct a multi-family/multi-story dwelling and Coastal Area Management Site Plan Review at property identified in the application as 308 Main Street, Niantic, CT. The property is further identified in the application as East Lyme Assessor's Map 12.1, Lot 120. The Public Hearing is to be continued to November 3, 2005.

The Motion was seconded by Mr. Dwyer.

Motion Passed. 6-0-0

Respectfully submitted,

Beth Williams,
Recording Secretary (Pro-Tem)