

EAST LYME ZONING COMMISSION

PUBLIC HEARING II

Thursday, September 15<sup>th</sup>, 2005

MINUTES

Sept 20 20 05 at 8:20 AM PM  
Esther B. Williams  
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 application was held for Public Hearing on September 15, 2005 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; Rosana Carabella, Secretary; Marc Salerno, Edward Gada, William Dwyer, Shawn McLaughlin

ALSO PRESENT: William Mulholland, Zoning Official

ABSENT: Rose Ann Hardy, Ex-Officio – Board of Selectmen, Pamela Byrnes, Norm Peck

PANEL: Mark Nickerson, Chairman; Rosana Carabella, Secretary; Marc Salerno, Edward Gada, William Dwyer, Shawn McLaughlin

**Public Hearing II**

- 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, Chairman asked that Ms. Carabellas, Secretary read the following into record.

Ms. Carabellas, Secretary read the following into record:

- Memo to Mr. Mulholland, Zoning Official dated September 15, 2005 from Mr. Edward B. O'Connell (Zoning Commissions Lawyer) of Waller, Smith & Palmer, P.C. RE: Sea Spray affordable housing application. The Memo details the Connecticut Statutes that shift the burden of proof to the Zoning Commission when the application is for an affordable housing development.
- Memo to Mr. Nickerson, Chairman East Lyme Zoning Commission dated September 14, 2005, RE: Sea Spray Condominiums, Lot 9 & Lot 18 – Business Park West, Freedom Way & Liberty Way, East Lyme from Brad Kargl,

Municipal Utility Engineer, Town of East Lyme Water and Sewer Commission. The Memo details that an existing water main infrastructure already exists on both Freedom Way and Liberty Way and that the layout of the Water Mains is acceptable to the office. The anticipated additional demand will be approximately 25,000 gallons per day. The property is located within the existing sewer service district. The office of the Municipal Utility Engineer to conduct a downstream analysis to qualify potential impacts to the sewer collection system using the hydraulic model completes by the Town's Consultant, Fuss & O'Neil as a part of the town-wide capacity analysis study. Also the office of the Municipal Utility Engineer asks that the developer submit a revised set of plans for review and once the revisions have been made and the plans finalized.

- Memo to East Lyme Zoning Commission dated September 15, 2005 from Mr. Mulholland, Zoning Official, RE: Application of Theodore A. Harris – Affordable Housing. The Memo details that the applicant has addressed several of the staffs concerns; however, the Town Engineer has not yet completes his final review of the plan.
- Memo to Mrs. Carabellas, Secretary East Lyme Zoning Commission dated August 18, 2005 from the Southeastern Connecticut Council of Governments, Regional Planning Commission. The proposed development is not within 500 feet of a municipal boundary affecting a Southeastern Connecticut Regional Planning Region Town and therefore a referral is not required and the Committee has no statutory authority to review the application.
- Memo to Mr. Nickerson, Chairman East Lyme Zoning Commission dated September 7, 2005 from Greg Ellis, Secretary, Town of East Lyme Planning Commission, RE: Referral – Application of Theodore Harris for an Affordable Housing Development (125 units) to be known as Sea Spray Condominiums located at Liberty Way and Freedom Way (Assessor's Mao 9, Lots 28 & 28-1). The Memo details that the Planning Commission found the application to be consistent with the Plan of Conservation and Development goal and that the Commission recommends that the green space within the development and pedestrian access to the parks be enhanced to the extent possible to offset the location in an industrial park. The East Lyme Planning Commission vote was in favor of the development. 5-0-0
- Memo to the East Lyme Zoning Commission dated September 15, 2005 from Mary Gagbois, 358 Boston Post Rd, East Lyme Connecticut. The Memo details that she feels that proposed Zone Change should be denied because the site should remain as an industrial zone for the use of future businesses in the area.

Mr. Nickerson said that the legal add for the application has been run in the paper.

Mr. Theodore A. Harris of 351 Main St, Niantic Connecticut, agent for Real Estate Service explained that the purpose for bringing the application in this fashion is to allow them to tailor a development for a unique location. He presented the following exhibits for review:

- **Exhibit A** – Certified Mailing Postal Receipts
- **Exhibit B** – Condominium Declaration
- **Exhibit C** – Revised Affordability Plan for Sea Spray

Mr. Harris explained that re are requesting approval for 110 unites on approximately 10 acres of land. They have altered the original site plan by reducing it from 125 units down to 110 units in order to be able to accommodate more green space on the property as requested. This change provided 45 - 48% continual green space on the property. Of the remaining 110 units they are proposing to build, 30% of these units would be at an affordable housing rate. They would then sell the market rate units in the range of the lower \$200 thousands. The typical residents in a development of this kind are either young singles, newly weds, or empty nesters. Consequently there is typically only 1 out of every 6 units in a development of this kind would have a school age child. Therefore, the development will not have a significant impact on the local school system. The light industrial park that they are requesting have the zone change, is more typical of a commercial zone due to the types of businesses that are located in the park.

Mr. Harris further explained that it is an appropriate location because the sewer and water are already there and are designed to handle the high demands that a development like this requires, there is direct access to major highways, the elevation of the property provides nice views of the long island sound form the ground level, it is surrounded by state forests and there will not be an impact on local neighbors because the site is surrounded by state land.

Mr. Marty Smith, Vice President, Real Estate Service of Connecticut, 55 High Street, Middletown, Connecticut said that an affordable housing project is needed in the community and that Sea Spray was designed at the suggestion of the East Lyme Zoning Commission. He explained that the “Workforce Housing” the development would provide would create homes for families with an income ranging from \$37,000 - \$49,000 as well as the opportunity for employment in the business park. The site is a 10 acre site at the end of a cul-de-sac surrounded by 35 acres of DEP Land so there are not any single family residents in the area to object to the development. Also, the site it’s self is not a virgin site in that it has already been stripped and filled over the last 20 years. It has accessibility to the highways as well as employment within the Business Park.

Mr. Smith explained that the units would be 1 and 2 bedroom units, ranging in size from 990 square feet to a little over 1800 square feet. The 33 “Work Force” units would range in price from \$88,750 - \$155,000 while the market price units will sell from \$200,000 -

\$250,000. The only difference in the units will be the internal trim used. Otherwise, they will be exactly the same and the affordable housing units would be mixed in with the market rate units. All the units will have either a garage or basements and will be designed for low maintenance with vinyl siding and vinyl windows. The impact on the local school system would be minimal as a similar development that they built in Cromwell, Connecticut increased local enrollment in the schools by .16 children per unit. He presented the following Exhibits.

- **Exhibit D** – Hartford Current Article from the September 4, 2005 Hartford Current. *Affordable Home Vision From Two Unlikely Places*
- **Exhibit E** – Elevation Floor Plans

Attorney Tim Hollister of Shipping and Goodwin in Hartford Connecticut outlined that the reasons for the revisions are due to updated affordability numbers from the federal government and that schedule B of the document now lists which units will be listed as affordable housing. The reasons for the affordability laws in Connecticut is to provide accessible housing to low to moderate income housing as well as to provide some legal leverage for the applicant in the appeals process if the application is denied because it switches the burden of proof from the application to the Zoning Commission to show why the project was denied from a health and safety perspective. Also, there will be a three tier income cap system in the development. The income caps for each tier will be \$30,800 (maximum sale price \$88,750), \$41,000 (maximum sale price \$123,000), and \$49,000 (maximum sale price \$155,000).

Attorney Hollister provided the following Exhibits for the record:

- **Exhibit F** – Letter from Home Inc. Dated September 8, 2005
- **Exhibit G** – Descriptive Materials Regarding Home Inc.

Attorney Hollister explained that the town will be able to monitor that the affordable housing units are being maintained as affordable housing units through the administrator of the development by monitoring that the people purchasing the units are within the income guidelines as well as make sure that the sale price of the units is calculated based on the current state guidelines for affordable housing. This will be reported to the East Lyme Town Zoning Commission on no less than an annual basis. Home Inc. is the company that will facilitate the affordable housing administrator. The units sold as affordable housing units will have restrictions that will not allow them to be sub-let and will restrict the re-sale value of the unit in order to prevent people from buying the unit and then selling it to make a profit. The re-sale value will be calculated by the states guidelines and will be subject to the market value fluctuations just like the market value units. The “work force” units will not be able to be used as equity builder units. These restrictions will be written into the deed when the units are purchased. A public notice will be published once the affordable housing units become available.

Mr. Nickerson expressed that unlike a typical affordable housing development which has the burden of proof on the Zoning Commission as to if they choose to deny the application, when a development is proposed in an industrial zoned location, the burden of proof shifts back to the applicant. This makes a difference as to how the Commission looks at the application.

Mr. Mulholland asked what will happen if the development is only half completed and the project goes “belly up.”

Attorney Hollister explained that the Affordability Plan, Section 3, Page 2, dictates that the affordable housing units would be on the front end of the construction. As the town is issuing building permits it will be able to monitor and ensure that 30% of the units per building permit will be at an affordable housing rate. This will ensure that the developer’s commitment to the town is being met. Also, the units being built are regular residential units and therefore not subject to the handicap accessibility law.

Mr. Mike Bennett, Project Manager from Bennett, Myles Engineering, 415 Killingworth Rd, Higonem Connecticut explained the engineering aspects of the project. The 10.3 acre parcel is located at the end of Liberty and Freedom Way and the cul-de-sac on Liberty Way. The west side of the property is along the Rocky Neck Connector. There is a 50-70 foot wooded buffer between the property line and the connector. Also, there are some high mounds of ledge that will elevate the site above the connector. The area that is adjacent to the industrial has some industrial buildings that are being rented in the area. Freedom Way is approximately 60 feet higher then Liberty Way. They have put 1 building with 8 units at the end of liberty way and will be served by existing water lines and sewer system on Liberty Way. The units on Liberty way are being designed garages under the unit with the 1<sup>st</sup> level of the living area level to the ground on the back of the building in order to accommodate the steep slope between the roads. In order to prevent excessive water runoff from going down the slope, all the water from the Freedom Way building roofs and streets will be caught in the storm drains as well as having under drain systems on the slope. Also, there will be a 25 feet level area in the back of the Freedom Way buildings to create a back yard instead of having the walk out basements open to the steep slope. The slope is a 20 foot drop (going from 76’ to 56’) that occurs over a 60 foot length.

Mr. Bennett explained that on Freedom way, they have developed a circular traffic pattern. Utilities will be connected to existing water and sewer systems already in place on Freedom Way. Storm drainage has been designed to mimic and enhance the storm drainage plan that was designed for the industrial park that will run it through a water quality basin and then discharges into the state drain lines. There will be a central trash collection facility for the property with separate receptacles for recyclables. The trash area will be depressed for easy access. Both Liberty Way and Freedom Way are public roads. There will be proper signage showing that the property will be Sea Spray Condominiums. The development will be approximately 400-500 feet from the highway with a 10’ wooded buffer area between the edge of the grass and to the state property (most of the buffer to the property to the highway is on the State DEP Property). Buildings are below the highway.

Mr. Ray Jefferson, Landscape Architect, Farmington Connecticut detailed the landscape details of the site. He explained that they want to continue the use of the London Plain Tree that is the street tree found within the business park. In addition they intend to plant evergreens between the buildings to provide separation. The mounds on the property would vary from 4 to 6 to 8 feet on the property. They're construction a stone wall and installing ornamental lights and a mounted sign at the property entrance. There will be paths that will connect the green areas on the property. They also plan to plant Canopy, Pear Trees, and additional evergreens throughout the green space and construct a fence in back of the building that has the industrial park businesses behind it. They will also be planting various shrubs and perennials around the buildings.

Mr. Scott Hesnicks, Licensed Engineer in the State of Connecticut, of FA Hesnicks and Associates in East Grandby Connecticut, explained that there will be 252 parking spaces in this development and this will generate 1125 trips throughout the day. This will be about 90 trips in the peak morning hour and about 150 trips in the peak evening hour. This would be less traffic site would be able to accommodate under the existing zoning that is allowed by the original traffic certificate would allow. In addition, the traffic that they are adding to the development would be in the opposite direction for the majority of the traffic during peak hours. They are awaiting a decision from the State Traffic Commission which will be issued once the East Lyme Zoning Commission makes their decision.

Mr. Nickerson opened the floor to public comment.

In Favor:

Betty Mahon, 53 Coradock Rd, Niantic Connecticut, advocate for affordable housing, spoke in favor of the development. She sited that the development will not impact the local school system and is in a positive location.

Page Rogers, 99 Lee Farm Rd, Niantic & Giant Neck Heights, Rector for St. Johns Episcopal Church spoke in favor of the development. She spoke from experience as to the difficulties for a single person in the work force to earn enough money to be able to afford a nice, safe residence in the East Lyme area.

Mary Brodhed, 58 Osogatchie Hills Rd, Niantic Connecticut spoke in favor of the application.

John Mahon, 53 Coridoc Rd, Niantic Connecticut, former President for Habitat for Humanity spoke in favor of the application.

Robert Maeloe, 58 Society Rd, East Lyme Connecticut, spoke in favor of the application and stated that he feels that East Lyme has been negligent in brining in affordable housing in the town.

Janna Cushing, 26 Giant Neck Road, Niantic Connecticut, spoke in favor of the application.

Opposed:

Bob Gably, 358 Boston Post Road, East Lyme Connecticut, spoke against the Zone change. He sited that the property was purchased with the intent for bringing in business because the site is right next to a major highway and feels that it should be kept as an Industrial Zone to bring new businesses into the area.

Neutral:

None

Any Further Comments:

None

Mr. Harris presented the following closing comments. The applicant has past experience in the town with the Commission and has demonstrated that they build what they represent and they are ready to start immediately. The location is a perfect area because it's an isolated site with the needed utilities. It will provide the housing needed from an economical standpoint. It meets the parameters needed to the specific site. The applicant filed the application in a certain way to allow the Zoning Commission to over ride the existing regulations for this specific site and to detail those regulations to fit the proposal. The applicant filed the application in this way because they're 2/3 over the density regulations of the town. The tax revenue the site would generate would be about equal to a full build out of the site as an Industrial Zone.

**\*\* Motion 2**

Mr. Salerno motioned to continue 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 know as Sea Spray Condominiums. The Public Hearing is to be continued to October 6, 2005.

The Motion was seconded by Mr. McLaughlin.

Motion Passed. 6-0-0