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**EAST LYME ZONING COMMISSION
PUBLIC HEARING I
Friday, JULY 25th, 2008
MINUTES**

Esther B. Williams

EAST LYME TOWN CLERK

The East Lyme Zoning Commission held a Public Hearing on the Application of Theodore A. Harris for Gateway Development/East Lyme LLC, for approval of a Master Development Plan in accordance with Section 11.A.9 of the East Lyme Zoning Regulations for property identified in the Application as: 284 Flanders Road, East Lyme Assessor's Map 31.3, Lot 1; Flanders Road, East Lyme Assessor's Map 31.0, Lot 1; 294-2 Flanders Road, East Lyme Assessor's Map 31.3, Lot 5; 282 Flanders Road, East Lyme Assessor's Map 31.3, Lot 2; 286 Flanders Road, East Lyme Assessor's Map 26.0, Lot 2; Ancient Highway, East Lyme Assessor's Map 25.0, Lot 35; Flanders Road, East Lyme Assessor's Map 31.1, Lot 9; Boston Post Road, East Lyme Assessor's Map 31.1, Lot 8.1; 4 Church Lane, East Lyme Assessor's Map 31.1, Lot 11; and 138 Boston Post Road, East Lyme Assessor's Map 31.1, Lot 7 on Friday July 25, 2008 at the 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, Norm Peck, Marc Salerno, Ed Gada, Bob Bulmer, Alternate

ALSO PRESENT: Attorney Theodore Harris, Representing the Applicant
Jay Fisher, SK Properties
Chris Knisley, KGI Properties
Brad Parsons, BL Companies
John Mancini, BL Companies
Bill Sweeney, TCORS
Michael Wang, Arrowstreet
William, Dwyer, Alternate
William Mulholland, Zoning Official

ABSENT: Steve Carpenteri, Gregory Massad, Alternate

PANEL: Mark Nickerson, Chairman, Rosanna Carabelas, Secretary,
Norm Peck, Marc Salerno, Ed Gada, Bob Bulmer, Alternate

Pledge of Allegiance

The Pledge was observed.

Public Hearing I

1. Application of Theodore A. Harris for Gateway Development/East Lyme LLC, for approval of a Master Development Plan in accordance with Section 11.A.9 of the East Lyme Zoning Regulations for property identified in the Application as: 284 Flanders Road, East Lyme Assessor's Map 31.3, Lot 1; Flanders Road, East Lyme Assessor's Map 31.0, Lot 1; 294-2 Flanders Road, East Lyme Assessor's Map 31.3, Lot 5; 282 Flanders Road, East Lyme Assessor's Map 31.3, Lot 2; 286 Flanders Road, East Lyme Assessor's Map 26.0, Lot 2; Ancient Highway, East Lyme Assessor's Map 25.0, Lot 35; Flanders Road, East Lyme Assessor's Map 31.1, Lot 9; Boston Post Road, East Lyme Assessor's Map 31.1, Lot 8.1; 4 Church Lane, East Lyme Assessor's Map 31.1, Lot 11; and 138 Boston Post Road, East Lyme Assessor's Map 31.1, Lot 7

Chairman Nickerson opened this Public Hearing and called it to order at 7:35 PM. He noted that Mr. Carpenteri was not present this evening and that he had seated Bob Bulmer, Alternate at the table. He explained how the Public Hearing process works, apologized for the clerical error that brought them there on

a Friday evening and thanked the Board of Ed and Mr. Smotas for covering part of the costs of having the facility open this evening and staffed with custodial personnel who otherwise would not be there with the schools closed during the summer. He then said that First Selectman Paul Formica was present this evening and that he has invited him to first say a few words on the water issues that have been in the news recently.

Paul Formica, First Selectman thanked the Commission for having him and said that he would like to say a few words as Chairman of the Water & Sewer Commission. He said that he would first speak on the Water Moratorium and explain how it works and how water is distributed. The Town has seven (7) wells that pump from aquifers and that are permitted by the DEP. The Town uses approximately 3M gpd (gallons per day) and they have two (2) water tanks that hold 1.5M gallons of water each. Two of the wells are controlled by DEP permit and when the stream flows become low, the DEP kicks in and does not allow pumping from them. These two wells provide 900,000 gpd of water and the only times that they have trouble with water in Town has habitually been in the end of July and sometimes in early August and then the problem goes away.

The DEP restrictions that have been put in have been in place for at least 12 years now and the Town has acted accordingly. What has not been done has been to address this problem. They currently have two wells being replaced and expect to gain some 150,000 gpd just by doing this. Some of the other efforts that are being worked on are 200,000 gallons as a reserve from another water source and a regionalization plan to Waterford or Montville which appears to be the way to go. However, that does not come cheaply. Last week they went out for some bonds and they are paying 1.66% so, if they must bond for this, it is a good time to do so. The State is forcing us to regionalize however, we must also be chlorinated and that is also in progress and being worked on. By the time next July comes around, he said that he hopes to have an emergency reserve in place. Along with this, everyone will have to change their habits a bit and develop good conservation efforts. Last Sunday, they had the highest water demand in the history of the Town at 3.5M gpd and they turned on the two wells that had been turned off to meet this demand. They average 2.6M gpd Monday thru Thursday – with the call for conservation efforts out to the public; they went to 2.3M gpd and then 2.1M gpd by midweek. These conservation efforts combined with the increased supply will allow them to continue to do business as usual in East Lyme. He said that they also still have a good argument with the DEP on the stream flow concept regarding the fish going back up in July as many environmentalists have also weighed in on this and feel that it does not happen.

Mr. Bulmer asked if they tie into another water system how much more water they would be able to get. Mr. Formica said that there are millions of gallons available once they are connected regionally. For the long term, a desalination plant at Camp Rell would really be the answer as they would rather be a water seller than a water buyer.

Mr. Nickerson said that if this project is some three to four years in build out at minimum, and while this is not a topic for them tonight, it seems that they should be ahead of the curve when this comes on-line. Mr. Formica said that what Water & Sewer asks when people come forward is how much water they will need and there is plenty of opportunity between now and then to move on other resources.

Ms. Carabelas asked when it is the proper time for Water & Sewer to ask the developer to have their own wells on-site.

Mr. Formica said that they have been asking that all along – that developments have their own on-site wells to use for irrigation, flower watering, etc. He added that they have also divided the Conservation Commission and that they now have a branch of it that can take up the 'green' initiative.

Mr. Nickerson thanked Mr. Formica for coming and providing them with information and called upon the Applicant's representative for their presentation.

Attorney Theodore Harris, place of business 351 Main Street asked that Mr. Nickerson note that the legal ad had run.

Mr. Nickerson said that the Legal ad had run in the Day. (on July 11, 2008 and July 21, 2008)

Attorney Harris continued that they were here for the Master Development approval – the second step in a process which started well over two (2) years ago. During this process they have had several meetings with the neighborhoods and community groups as well as the downtown merchants and business groups – all of which participated in making the Plan what it is today. This is the second phase and there is an extensive list

of items that have to occur in this process. They just heard the Chairman of Water & Sewer talk about water and they are aware that this property is served by public water and sewer and that the availability is there. The earliest demand would be late 2010 or early 2011 and that would be a minimal demand that would only gradually increase over time. With respect to irrigation of the green areas; they will irrigate with their own on-site well and not with Town water. They are also looking towards the possibility of a well on their site that could turn water over to the Town. Regardless they know that water & sewer is available to the site and they know that they have to work with Water & Sewer on it. He then introduced Brad Parsons from BL Companies to present the existing conditions.

Brad Parsons, BL Companies presented **Exhibit 1** for the record - a site plan board depicting the Existing Conditions plan dated 7/24/08. He noted that what he was submitting comprised 90% of the Gateway Development District.

Michael Wang, Principal with Arrowstreet presented **Exhibit 2** for the record – SK Dev. Properties Gateway Commons Concept Plan dated 6/4/08. This conceptual layout plan works according to the test amendment depicting the retail space for the one large and other junior anchors and the 20,000 sf of office space on the second floor as requested by Mr. Salerno at the workshop. It also shows the removal of 125 residential units leaving 275 units and freeing up open space to the Rose cliff residential area which will remain as open space. He also noted that there was a reconfiguration of the greenway shopping area as the Commission had requested in the workshop. He then presented **Exhibit 3** for the record depicting the Retail Open Space Plan dated 11/15/07. He said that they also studied the public open space and designed it to be user friendly. There will also be the office space over the retail and the five junior anchors have been changed to four junior anchors.

Brad Parsons presented **Exhibit 4** for the record – the Overall Transportation Improvements Plan dated 7/24/08. He noted the infrastructure and phasing issues and said that the plan shows:

- ◆ The relocated Exit 74
- ◆ The frontage road improvements to Rte. 161
- ◆ The connection to Rte. 1
- ◆ Rte. 1 and Rte. 161 improvements and interconnection
- ◆ Site frontage road with connection to East Society to Dean Road

Jay Fisher, Principal with SK Properties explained that at this point they will connect out to and through East Society and improve this road to road standard.

Mr. Mulholland said that this gives four points of access and egress to the property.

Mr. Fisher said yes.

Mr. Bulmer asked about access to Route 1.

Mr. Fisher said that they are working on that as one of the possible legs of this development.

Mr. Parsons submitted **Exhibit 5** for the record – the Construction Phasing Plan dated 7/24/08.

Mr. Gada asked about the access road to Exit 74 and Exit 73 and if they are only connections or if they would have businesses on them.

Mr. Fisher said that there would not be any businesses on them – they are strictly access/egress roads.

Mr. Parsons explained the construction phasing plan noting that the Exit 74 interchange is Phase 1 which would include the large format retail while Phase 1A would have the junior anchors and some smaller shops. Phase 2 would be the apartment areas and some housing and Phase 2A would be the rest of the housing.

Mr. Nickerson asked if they would start Phase 1A prior to Phase 1 being completed.

Mr. Parsons said no, they need the infrastructure in place first before they do anything else.

Mr. Nickerson said that he wanted to make sure that the houses do not come before everything else.

Bill Sweeney, Certified Land Planner with TCORS said that phasing makes it clear that the project will be phased and that the developer is responsible for the infrastructure at each phase and if it deviates they would have to come back for approval of the Commission to do so.

Attorney Harris said that Phase 1 could start (although it is premature at this point) in the late summer of 2009 and would take more than a year to complete.

Mr. Bulmer asked about the living units and if that has changed or if it is the same.

Mr. Fisher said that there are 275 residential units (down from 400) and that they are comprised of 225 apartments and 50 town homes.

Mr. Bulmer asked according to the Rutgers study – how many children they would anticipate.

Mr. Sweeney said that nothing has changed from the time of the Klepper-Smith study and he believes that said that there would be 43. He continued that the architectural standards document has been revised many times and changed and that it is key to the MDP project as it becomes the guidebook and tool of control. The standards are what the submissions are judged by. These regulations take the place of the Zoning regulations for the purposes of this project and only where necessary for this project. The standards are also binding on whoever occupies the properties. The standards discussed in the submitted binder are:

- ◆ Permitted Uses
- ◆ Bulk and Dimensional requirements
- ◆ Parking & Loading
- ◆ Streets & Sidewalks
- ◆ Landscaping & Screening
- ◆ Lighting – Night sky provision
- ◆ Signage – Indirect, backlit or no lighting
- ◆ Open space & Conservation areas
- ◆ Miscellaneous Provisions – utility lines, aquifer protection, etc.
- ◆ Architectural Styles – Michael Wang of Arrowstreet submitted the following Exhibits for the record on architectural styles: **Exhibit 6 – Gateway Commons Architectural Styles; Exhibit 7 – Massing & Scales; Exhibit 8 – Materials & Colors; Exhibit 9 – Rooflines & Profiles and Exhibit 10 – Three pages of Materials & Colors** providing requirements and samples of materials – masonry, glass fiber materials etc.
- ◆ Massing & Scale
- ◆ Materials & Colors
- ◆ Rooflines & Profiles
- ◆ Typical Building Facades & Elevations

Mr. Sweeney noted that the designs are only samples.

John Mancini, Principal Engineer with BL Companies explained the detailed traffic study which was a requirement of this phase and which was submitted with the application. He said that the report is an executive summary and that the purpose is to provide an acceptable level of service and that they have met or exceeded those levels of service. He said that wile left turns are the most difficult to make anywhere that they will pursue a light as has been requested by Mr. Mulholland and Mr. Scheer.

(Note: a brief break was taken here)

Attorney Harris suggested that they take questions from the Commission and then hear from the public.

Mr. Peck asked about the frontage road and if in passing through the residential units will any of them be accessed from the main drag.

Mr. Wang said that the quick answer is that they are all accessed off of the secondary roads and that they do not have any direct access.

Mr. Peck asked under building materials what the definition of 'finished masonry' was.

Mr. Wang said that term was used to insure there would not be just plain concrete units and that they would be brick-faced and mixed.

Mr. Peck asked about the traffic and said that in the interests of simplicity if they could take the different sections and provide some traffic counts as his concern was the term 'acceptable condition'.

Mr. Mancini said that the information is summarized in the charts in the report that they were provided with the application. The term 'acceptable' is appropriate when discussing traffic and the level of service

measures the delay by use of nationally understood standards. Most of the roads that they are dealing with are State roads so they are dealing with the terms as they are written. The only local road is East Society.

Mr. Nickerson asked if the traffic study considered the fact that Exit 75 might be closed down.

Mr. Mancini said that this traffic study did not take that into account as the DOT would NOT accept it that way. He noted that in reference to Mr. Peck's question that the information presented in the traffic study is at 2012 full build out projected traffic and that the measure is of peak time hour Friday afternoon and for Saturday mid-afternoon.

Mr. Bulmer said that we normally call for the parking areas to be 10' x 20' and that they had them cited a bit smaller at 9' x 18'.

Mr. Sweeney said that 9' x 18' is design size in many communities and works in trying to conserve impervious area. They used urban land use standards and they are actually providing more than enough residential spaces.

Mr. Bulmer asked if the area that lets out on Route 1 is near the school and the buses.

Mr. Mancini said no, it is across from the vacant land that the Town owns.

Mr. Nickerson asked if there would be any issue of eminent domain here.

Attorney Harris said no.

Mr. Nickerson asked if the issue of the facades on the four exposed sides of buildings is in the regulations. Mr. Wang said that point #3 of Architectural Styles states that there are appropriate levels for front and back sides.

Mr. Sweeney added that point #4 states that there would be no blank walls.

Mr. Nickerson said that he does not find the Stop & Shop design that is in the book to be acceptable.

Mr. Mulholland noted that it reads representative examples of . . .

Mr. Sweeney said that the intention is that some aspects of a lot of these samples may come together. While they are representative samples only – it does not relieve them from the obligation to meet the architectural standards. He said that they would have no objection to striking that line.

Mr. Nickerson said that he does have a problem with the drive-thrus even though he knows that they have only defined two areas for them.

Mr. Sweeney said that where there is a concern that they felt it prudent to leave it in only in the event that someone does come and propose some unique, flexible idea on it – and – at the end of the day, the Commission can still say no.

Mr. Mulholland added that it does state that it is subject to the approval of the Commission.

Mr. Sweeney agreed that the discretion is left with the Commission.

Mr. Nickerson noted the buffer/screening of the off-ramps/highways and said that while he knows they need exposure, was it necessary to see the parking lots.

Mr. Sweeney said that there is a significant grade difference between the highway area and their property and they have preserved a lot of areas and some are wetlands. There is a narrow window on visibility there.

Mr. Mancini said that DOT approval required information and environmental review with the Army Corps of Engineers. In the very large infield area and the bank, the DOT requires the adding of landscaping for a headlight buffer so there is the opportunity for plantings. There is also a good greenbelt in that area.

Mr. Nickerson asked where the 50' high proposed highway sign was to be installed.

Mr. Sweeney said that it has to be adjacent to I-95 and that they do not have a standard on exactly where. They are dealing with topography issues and do feel that they need to get the 50'. The Flanders Road signs are only 15'.

Mr. Salerno asked if they are proposing to connect and pave East Society Road.

Attorney Harris said that they are committed to the items that they have cited on the plan.

Mr. Salerno said that under Materials & Colors that he is not comfortable with vinyl siding in a commercial development and that he would propose to strike that out.

Mr. Fisher said that vinyl siding comes in a wide variety of shapes and sizes that do not even look like vinyl and that it is long-lasting and durable.

Mr. Salerno said that it is listed in both places and that he would be okay with it for residential but not for the commercial buildings.

Mr. Sweeney said that he understands where he is coming from however they make some very high grade vinyl and it might be useful in some of the smaller stores in certain instances.

Mr. Mulholland noted that there are some good vinyl products out there and that they might want to keep their options open.

Mr. Wang agreed and added that it is also appropriate to use in certain areas.

Mr. Salerno asked about the 50' height for the residential apartments.

Mr. Sweeney said that due to the topographic details that some of them would be built into the hillside and would not appear to look like 50' in height.

Mr. Wang noted that the end result of a lower height may be larger footprints and less green area.

Mr. Sweeney said that the apartment style buildings are four stories and that they need the 50' to have the peaked roof and that it is a critical issue to this project. He added that if they measure any four-story building that it is pretty high – well over 40'.

Mr. Mulholland noted that they are in 200 acres and that they might want to allow the flexibility.

Mr. Salerno said that he does not want to see them from the highway.

Mr. Sweeney said that they are in the lowest area of the land.

Mr. Wang noted that in the interest of smart growth that they want to have these units around the green.

Mr. Fisher said that there are no more than four livable stories.

Mr. Sweeney said that the overflow parking was taken out as they said that they did not want it and the neighbors said that they did not want the soccer field so that also came out.

Mr. Salerno said that he does not want stamped sidewalks and that he still wants to see variety in pavers.

Mr. Sweeney said that he agrees that they want variety however he does not want to restrict this as they have not reached that level of detail here and they want to keep this flexible so that they can integrate things. Attorney Harris explained that this would appear at the site plan stage.

Ms. Carabelas asked if they considered going green with some of these environmentally.

Mr. Wang said that he is a lead process professional and involved with measures that include the rating of the energy conservation of buildings and that they would contemplate this once they are in the building design process.

Mr. Gada asked if they would see the traffic and exactly where the cemetery is in relation to this.

John Mancini pointed out the cemetery and Church Lane.

Mr. Gada asked if they were the people responsible for building Mashpee.

Mr. Fisher said no.

Mr. Wang said that Arrowstreet is working on the Sharon project.

Mr. Nickerson called for anyone from the public who wished to speak for, against or neutrally regarding this application –

Bob Gadbois, 358 Boston Post Road said that he would like the Commission not to close this Public Hearing tonight as this is not their regular meeting night and people go away on the weekend and cannot make it here. He said that he also finds it hard to believe that there would only be 43 kinds with 200 units of housing; especially since there are 83 kids coming from Sea Spray per the superintendents' figures. He also thinks

that traffic is an issue and that there are always problems on I-95. Recently he could not get out onto Boston Post Road when he went to the convenience store there.

Mr. Nickerson said that he has written correspondence from Mrs. Gadbois of 358 Boston Post Road noting Minutes dated 7/12/07 in which Mr. Peck made comments regarding the need for an economic impact study on the businesses in the area and a crime study. She also asked if three or more of the Commissioners had attended any of the neighborhood or business meetings that the developer had held and if so, where were the minutes of those meetings.

Mr. Nickerson said for the record that they did have an independent study done on the economic impacts of the downtown and Flanders area businesses (Don Klepper Smith) and a study on the effects on crime and Town services as well as the net tax advantage to the Town from this project. He asked for a show of hands from the Commissioners who had attended the neighborhood and other meetings. There were none.

Mr. Nickerson asked if the Commissioners had any other questions – Hearing none – he asked the applicant if they would like to comment.

Mr. Sweeney thanked them, said that he would review the criteria briefly and asked that the Public Hearing be closed this evening as this project was found to be consistent with the POCD, fixing the road infrastructure will be a benefit to the Town and the Gateway project will be an asset to the Town. He also submitted a summary of the Data Core study on the net tax dollars of over \$2M per year that would be realized. He added that those tax dollars come early in the development with the retail stores. There will be no changes to the aquifer protection regulations and the uses are provided for within the regulations. This is a mixed use development and they have millions of dollars in infrastructure costs that will be paid for by private funds. They have a unified planned development for a parcel that has sat vacant for many years and this is a signature project that they are all proud of and have been working on for over two years now.

Attorney Harris said that this has been a long process and that he truly believes that this difficult site was meant for these developers who are anxious to move forward. He said that he would urge the Commission to approve this application and move this project forward as they are under some stringent time frames on this.

Mr. Fisher expressed his gratitude to the Commission, the public, and the neighbors particularly for their thoughtfulness and effort on this project. He thanked staff for their many hours spent reviewing this project.

Mr. Nickerson noted that Exhibit 11 submitted for the record is the Traffic Study by BL Companies dated June 2008 and Exhibit 12 submitted for the record is the DataCore Partners LLC Economic Impact Study Summary dated 1/14/08.

Hearing no further comments –

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

****MOTION (1)**

Mr. Gada moved that this Public Hearing be closed.

Mr. Salerno seconded the motion.

VOTE: 6 – 0 - 0. Motion passed.

Mr. Nickerson closed this Public Hearing at 10:30 PM.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary