

**EAST LYME ZONING COMMISSION  
PUBLIC HEARING I  
Thursday, AUGUST 19th, 2004  
MINUTES**

FILED IN EAST LYME  
*Aug 26, 2004* AT *3:00* M  
*J. Blais, Jr.*  
EAST LYME TOWN CLERK

The East Lyme Zoning Commission held the Application of Landmark Development Group, LLC and Jarvis of Cheshire, LLC Public Hearing on August 19, 2004 at Town Hall, 108 Pennsylvania Avenue, Niantic, CT. Chairman Nickerson opened the continued Public Hearing and called it to order at 7:35 PM.

**PRESENT:** Mark Nickerson, Chairman, Ed Gada, Secretary, Shawn McLaughlin, Pamela Byrnes, Rosanna Carabelas, William Henderson, Alternate

**ALSO PRESENT:** Attorney Michael Zizka, Representing the Applicant  
Glenn Russo, Applicant & Principal Landmark Development  
Attorney Edward O'Connell, Town Counsel  
Attorney Paul Geraghty, representing the Intervenors  
Court Stenographer, retained by the EL Zoning Commission  
George Calkins, Town Sanitarian  
Meg Parulis, Planning Director  
Michael Giannattasio, Town Engineer  
William Mulholland, Zoning Official  
Rose Ann Hardy, Ex-Officio, Board of Selectmen  
William Dwyer, Alternate

**ABSENT:** Norm Peck, Marc Salerno, Alternate

**PANEL:** Mark Nickerson, Chairman, Ed Gada, Secretary,  
Shawn McLaughlin, Pamela Byrnes, Rosanna Carabelas  
William Henderson, Alternate

**Pledge of Allegiance**

The Pledge was observed.

Mr. Nickerson noted that he would be seating alternate William Dwyer this evening.

Mr. Henderson said that Mr. Dwyer agrees with him that, as he did not stay until the end of the previous meeting, that he would defer to him to be seated because he did stay.

**Public Hearing I**

- 1. Application for approval of the proposed development of the residential community as shown in plans entitled "River View Heights, (a residential community)" as an affordable housing development as defined in Connecticut General Statutes 8-30g(a)(1).**

Mr. Nickerson explained that this Public Hearing had been continued and that they were calling it back to order. He also explained the speaking procedure to the audience. He then asked if the applicant had any other testimony to give.

Attorney Zizka, Murtha Cullina LLP, representing the Applicant Landmark Development Group and Jarvis of Cheshire recapped that the goal with this application, as they have indicated in the past, is to try to work with the Town to try to produce an affordable housing development in this area. They are trying to do this with the plan before them. As has been presented, the property as indicated is most suitable for this and the area has been carefully checked by engineers and environmental consultants and has been determined that it is not only feasible but within reach for this type of development. It would be a cluster type development. They have presented three types of sewage disposal - two involving the municipal sewers and another involving a

subsurface system that would have to be approved by the DEP. This is a rather unusual situation where the Town sewer ordinance requires people to hookup to the system if it is there and they are trying to do that and the Town is trying to stop them from doing it. He said that he recognizes that this is not their jurisdiction, as they have a separate sewer department. He noted that he has worked with the DEP and that they would not approve a system that would be detrimental as they hold them to higher standards than those of a single-home septic system site. They also presented a traffic study by a reputable firm, Fuss & O'Neill. They feel that with these 100+ units that they would increase the Towns' stock of affordable housing and move them closer to their statutory goal of 10%. He said that he recognizes that members of the public want to speak this evening and that they also have staff comments to hear.

He had two last points to make. First is that they had hoped all along that they would have had all of the staff and Town consultant comments well in advance of the hearing tonight so that they would be able to respond. However, since they are still receiving them and some are still to come, he understands that they will have to keep this open until their September 2 meeting so they will reserve the right to be able to respond at that time. Lastly, as they know, the Town POD has designated some (not all) of this property for open space acquisition (not to be confused with open space conservation as that is not constitutionally permissible). Mr. Russo spoke to them, very emotionally the last time about his frustration in developing his land. The Town has spoken of wanting this land for decades and the opportunity has existed and they have not moved forward on it. However, to the extent that the Town still has an interest in acquiring areas NOT in this phase of development and NOT a part of this application, they are still willing to discuss with the Town their interest in this acquisition - obviously not for free, but for fair market value. He noted that they have also had some discussion with some non-profits regarding possible ways for the Town to acquire the land. He said that he would await the comments from staff and the Commission.

Mr. Mulholland said that in the master plan for Phase I that they show a typical building. He asked if the buildings would be the same for the affordable housing units as for the non-affordable housing and if they would be integrated or set away from the others.

Glenn Russo, applicant and Principal, Landmark Development LLC said that the architectural rendering presented at the last meeting represented a typical rental building. The rental is located in the southwestern portion of the property. The condominium units will be to the north of the rental units. In Phase I, the breakdown would be that a majority of the apartments would be affordable and some of the condominiums. They are putting in more rentals in Phase I due to the demand generated by the casino service industry employment. In the future phases, two, three and four, there will be affordable condominiums as well.

Mr. Mulholland said that it was his understanding that the units had to be interspersed or mixed together. Attorney Zizka said that there is nothing in the Affordable Housing Statutes that require them to be mixed. In subsequent phases they probably would be. The Statute speaks only to the fact that 30% of the units be affordable. He noted that if the Commissions' legal counsel feels that they are in error on this, that they would certainly hear any feedback on that.

Mr. Mulholland asked if the 120 units would be a four or five story unit.

Mr. Russo said no, it would be a three story building.

Mr. Mulholland asked if there would be apartments in the basement.

Mr. Russo replied no.

Mr. Nickerson said that they had some letters for the record and asked Dr. Gada to read the following correspondence into the record:

- ◆ Letter dated 8/5/04 to East Lyme Zoning Commission from Wm. Mulholland, Zoning Official – Re: Application of Landmark Development Group, LLC and Jarvis of Cheshire for approval of a residential development entitled "Riverview Heights" – noting that since the application was not submitted in conjunction with any existing zoning regulations a code specific review could not be conducted. Also, members of the Town Land Use Team reviewed the site plan and their reports will also be read into the record.
- ◆ Letter dated 8/2/04 to Wm. Mulholland, Zoning Officer from Joe Smith, Building Official – Re: Site Plan Review for Riverview Heights (A Residential Community) Boston Post Road, Plans Dated March 14, 2004 – noting that certain sections of the 1996 Boca National Building Code portion of the 1999 CT Building Code contain requirements for providing handicap accessible dwelling units, routes and recreational facilities and the plans as presented do not provide sufficient detail to show compliance with those requirements.

Mr. Nickerson read the following correspondence into the record (for Mr. Thumm who was attending another meeting):

- ◆ Letter dated 8/5/04 to Wm. Mulholland from Fred Thumm – Re: Riverview Heights Affordable Housing Proposal – noting that the drawings do not delineate the boundary of the Town's sewer shed and his review suggests that the majority of the area is outside the sewer shed. Also noted is that water from the East Lyme system is not available to serve the site as proposed and that the East Lyme Water & Sewer Commission is the exclusive provider of water in East Lyme.

Mr. Nickerson asked Mr. Calkins, Town Sanitarian to read his letter into the record.

George Calkins, Town Sanitarian read into the record:

- ◆ Letter dated 8/3/04 to Wm. Mulholland, ZEO from George Calkins, RS – Re: Riverview Heights Affordable Housing Development/Residential Community – noting that they reviewed a 28-page set of plans and that approval for a public water supply use can only be obtained from the CT DEP. Regarding the wastewater disposal system, that would also be subject to DEP approval. To his knowledge the DEP has not been contacted to date.

Mr. Nickerson noted to Mr. Calkins that it seems that there is a lot that they do not know at this time. He asked if this is typical of applications at this stage or not.

Mr. Calkins said that generally plans would not be complete at this stage, they would be preliminary. However, he did not receive plans directly from the developer to be able to address everything. The answer would have to be partially yes and partially no regarding completeness.

Mr. Henderson asked who would be responsible for maintaining a private septic system on this property if it were to be constructed.

Mr. Calkins said that a CSS would have to be maintained and oversight would have to be determined by a contract between the developer and the Town of East Lyme prior to anything being done. This contract is quite extensive and highly technical.

Mr. Nickerson read the following correspondence into the record:

- ◆ Letter dated 8/5/04 to Wm. Mulholland, Zoning Official from Linda Dufresne, Environmental Planner – Re: Staff Review, Application of Landmark Development Group, LLC – noting that changes to the grading plan from the Town Engineering review may result in encroachment into the 100' upland review area. This would then necessitate a permit from the Conservation Commission prior to Zoning approval.

Mr. Nickerson noted that they had already read into the record the letter from the Planning Commission. Ms. Parulis would be making a presentation but not reading a report that has been submitted. He asked that she fully summarize the contents of the report for the benefit of the new members of the Commission.

Meg Parulis, Planning Director said that the letter from the Planning Commission had been read into the record at the last meeting. Also, 'The Planning Commission Report to the Zoning Commission on the Application of Landmark Development Group LLC for an Affordable Housing Development dated August 5, 2004' was submitted with that letter as Attachment A - a report dated September 17, 2002. This report contains a copy of the Affordable Housing District Regulations as adopted by Zoning on August 15, 2004 and the Planning Commission Report to Zoning dated March 20, 2002. She said that the purview of Planning is to review for consistency with the POD - the piece of the proposal that pertains to this is with respect to the zone change and the text amendment. With each individual report, they have also included the documents that they used to base their decision on. These include various US Geological maps, Conservation Zone maps, Niantic River Gateway maps, maps from the Plan of Development and an East Lyme Utilities map. This report also includes previous letters from Water & Sewer, and POD information from 1967 forward as they pertain to the Oswegatchie Hills area. A traffic study done by Wilbur Smith for the previous application, in March of 2002 is also included as well as a Biologist and State Archaeologist report.

Ms. Parulis said that from the Planning perspective she wanted to follow up on one item that was mentioned. They had spoken about easement access and having a ROW to the property from King Arthur Drive. She thought that she remembered something about this area and spent most of the day researching this in the Town Clerk's Office. Her findings are written into a memo (with a map attachment) to Bill Mulholland, copy to Mr. Nickerson, Chair of EL Zoning Commission, dated 8/19/04. She read this memo into the record and submitted it for the record. In this memo she notes that she has reviewed the land records for evidence of the

rights of Mr. Russo or any public rights over the property and has found nothing to corroborate the representations previously made by Mr. Russo. She suggests that if the applicant has entered into tentative agreements with the property owners that evidence of such agreements be provided.

Mr. Nickerson noted that the memo read and submitted by Ms. Parulis with the map of the Martin Hennessey property is entered into the record as **Exhibit 20**. The report entitled 'The Planning Commission Report to the Zoning Commission on the Application of Landmark Development Group, LLC for an Affordable Housing Development' submitted August 5, 2004 is entered as **Exhibit 21**.

Mr. Nickerson asked Mr. Giannattasio, Town Engineer to read his staff comments into the record. Mike Giannattasio, Town Engineer read the following correspondence into the record:

- ◆ His letter dated 8/5/04 to Wm. Mulholland, Zoning Officer – Re: Riverview Heights – A Residential Community – Plans Dated 3/14/04 Revised 7/23/04 (7/1/04 majority of sheets) – noting four pages of questions and comments pertaining to slopes, peak flow/storm water, drainage, land grading, E & S, pipes, CAM, road, and general topography.

Ms. Byrnes asked for those of them who are not familiar with it – what E & S is. Mr. Giannattasio replied Erosion & Sedimentation.

Mr. Nickerson noted that when they seat an Alternate at the table, which they have done this evening, that for the record, they have to ask if he has familiarized himself with the record. He asked Mr. Henderson if he has familiarized himself with the record.

Mr. Henderson said that he has.

Mr. Nickerson asked Attorney Zizka if he wished to comment or add anything.

Attorney Zizka asked Mr. Calkins or Mr. Giannattasio if a landowner could come in and say that their soil type is type 'X' on the New London soil survey and if they would rely on this survey to approve or disapprove the septic system.

Mr. Calkins of the East Lyme Health Department said that relative to a site-specific application, that no, generally soil surveys are not relied upon for a site-specific proposal. Attorney Zizka said thank you.

Mr. Nickerson asked Attorney Zizka if, in relation to what they have heard from the Health Department and Town Engineer if there is a way to get this information so that they will have it to make a decision. There seem to be a lot of questions that they have that need to be answered.

Attorney Zizka said that they have to also look at the dates of these letters, as they cannot respond until they get these letters. He can say that their representatives have met and worked with the Town Engineering staff this week and that they will continue to do so.

Mr. Mulholland said that he and Mr. Giannattasio met with Mr. Russo and his engineer and asked if their intent is to submit a revised plan.

Mr. Zizka said that he does not think that they intend or see a need to revise the plans and submit new ones. However, they will address the concerns and note things on the plans.

Mr. Russo said, regarding Bills' question and as a point of clarification that the plans will be revised to reflect their working with staff in order to work out the issues that they have raised. The number of units will stay the same and it will remain an Affordable Housing application. Certain grading changes or items such as that will be reflected on the plans. He noted that Attorney Zizka was making the point that they did not get the letter from the Town Engineer until August 5, 2004 – the night of the public hearing. He then called Mr. Giannattasio to make arrangements to meet with him and found that he had left on vacation and just got back this week. Mr. Giannattasio was very good about responding and they made arrangements and met this week Tuesday and they will continue to work through the list with Mr. Giannattasio.

Mr. Nickerson said that it seems that they are at square one when compared to other applications that they have had and that they should be a lot further along at this time.

Mr. Russo said that they filed the application in May and sent certified letters to Town staff in June and the first that they heard from anyone was August 5, 2004. They obviously would have wanted to meet earlier and there

is a certain level of frustration at this point and this does put them at a disadvantage in having to scramble now. However, they met with the Town Engineer and he said that this is typical of a development like this. Mr. Nickerson said that they probably should have come in sooner, as there seems to be a lot of gaps. Mr. Russo said that the Engineer said that this list is typical for a development of this type. They will continue to work with staff on this and move as quickly as possible.

Mr. Nickerson said that they would now open the public hearing to comments from the public. He explained the procedure on this.

Mr. Mulholland asked if Attorney Zizka had any questions for staff that spoke this evening before they opened it to the public.

Attorney Zizka said for the record that he has none right now.

Mr. Nickerson said that there were so many gaps that they might need staff back again in two weeks. He then explained the guidelines for speaking and asked that the people speaking please try not to be redundant – if someone has said something you wanted to say, please trust that we have heard it.

Mr. Nickerson called for anyone wanting to speak in favor of the application –  
Hearing no one –

Mr. Nickerson called for anyone wanting to speak against the application –

Attorney Paul Geraghty, place of business, 216 Broad Street, New London, CT said that he is present on behalf of the Friends of Oswegatchie Hills Nature Preserve Inc. and Save the River, Save the Hills Inc. He submitted Intervention proceedings on behalf of Mr. Schutt (entered as **Exhibit 22**) and Intervention proceedings on behalf of Charles Fred Grimsey, Jr. (entered as **Exhibit 23**). He said that this falls under CGS 22a-19.

Mr. Mulholland asked that Attorney Geraghty explain the Intervener Status to the Commission and audience.

Attorney Geraghty said that this is allowed under CGS 22a-19. This statute allows a person or party to raise claims that an application would have adverse conditions or cause harm to the environment if it were granted. If granted, it entitles the Intervener to the same rights as the applicant and typically under CGS 23-19 they can take a direct appeal. They may appeal the decision of the Commission, however, their issues are those that are related to only those that would effect the environment. They include: the Oswegatchie Hills impact would be a negative one with respect to open space; the run-off of nitrogen to the Niantic River and Latimer Brook is a concern and they have documents explaining the impacts. This is also a flyway for birds and bald eagles have been spotted in the general area. The plan fails to provide adequate wastewater treatment and fails to comply with CAM. It also fails to comply with the POD and the Harbor Management Plan. The Chair has also noted that they have failed to present complete plans. He does not know if septic and water can fit on this area and he does not think that the impact has been considered. The development will have a negative impact on the wetland area. There is a one to one slope there and he does not think that a contractor can get in there. The letter from Dr. Bellatoni of UConn suggested that an archaeological study be done, as this could possibly be an archaeological area. There are also bird and plant species that warrant denial of this application. He also noted that Attorney Zizka wrote in a book that they have a very broad scope of review here and that even minor harm can be reason for denial. The reasonable and prudent alternative is to not develop this site as he feels that affordable housing is a device being used here. He said that this is not a negotiation of what is or is not reasonable.

He then turned this over to Fred Grimsey to present testimony for Save the River, Save the Hills, Inc.

Fred Grimsey, 35 Oswegatchie Road, Waterford, CT said that he is the President of Save the River, Save the Hills. He said that they are advocates for clean water on the River and have instituted the pump-out boat on the River. They are working on the Phase II stormwater regulations and the sewerage of properties that are on the River. He said that he had a number of letters to read into the record that forms the exhibit for their Intervener affidavit. He then proceeded to read into the record:

- ◆ Letter to the East Lyme Zoning Commission from the Waterford/East Lyme Shellfish Commission noting that the overall health of the Niantic River is under attack from development in the watershed. It is their duty to protect this resource and restore shellfishing to the area.

- ◆ Letter to the East Lyme Zoning Commission from the Waterford/East Lyme Shellfish Commission noting that the overall health of the Niantic River is under attack from development in the watershed. This letter was written for the 2002 proposal. This letter was not read but was submitted as part of the exhibit.
- ◆ Letter to Fred Grimsey, Save the River, Save the Hills from Robert Askins, CT College Professor of Zoology noting that he studies forest birds and has written a book on it. The forest is important to birds and other animals. During migration the birds use this area as a refueling stop. A copy of his resume was also submitted with this letter.
- ◆ Letter from Milan Keser, PhD, 8 Kevin Road, Niantic who is the head of the Environmental Division at Dominion. This letter was written two years ago (3/26/02) for the previous application and it is still good today. Especially noted was the eelgrass issue and shellfishing in the Niantic River. He finds no compelling reason to support this zone change.
- ◆ Letter from Charles Evans, Director of Long Island Sound Programs. This letter was written and sent for the 2002 application but is also relevant for this one. Mr. Evans is the boss of Marcy Balint whom they have already read a letter from two weeks ago. This eight-page letter was submitted for the record as a part of this exhibit, but not read.
- ◆ Letter from James Kremer, Professor of Marine Sciences, UConn at Avery Point - recently written to Mr. Mulholland stating that he had heard that a variation of the previous plan was being resubmitted. He said that he feels that the ecological risks are still important. Nitrogen loading to the river will destroy the eelgrass. He also feels that even if the area is sewerred that they would only be shifting the problem to another waterway.

Mr. Grimsey submitted the group of letters from above (six) and this was entered as **Exhibit 24**.

Mr. Nickerson asked about nitrogen loading to the Niantic River – it comes from fertilizer, laundry, rainwater run-off and what else?

Mr. Grimsey said that it also comes from fertilizer, soap, leaves and detergents. People should wash their car on the lawn and not on the street.

Marvin Schutt, 29 Edgewood Road North, East Lyme said that he is President of the Friends of Oswegatchie Hills Nature Preserve. He noted that he is generally known around Town for getting things done and that this is a first that he is trying to stop something. He also noted that he is not an opposer or a tree hugger. To Mr. Russo and Attorney Zizka whom he feels are so talented and intelligent, he wondered why they don't put their development somewhere else in the Town where it would be more appropriate than in the Oswegatchie Hills area.

He then read major points of the following letters into the record:

- ◆ Letter from Bruce Dasinger, 12 Stone Cliff Drive, Niantic said that he was writing in reference to the letter from Michael Zizka to Bill Mulholland. He is interested in bird watching and has done it for 32 years. He attached a list of 178 bird species that he has seen and that use Oswegatchie Hills and the adjoining area as their area.
- ◆ Letter dated 8/16/04 from Nelson Marshall, Professor at the University of RI. He currently resides in Portland, Oregon. He wrote a book entitled 'The Scallop Estuary'. He said that his previous comments regarding this area still stand. He added to them, the issue of sewage seepage to the river from the dense population of septic systems along the shore of the River. Further septic system seepage would only aggravate the current problem. He would like to see the River returned to a more pristine condition.

Mr. Schutt noted that these two letters are contained in Attorney Geraghty's previous submission.

Mr. Henderson said that the lady who spoke last week said that she did not see that many birds when she was there. Maybe she was not there when they were migrating? He questioned how the person whose letter was just read could have seen 178 birds.

Mr. Schutt said that the answer is that you have to be there at the right time of the year and the right time of the day. He has been there and has not seen that many birds either - however, the answer lies in the fact that Nelson Marshall has done it for 32 years and that is how he has seen 178 species.

Mr. Schutt then introduced Carl Stamm to present more testimony for the Intervener affidavit.

Carl Stamm, 5 Saunders Drive, Niantic said that he has had 50 years of experience in the environmental field. He has worked as a forest ranger, forest engineer and a wildlife and fisheries biologist. He said that he designed many of our State Parks and their facilities. There are 170 plants and wildflowers on the endangered species list. They know that at least 30 of these species are found in the Oswegatchie Hills area. He also listed snakes, frogs, amphibians, turtles, butterflies, trees, shrubs, vines, ferns and orchids for the area. They have

heard that the proposed development will destroy one of the few remaining parcels. The total area is comprised of five delineated parcels of three to eleven acres each. These areas show evidence of endangered species. He worked with Dr. Dolan and Dr. Merhoff to identify and locate endangered species. He is sure that the developers' biologist found nothing because a little stroll over a well-traveled path during the wrong time of day and year without advance preparation will result in finding nothing. He then cited two types of development that had been approved and the two very different outcomes. He recommended that the Zoning Board reject this proposal. He submitted his testimony for the record and this was entered as **Exhibit 25**.

(Note: a short break was taken here)

Mr. Nickerson called for anyone from the audience who wished to speak against this application - Ronald Fitzpatrick, 7 River Road, East Lyme said that he has lived there since 1981 and that the aquifer there is shaky at best. There is no public water or public sewer there. He also thinks that the Town Engineer should be commended for his patience. If he received plans such as were submitted here, he would send it back with a note stating to send it back when they are finished with them.

Cordette Grimsey, 35 Oswegatchie Road, Waterford, CT read a letter to the East Lyme Zoning Commission noting that her family has lived on the upper Niantic River since 1960. Her children grew up swimming in the Niantic River and her husband used to harvest scallops. But, no more. She asked if we are to be caretakers or undertakers. She added that she has seen her neighbors' children swimming in the river and that this disturbs her. She submitted her letter for the record and this was entered as **Exhibit 26**.

Susan Kraynak, 1 River Road, East Lyme said that she had some observations and comments to make. She is an amateur birder and a certified master gardener. She said that she sees a pattern developing. Two coyotes have been struck and killed on Boston Post Road in front of her house and she feels that the development is chasing them out of the woods. She has also heard that a bear has been spotted in the area. She is concerned that a development of this density will drive more wildlife out of the hills and endanger the children. She is also concerned with the traffic study and the light at Rte. 161 and King Arthur Drive. She does not recall him mentioning the driveway that comes in from the commuter lot as that is a concern. She also asked who would manage the rental units and prevent them from becoming hotbeds. And, with Route 11 on a fast track and if it gets completed and it dumps people out on Exit 75 – what will happen with Flanders Four Corners? She said that she does not recall the day of the week that those traffic studies were done but she feels that it has to be taken into account. Regardless, she thinks that they have to be here 365, 24/7 to really see what happens.

Jonathan Doty, 32 Hill Road, Niantic said that his house is almost on the map there. He is concerned about water as he barely has enough water year round. He thinks that this idea is half-baked and is a bad idea.

Mr. Nickerson asked him to expand on his water problem.

Mr. Doty said that it is a private well and the pump has to run for a long time and no water comes out.

Mr. Nickerson asked how old the well or home is.

Mr. Doty said that he has only been there for two years. The home is 100 years old but the cap on the well says 1970 and he has had it serviced in the two years that he has been there.

Barbara Johnston, 35 Seacrest Avenue, Niantic read a letter that she wrote to the East Lyme Zoning Commission. She noted that she had made copies of the pages on Affordable Housing and Intervention Status from the book that Attorney Zizka wrote. She advised that they read these carefully along with the letter from Marcy Balint. She asked if Dr. Bailey has given any ecological calculations. She said that her report was poor and lacking in any information and the Commission should not consider it. She then cited the items that should be addressed regarding the affordability plan. She said that she believes that home rule is alive and well in East Lyme and asked them to deny the application as presented. She submitted the letter and copies, which were entered into the record as **Exhibit 27**.

Robert Garofalo, 15 Ledge Road, Niantic said that he wanted to offer what he thinks is the reason for the incompleteness of the application. He feels that it is incomplete because it could not be developed and inclusion of the information would demonstrate this. If the applicant is truly interested in Affordable Housing in East Lyme he would propose it for another area and he would applaud that intention.

Bob Gadbois, 358 Boston Post Road, East Lyme said that he comes often to the Zoning and Planning meetings. They were speaking about Boston Post Road and he always hears about the traffic on Boston Post

Road. He asked where they are going to put all of the cars. He also asked how many senior residents are going to be able to afford to live in this development.

Mr. Nickerson called for anyone else who wished to speak regarding this application –  
Hearing no one –

Mr. Nickerson asked Attorney Zizka if he had anything that he wanted to say.  
Attorney Zizka said no, he would speak on September 2, 2004.

Mr. Nickerson asked for a motion to adjourn and continue this public hearing.  
Mr. Mulholland suggested that they schedule this Public Hearing to reconvene on Thursday, September 2, 2004 at 7:30 PM.

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

**Ms. Carabelas moved that this Public Hearing be adjourned and continued to Thursday, September 2, 2004 at 7:30 PM.**

**Ms. Byrnes seconded the motion.**

**Vote: 6 – 0 – 0. Motion passed.**

Mr. Nickerson adjourned this Public Hearing at 10:30 PM and continued it until Thursday, September 2, 2004 at 7:30 PM.

Respectfully submitted,

Karen Zmitruk,  
Recording Secretary

Town of East Lyme  
Zoning Official

PO Box 519, Niantic, CT

(860)691-4114

Memo

To: East Lyme Zoning Commission:

From: William Mulholland, Zoning Official *wm*

RE: Application of Landmark Development Group, LLC and Jarvis of Cheshire for approval of a residential development entitled "Riverview Heights"

Date: August 5, 2004

I am writing in reference to the application of Landmark Development Group, LLC and Jarvis of Cheshire for approval of the proposed development of a residential community as shown in plans entitled "Riverview Heights" as an affordable housing development as defined in Connecticut General Statutes 8-30g(a)(1).

The applicant has applied for approval of the above noted project. The project is "phase I" of a multi-phased affordable housing proposal consisting of 352 units. The development will be located on a portion of property commonly known as Oswegatchie Hills.

The site plan was reviewed by members of the Towns LandUse Team and their reports will be read into the record.

In conclusion, since the application was not submitted in conjunction with any existing zoning regulations I could not conduct a code specific review.

*8/19/04*  
*Read*  
*7/18/07*

# Town of

P.O. Drawer 519  
Building Department



# East Lyme

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

To: Bill Mulholland, Zoning Officer  
From: Joe Smith, Building Official   
Date: August 2, 2004  
RE: Site Plan Review for Riverview Heights  
(A Residential Community) Boston Post Road  
Plans Dated March 14, 2004.

Please note that Sections 1107.4.2.1 through 1107.4.2.3, Section 1107.4.3, and Section 1107.4.4 of the 1996 Boca National Building Code portion of the 1999 Connecticut Building Code contains requirements for providing handicap accessible dwelling units, routes, and recreational facilities.

The plans as presented do not provide sufficient detail or clarity to show compliance with said requirements.

JS/en

*Read 8/19/04*  
*2nd*

# Town of



# East Lyme

Office of Water & Sewer Commission

Tel: 860-739-6931 • Fax: 860-739-6930

Post Office Box 519

Niantic, Connecticut 06357

TO: William Mulholland  
FROM: Frederick G. Thumm *F. Thumm*  
DATE: August 5, 2004  
RE: Riverview Heights Affordable Housing Proposal

You have received the subject proposal and set of drawings for consideration. Three alternative options for water and sewer have been submitted. The first option is for water and sewer service via a gravity sewer connection and a water connection on Boston Post Road in the proximity of Calkins Road. The second option is for a water connection at Boston Post Road and a sewer force main connection to existing sewer at King Arthur Drive.

The third option is for a community sewer system with on site discharge and an on site water supply. The applicant suggests that this option is for consideration if the first two options are not possible

The drawings that have been submitted do not delineate the boundary of the Town's sewer shed, but my review suggests that the majority of the area is outside the sewer shed. Inclusion of this development in the area of East Lyme receiving sewer service is not realistic in light of the fact that it is excluded from the sewer shed in the Town's Facilities Plan and the fact that the density of proposed development is inconsistent with system wide capacity. The proposed connection on Boston Post Road does not exist for a connection to Waterford. Flow projections are not supplied.

With regard to a sewer connection on King Arthur Drive, the same comments apply; the project is primarily outside the designated sewer shed area.

Water from the East Lyme system is not available to serve this site as proposed. A future water main extension was approved for a connection from Waterford to serve Boston post Road and existing properties in Golden Spur; however this extension, if completed, is dependent on the sale of water from New London and cannot exceed 50,000 gallons per day. The developer has not provided demand projections for water, but for a project of this scope daily demand will greatly exceed the 50,000 gpd limit.

*Read  
3rd 8/19/04  
2 P87.*

Approval of a community sewer system for on site discharge requires an approval from the State Department of Environmental Protection and an agreement from the East Lyme Water and Sewer Commission. As for water to be supplied on site, the East Lyme Water and Sewer Commission is the exclusive provider of water in East Lyme. Any on-site supply will require approval from the Water and Sewer Commission and approvals from the Connecticut Department of Environmental Protection and the Connecticut Department of Public Health. No work in regard to obtaining approvals has been performed to my knowledge.

In general, it can be said that water and sewer are not available for this project and insufficient information is available to demonstrate the feasibility of the developer's third option.

FGT/t

cc: Water and Sewer Commission

# Town of



# East Lyme

P. O. Box 519  
Department of Health  
George P. Calkins, R.S.  
Senior Sanitarian

108 Pennsylvania Ave  
Niantic, Connecticut 06357  
Phone (860) 691-4115  
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gcalkins@eltownhall.com

TO: WILLIAM MULHOLLAND  
ZONING ENFORCEMENT OFFICER

*Rec. 8/4/04 ABM  
Calkins*

FROM: GEORGE CALKINS, R.S.

DATE: AUGUST 3, 2004

RE: RIVERVIEW HEIGHTS AFFORDABLE HOUSING  
DEVELOPMENT/RESIDENTIAL COMMUNITY

This office has received and reviewed a 28 page set of plans entitled "Riverview Heights, (A Residential Community), Boston Post Road, East Lyme, Conn." generally dated March 14, 2004 and April 1, 2004. The plans depict a development consisting of 232 condominiums and 120 affordable housing rental units on a portion of the property owned or controlled by Landmark Development Corp. off the Boston Post Road, Calkins Road and River Road. The proposed method of water supply and wastewater disposal are unclear based upon the materials provided.

For water supply, the plan set indicates both a connection to the East Lyme Public Water Supply and provision of on-site wells and pump houses. Availability of water from the East Lyme supply would be as indicated by the E.L. Water & Sewer Commission. The use of on-site wells, pumping facilities and distribution system would require the approval by both the E. L. Water & Sewer Commission and the Ct. Department of Public Health. The establishment and operation of such a system by other than the East Lyme Water & Sewer Commission would constitute a public water supply. Although this department is the local agency authorized to approve and issue well drilling permits, the approval of wells and/or well sites for a public supply use can only be obtained via the Ct. Department of Public Health. No permits have been approved or issued by this department for preliminary or test wells to investigate the availability of sufficient water to support the proposed project.

In regards to wastewater disposal, the plan set indicates both a proposed connection to the East Lyme sanitary sewer system via King Arthur Drive and the preliminary or schematic representation of an on-site community sewage disposal system in two general locations on the property. Availability of the sanitary sewer system would be as indicated by the E. L. Water & Sewer Commission. Based upon both the volume of wastewater flow from this property resulting from the number of dwelling units and the configuration of the

*Read  
4th  
8/19/04  
2 pgs.*

system commonly serving more than one building/ownership, the primary jurisdiction for review and approval of any such on-site sewage disposal system would rest with the Ct. Department of Environmental Protection. The commonality of the sewerage distribution system and the on-site disposal system would result in this system being considered a Community Sewage/Sewerage System (CSS) which, although subject to D.E.P approval, would necessitate approval and/or endorsement by the E. L. Water & Sewer Commission before the D.E.P. would approve such a system. The E. L. Health Department would have limited involvement and jurisdiction during the design review and construction inspection process in accordance with Public Health Code Sections 19-13-B104a through

B -104d.

Based upon my review of the limited plans and specifications provided in the plan set, there appears to be insufficient data to support approval of the on-site sewage disposal system that is schematically depicted. Partial results from previous soil testing with the engineer consulting firm and D.E.P. are noted on sheet D-4. The plan sheet references additional soil test logs which are not provided. Supporting calculations that would address the suitability of the site relative to nitrogen dilution, site hydraulics and travel time for bacterial/viral attenuation were not provided. Plans for the proposed buildings that would indicate the number of bedrooms, which would provide the basis of design for an on-site sewage system, were not submitted. No indication of the developers' intention to provide pre-treatment of the wastewater to reduce the design parameters was given. Detailed piping and distribution configurations within the leaching components shown were not provided. In general, the level of engineering design is preliminary.

Sheet D-3 of the plan set depicts typical sectional drawings of sewage system components, including a septic tank and holding tank. No specific reference to use of a holding tank is given in the plan set. Sheets no. UT-1 through UT-6 generally depict buildings with lines representing sewer lateral connections to septic tanks, pump chambers, force mains, etc., as well as schematic leaching component locations for on-site disposal areas. No further reference to use of a holding tank system is given. Again, by virtue of the size, i.e. volume and configuration, of the proposal, any intent to utilize a holding tank system would need the approval and endorsement of the D.E.P. and E. L. Water & Sewer Commission. Regulatory approval of holding tanks systems are normally limited to emergency repair situations or to temporary situations pending availability or construction/completion of a sanitary sewer.

As a follow-up to my review of the plan set, the Department of Environmental Protection was contacted to determine if any plans, specifications or applications had been submitted for review and approval for this project. Upon speaking on August 3 with Joseph Wetteman, engineer with the Water Management Bureau responsible for such review and the engineer who had previously participated in site testing in September 2003, no plans, specifications or applications have been submitted, nor has he had contact with any representative of the developer relative to this project since September 2003.

If you have any questions concerning the above information, please contact this office.

RIVERVIEW HEIGHTS MEMO

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**INTEROFFICE MEMORANDUM**

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**TO:** BILL MULHOLLAND, ZONING OFFICIAL  
**FROM:** LINDA DUFRESNE, ENVIRONMENTAL PLANNER  
**SUBJECT:** STAFF REVIEW, APPLICATION OF LANDMARK DEVELOPMENT GROUP, LLC  
**DATE:** 08/05/04  
**CC:** M. PARULIS

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Please be advised that changes to the grading plan as a result of Town Engineering review may result in encroachment into the 100 ft. upland review area. Any activity within 100 feet of an inland wetland or watercourse requires a permit from the Conservation Commission prior to Zoning approval.

It is unclear if the access road from King Arthur Drive has been reviewed by a soil scientist.

This office supports the Planning Commission's recommendation that an Environmental Review Team is needed to further assess if there is potential impact to the wetlands as a result of activity beyond the 100 ft. upland review area.

Read  
8/19/04  
6th

Exhibit 20  
8/19/04  
Zoning

Exh. # 20

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INTEROFFICE MEMORANDUM - PLANNING DEPT.

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DATE: 8/19/04  
TO: W. MULHOLLAND  
CC: M. NICKERSON, CHAIRMAN  
FROM: M. PARULIS *M.P.*  
RE: APPLICATION OF LANDMARK DEVELOPMENT GROUP FOR AN AFFORDABLE HOUSING DEVELOPMENT

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The proposed plans for Riverview Heights indicate that an existing easement over the Deerfield Village property extending from King Arthur Drive is to be used to provide the main access to the proposed development. The applicant has indicated on the record that he has a right to use and improve this right-of-way.

I have reviewed the land records for evidence of his rights or any public rights over this property and have found nothing to corroborate the representations made by Mr. Russo.

King Arthur Drive was accepted by the Board of Selectmen as a town road in its current configuration on November 21, 1973. The right-of-way from the end of King Arthur Drive extending to the subject property was not conveyed to the Town and is privately owned in part by the Susse Chalet and in part by Deerfield Village. Woodbridge Development group has rights over the entire length of the right-of-way. The easement and rights thereto, are shown on a map entitled "Map prepared for Martin Hennessey, East Lyme, CT dated 12/10/90 and filed on the Land Records in Drawer 5, Map 157. A copy of the map is attached.

If the applicant has entered into tentative agreements with the appropriate property owners for construction of an access road, it is recommended that evidence of such agreements be provided to the Town in order to assess the feasibility of the access road.

8/19/04 Read by MP  
Submitted with map of Martin Hennessey

# Town of East Lyme

P.O. DRAWER 519

NIANTIC, CONNECTICUT 06357



TOWN ENGINEER  
Michael Giannattasio, P.E.

860-691-4102  
FAX 860-739-6930  
MIKEG@ELTOWNHALL.COM

TO: Bill Mulholland, Zoning Enforcement Officer

FROM: Michael Giannattasio, P.E., Town Engineer 

DATE: August 5, 2004

RE: Riverview Heights – A Residential Community – Plans Dated 3/14/04 Revised 7/23/04 (7/1/04 majority of sheets)

This office has reviewed the above noted plans for the proposed development of a residential community. Comments are as follows:

- Do the steep slopes provide for enough handicapped accessible units to meet Building Code? The nature of the steep terrain does not lend itself to allowing handicapped accessibility on some units. The Building Code requires them throughout the development.
- What is the treatment level, the pre/post volume and the pre/post peak flow of storm water generated from this site:
  - No velocity from drainage outlets has been provided. The velocity with which the flow leaves the outlet pipe has a great effect on the soils, wetlands and water bodies it enters. The impact or lack of impact cannot be determined.
  - No sizing of riprap pads has been determined nor shown that they are adequate to prevent scour and erosion into Latimer Brook, the Niantic River or anywhere else.
  - The pre/post flow contributing areas do not coincide in the drainage computations submitted. The pre area is clearly shown but the post is not, i.e., the post for Latimer shows i. DA 2B ii. DA 3B iii. other flows. Flows with unequal time-of-concentrations are used. This is not accurate. Unknown areas are used, therefore I cannot review. What “other flows” is the author referring

by Mike G. -  
Read 8/19/04  
6th 4pg.

to? Show area of post flow as done in pre flow. Please resubmit with post flow areas clearly defined so that a comparison can be made.

- The drainage computations and the drainage maps included in the computations do not match the latest site layout, i.e. continuation of River Road into project no longer exists. Please provide drainage comps to match the development.
- There are infiltrator systems used with inadequate details. Provide permeability values. Provide perc data. Label infiltrators on plan. (I don't know where they are.) What is elevation of maximum water in area of infiltrator? How is rate of infiltration determined?
- I cannot determine total area of pre flow in computations to compare to the total area of post flow. These should match but cannot determine as presented.
- Show time-of-concentrations paths on plan.
- Only post flow for Latimer Brook and River Road are provided. What happened to Niantic River and off-site flow? Do these have significant increases?
- In general I find the pre coefficient of runoff (C) values too high and the post too low. The pre (C) should fall within the typical woodland range. The post should include the use of steep, heavy soil lawns. (This includes potential septic system areas.)
- Provide pre areas at same scale map as post areas.
- Include "off-site" drainage area into Latimer Brook where appropriate. The majority of the "off-site" area flows to Latimer Brook. This office cannot determine impact to areas of concern. Consider using study areas for Latimer Brook, River Road outlet, Niantic River and "off-site" area.
- Land grading should follow practices and recommendations of the CT E&S manual.
  - Provide benched slopes when slope face exceeds 15' vertically. In many cases this may force disturbance and encroachments into the conservation review area or environmentally sensitive areas.
  - Some slopes are greater than 2:1. This is not acceptable. Also, when corrected will force some slopes and outlets into the conservation review area or environmentally sensitive areas.

- Provide detailed information on detention basins. Notes stated that “plans are not to be scaled” therefore provide dimensions, inverts and details.
- Provide detailed computations on how detention basins work. Show stage storage, hydrographs, water table and infiltration values.
- Will “other” land be developed and further increase impacts of stormwater to natural resources? Are the detention basins, piping and outlets and improvements designed to handle additional development?
- Applicant has not addressed traffic in any way. How will this increase in traffic effect existing roads. What plans are there for upgrading roads to serve increased traffic. This will have an impact on Town roads and the health, welfare and safety of the public. Should the applicant submit a traffic report, this office has not had opportunity to review.
- No E&S shown on plans. This site will require a detailed E&S plan with measures to protect the natural resources. None has been submitted at this time.
- Phasing plan should be implemented. A complete build-out of entire project has a greater potential for failure and therefore impacts to the natural resources. A detailed narrative on phasing implementation should be included.
- State flood zones on plan for entire site. Provide delineation between zones.
- Show soil type delineation on plans provided from the New London County Soils Map. Soil types on this site typically have 17” of soil over bedrock. How does such shallow bedrock figure into this plan. If blasting is required , what is plan for excess trap rock?
- Eight-inch pipes are not acceptable for drainage for carrying surface water. Pipe should be 12”-15” minimum to prevent clogging.
- Pipes should not exceed 10%.
- Roads (with exception of width) shall be built to Town standards.
- Has CAM been submitted? The nature of the resources on this site have a direct correlation to the drainage and grading proposed. Without a CAM report, impact cannot be determined.
- What is “East Lyme topo map?” This site has steep slopes throughout. The proposed improvements require flat areas in which to build the structures. This is all based on topo by others. Has this been field checked or verified in any way? The reference does

not have a date, title or preparer. If this topo is inaccurate the proposed plan for development may be seriously impacted.

- Sheet SD-3 has missing pipe beyond CB No. 4B.
- Swales are shown throughout site. Some swales are shown in 2:1 slopes. How is a swale constructed between two contours, 4' wide.
- Why is emergency break-away fence located in middle of drive? Are there signs proposed as "Emergency Vehicles Only" or equal to prevent vehicles from entering without ability to turn around?
- Sheet SD-4; grades too steep along southern property line. When corrected the slope of this basin will go over the line.
- Sheet SD-7; grading along wetlands buffer is too steep. When graded properly the toe of slope will be in the wetlands review area.
- Sheet D-1; E&S Note #9 states that sedimentation barrier to be installed as shown on plans. None is shown. This note also refers to individual lots, please clarify. Note 6 in the Engineering notes is unclear.
- Sheet D-2; show type of riprap required at each outlet. Also, each outlet shall be set on a gravel base with filter fabric below.
- Sheet D-5; E&S Control Notes state in Note 2 that slopes shall be restricted to 3:1. The plans show slopes which are approaching 1:1.
- Sheet D-5; clarify Engineering Notes 1, 2, 3 and 5. Note 1, "Existing Site Plan Layout is Not Part of This Certification" and Note 2, "Property Layout, Utility Locations by others and are not a part of this design and certification." Which part of these plans are being certified to?