

FILED IN EAST LYME  
Jan 26, 2004 AT 3:00 PM

L. A. Blais  
EAST LYME TOWN CLERK

EAST LYME ZONING COMMISSION  
PUBLIC HEARING I  
Thursday, JANUARY 22nd, 2004  
MINUTES

The East Lyme Zoning Commission held the Theodore Harris application Public Hearing to amend/modify Section 12 of the Zoning Regulations on January 22, 2004 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, Ed Gada, Secretary,  
Pamela Brynes, Rosanna Carabelas, Shawn McLaughlin,  
Norman Peck,

**ALSO PRESENT:** William Mulholland, Zoning Official  
Rose Ann Hardy, Ex-Officio, Board of Selectmen  
Attorney Theodore Harris, Applicant  
William Dwyer, Alternate  
Al Littlefield, Alternate  
Marc Salerno, Alternate

**ABSENT:** No one

**PANEL:** Mark Nickerson, Chairman, Ed Gada, Secretary,  
Pamela Brynes, Rosanna Carabelas, Shawn McLaughlin,  
Norman Peck

**Pledge of Allegiance**

The Pledge was observed.

**Public Hearing I**

**1. Application of Theodore A. Harris to amend/modify Section 12 of the Zoning Regulations to allow recreational/residential projects on large tracts of land.**

Mr. Mulholland recommended that they continue this public hearing once Attorney Harris makes his presentation so that the Commission has the opportunity to digest the information. Also, they would normally read correspondence into the record at this point however, as this will be continued, he would like to read it into the record at the next meeting when he has all of it.

Mr. Nickerson asked Attorney Harris if this was agreeable to him.

Attorney Harris, place of business 351 Main Street, Niantic said that he was comfortable with that. He said that this application was a more refined proposal for an open space/residential community under a condominium form of ownership containing single family and/or duplex (two attached homes) units and allowing for a blend of amenities. He noted that in his previous proposal that there was concern with the term multi-family. He said that Page 17 of the Plan of Conservation & Development addresses multi-family housing and density. What they are proposing is far less dense in development than what is allowed in the Plan of Conservation & Development. He then passed out the most up to date copy of his proposal and a copy of the current Section 12 of the Zoning Regulations (SU Special Use Districts). (Both Attached at end of Minutes).

He said that he would go over the highlights of his proposal. This proposal would allow a potential landowner to tailor the community to the land and also have a mix of uses somewhat like a small community within a community – not unlike the many beach communities that have existed for many years and still exist in East Lyme today. This community would be under a common interest ownership like a condominium and the roads would be private, as would the trash pick-up so this would not place an additional burden on the Town. He noted that there are many controls placed upon this type of development as they would be subject to the

standards in Section 25.5 – such as – a traffic study, complete plans, road design standards and architectural regulations. He said that he would provide a picture of modern duplex style homes at the next meeting, as they are not what many people may be thinking they are. They are two attached homes. No apartments would be allowed. This type of development would not be allowed on anything less than 200 acres and 40% of that would be open space (80 acres). As it would be hard to think that this acreage would be available in anything other than an RU-40 or RU-80 zone, that would dictate the underlying zone and the density of development.

The genesis of the proposal is the public health code that states that if you exceed 5,000 gallons of sewage (approximately 32 bedrooms) then you have to go to the DEP for approval. This larger acreage would allow for smaller development areas to be built to remain within the 5,000-gallon limit.

Mr. Nickerson asked if this was something that the DEP and Health Department allow them to do. Attorney Harris said yes, they allow you to spread the development out over the area that you have. This also allows the project to be built in phases which is sometimes more desirable.

He continued that not less than 60% of the residential units would be age restricted (at least one person - 55 years or older) and said that he would come back with other suggestions on how to do this as he sensed that the Commission was looking for some other ideas. The development would have enough egress for regular traffic and emergency vehicles. Lastly, this type of development could not be built within the Coastal Zone.

Attorney Harris summed up that this type of development would significantly reduce the unit density and would be a benefit to the community. It allows for more flexibility of design without abusing the density. Also, there is not a great deal of property that would apply to this type of development, as there are not many 200-acre parcels. The size allows for a more unified development rather than a hodge-podge and the buffer and setback requirements make it such that they would not infringe on any neighbors.

Mr. Peck asked what the density calculation was based upon.

Attorney Harris replied the overall parcel acreage.

Mr. Mulholland asked if he was saying that they have 200 acres and if they take out the roads, wetlands, steep slopes and open space that the density would remain the same even with parts of the property non-buildable. Attorney Harris said that it is the same as a cluster subdivision that requires 30% open space only this requires at least 40% open space centered around the amenities.

Mr. Mulholland suggested that they think of if the 40% comes off the top or if they want it to be contiguous or not contiguous open space.

Attorney Harris said that they have to have 40% open space and probably more if they develop it in parcels.

Mr. Nickerson asked if the 40% open space was based on the calculation of the 200 acres and not just 120 acres.

Attorney Harris said that 15% is about what you would lose for roads. This is the same as the regular subdivision regulations but this cuts down on the impervious surfaces and allows for larger open space areas.

Mr. Mulholland said that if they maxed out the housing at 200 units that with the 60% age restricted that they would have approximately 120 units of senior housing. He added that he would like the road widths listed here so that they could see them.

Attorney Harris said that they are the same as the requirement for the SU-E and that he tried not to change things if they work such as they do with the SU-E regulations. He said that he would pick up the road widths from there and incorporate them here.

Mr. Nickerson asked if a Town Official signs off on the access/egress roads and if that would be the same for this type of development.

Mr. Mulholland said yes, the Fire Marshall would look at this as certain thresholds kick in under certain conditions and all of this would be subject to extensive and intensive staff reviews.

Attorney Harris concurred and added that it is required that various staff levels review this.

Ms. Carabelas asked if sidewalks were considered.

Mr. Mulholland said that they are considered.

Attorney Harris said that they specifically did not put them in, as they do not have one through-traffic area and the roads within the community could be walked on. They are trying to limit the paved areas. He cited as an example Pondcliff Condominiums where they have 96 units and 100 acres of land. The 96 units are built on 20

acres and there is 80 acres of open space. Other than the sidewalks to the individual units, they do not have sidewalks along the streets there.

Ms. Carabelas said that those were all age-restricted and that what he is proposing could have children.

Attorney Harris said that Pondcliff is not age-restricted and that they do have families and children there.

Mr. Mulholland suggested that they might want to have some sidewalks as they would have families with children and they would not want them playing in the roads.

Attorney Harris said that he would think about this and come back with something in terms of a provision or option to the Commission as there may be alternatives there.

Mr. Mulholland acknowledged that a lot of people do prefer the country roads and no sidewalks so it is quite a subjective decision.

Ms. Brynes said that they had talked about commercial activity such as a golf course, clubhouse, restaurant or sports center that would bring traffic from the outside – this would suggest a different traffic flow and not just something that would involve the people who reside there. She questioned the country road set up for this type of traffic generation.

Attorney Harris said that the Commission could dictate the road widths and acknowledged that there is wisdom in doing wider roads where necessary to accommodate the amenities.

Mr. Mulholland said that in item I. That is says that 'Such recreational activities may include...' – he suggested that the may is changed to shall.

Attorney Harris said that he had no problem with that and would address it.

Mr. Mulholland recommended that the Commission members read this over carefully and write down any questions that they might have for their next meeting. This would give them the time to refer to the other sections and digest this information.

Mr. Nickerson asked if there is a way that this could be spun to have just hiking trails and homes.

Mr. Mulholland said that this is taken care of with the may being changed to shall. He also reminded the Commission that they are talking about 200 acres here, which is a very large tract of land.

Mr. Peck said that it is sometimes very hard to visualize something so large and asked if a schematic could be done for the next meeting, perhaps the golf course plan built out.

Mr. Mulholland said that they do not have anything in the office as large and that it would be extremely difficult to just draw something up as he is asking for a full plan in two weeks.

Attorney Harris said that he could bring conceptualls for examples of community design in this size as they have some in their office.

Mr. Nickerson called for anyone from the public who wished to speak in favor of this application –

Hearing no one – He called for anyone who wished to speak against this application –

Hearing no one – He called for anyone who wished to speak in general about this application –

Bob Gadbois, 358 Boston Post Road, East Lyme said that he is not in favor or against this application. He said that Attorney Harris said that this type of development would place no burden on the Town in terms of road plowing and maintenance and trash removal. He asked what about the police, fire and schools that would be used and that burden. He suggested that even with the taxes that they would pay and the business aspect that it might not offset the burden to the Town.

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

Mr. Nickerson adjourned this Public Hearing at 8:17 PM and continued it to February 5, 2004 at 7:30 PM.

Respectfully submitted,

Karen Zmitruk,  
Recording Secretary

BM suggested  
this be changed  
to "shall"

**PROPOSED ADDITION TO SECTION 12 OF THE ZONING REGULATIONS**

\* definition section ↓

I. Add new Section 1.43a: Open Space/Residential Community. A community developed under a condominium form of ownership which shall contain single family and/or duplex units centered around large areas of Open Space devoted to passive and/or active recreational activities. Such recreational activities may included picnic areas, swimming pools, golf courses, equestrian facilities, hiking trails, tennis courts, and other similar activities whether or not operated as a business for profit, together with such ancillary activities reasonable and appropriate to such recreational uses, such as restaurants, club houses, locker rooms and other similar ancillary activities.

Allows for  
blend  
of  
activities

Attached  
homes  
not  
as  
might  
be possible

II. Add new Section 12.1.4 as follows, and renumber existing Section 12.1.4 to 12.1.5

required - . condo docs

Open Space/Recreation Residential Community, subject to the standards in Section 25.5 . controls

III. Section 25.5 Add new Section 25.5 as follows:

special permit

all required  
Traffic study  
Plans etc.  
rd. Design Standards  
architectural reqs.

Open Space/Recreational Communities (SU)

controls:

1. All such facilities shall be located on a parcel or parcels of land totaling not less than two hundred (200) acres. designed for large tracts of land

2. Not less than forty (40) percent of the overall area thereof, shall be devoted to such open space/recreational uses. not less than 80 acres open space per 200 acres

3. Single family and/or duplex residential units, only, shall be allowed under a common interest form of ownership. no apts.

4. Density: The average number of dwelling units per acre within the SU Zone shall not exceed that which would be allowable based upon the minimum lot size of the underlying zone. limited to 1 or 2 units/acre depending upon zone R40 R20

5. Grouping: The shortest distance between any two structures shall be not less than the height of the taller structure, with a minimum of 24 feet. Courts shall be completely open on one side. Maximum heights of any building in the development shall be two stories, but such height shall not in any event exceed 30 feet. The Commission may waive the separation requirement if design of the proposed development is benefitted by closer spacing.

identical to other SU uses - in regulations

6. Buffer area: There shall be provided a landscaped side or rear yard buffer area of at least 100 feet in width adjacent to each property line of the parcel to be developed. All buffer areas shall be planted or preserved in a natural state in a mixture of evergreen and deciduous trees and shrubs and shall be maintained in proper order so as to protect adjacent properties and present a reasonably opaque, natural barrier to a height of ten feet. If, in the opinion of the Zoning Commission, the individual topographical and natural qualities of the site should suggest that this buffer region is not appropriate, the Commission reserves the right to alter the buffer requirements by vote of three-fourths of all the members of the Commission. This buffer may not be increased to more than double

nor decreased to less than half of the requirements herein.

7. Contiguous Parcels: The Commission may allow such community to be composed of individual parcels totaling not less than 200 acres developed, designed and built under a common plan, provided that all such parcels shall be contiguous and subject to rules and regulations common to all parcels. The Commission may reduce the frontage requirements of each individual parcel to not less than fifty (50) feet, provided that the combined frontage of all such parcels shall not be less than five hundred (500) feet. In addition, the Commission may waive the buffer and set back requirements as contained in Section 12 and Section 24, with respect to the boundaries between such contiguous parcels.

*Genesis of This is really the public health code  
> 5000 gals. on lot → DEP*

8. Use Restrictions: Not less than sixty (60) percent of the residential units (each portion of a duplex being a residential unit) shall be occupied by senior citizens, age fifty-five (55) or older as follows:

*currently used in the E Zone*

*will suggest other ways to do this*

- a. At least one person who is at least fifty-five (55) years of age or older.
- b. Occupant pursuant to (a) who survives; and
- c. Occupant pursuant to (a) above who is co-occupant has ended into a long term continuing care facility.
- d. In (b) and (c) above remaining occupants remarries or co-habitates must meet all occupant requirements.
- e. For the purpose of such calculation, age restricted units contained on the same parcel as part of an SUE Zone shall be included.

9. Access Streets and Sidewalks: The placement, size, arrangement and use of access routes to public or private streets shall be adequate to serve residents and provide no hindrance to the safety of existing or proposed streets. Pedestrian walkways with all weather surfacing may be required where the density of population makes such advisable for convenience and safety. Where it is anticipated that children will be waiting for a school bus in or near a public highway, sufficient area shall be reserved and/or shelter provided. In developments in excess of fifty (50) units, at least two points of access shall be provided to a public highway, provided however that in the event the topography or location of frontage of the property makes such impracticable or impossible, the Commission may waive the requirement of two entrances upon the showing that one entrance is sufficient to maintain the public health and safety of the residents, including consideration of emergency access.

*facilitate traffic flow*

10. Utilities: No such development shall be approved unless the Commission is given clear satisfactory evidence of the means of providing water supply, has public sewer, or is suitable for approval by the Department of Health and/or Department of Environmental Protection for on-site septic systems. This provision shall not require a permit from such agencies prior to such approval; but only sufficient evidence that the site is capable of supporting such approval.

SECTION 12  
SU SPECIAL USE DISTRICTS

General Description and Purpose - A district designed to accommodate highly specialized uses on large tracts of land in appropriate locations to be determined by the Commission.

12.1 SPECIAL PERMIT USES - Any one of the following uses of buildings and/or land may be permitted when approved for a Special Permit by the Zoning Commission subject to the Special Permit requirements of Section 25. Any change from one use to another shall require a separate application for Special Permit.

12.1.1 Any scientific, research or testing laboratory which is not dangerous by reason of fire or explosion nor injurious or detrimental to the neighborhood by reason of dust, odor, fumes, wastes, smoke, glare, noise, vibration or other noxious or objectionable feature as measured at the nearest property line.

12.1.1A Commercial recreation complex, or resort area, including restaurants, dance halls, bowling alleys, theatres, billiard and pool parlors, picnic area, swimming pools, motels, hotels, tourist cabin establishments, and similar places of public recreation and accommodation operated as a business.

12.1.2 Executive or administrative office buildings.

12.1.3 Multi-family dwellings, including:

- Individual dwelling units under a single common land ownership.
- Apartments with dwelling units combined in a single structure or structures under single common ownership.
- Condominiums consisting of apartments with dwelling units combined in a single structure or structures.
- Parking, recreation and accessory structures limited to the use of the residents of the units permitted above.

12.1.4 Any accessory use customarily incidental to the above permitted uses.

12.2 DIMENSIONAL REQUIREMENTS

12.2.1 LOT SIZE - Within the SU Special Use District no lot shall be less than 20 acres in area, except that a lot used for non-profit elderly housing may be less than 20 acres but not less than 10 acres in area.

12.2.2 FRONTAGE - Each lot and/or land area shall have not less than 500 feet frontage.

12.2.3 SETBACKS - No new building or structure shall be placed less than 150 feet from the street line or 100 feet from any other property line.

12.2.4 COVERAGE - The total area of all buildings and structures on a lot shall not exceed ten percent of the lot area.

12.2.5 HEIGHT - No building or structure shall exceed 30 feet in height.

12.2.6 OFF-STREET PARKING AND LOADING SPACE - Off-street parking and loading space shall be provided in accordance with the provisions of Section 22 of these regulations.

12.2.7 BUFFER STRIP - A suitably landscaped buffer strip not less than 50 feet wide, shall be provided along the property line where any SU Special Use District abuts any Rural or Residence District within the Town or any adjoining town.

12.3 GENERAL PROVISIONS

12.3.1 The Zoning Commission shall consider for designation as a Special Use District, only parcels of 20 acres or larger, except that when an application for designation of a parcel as SU is accompanied by an application for a Special Permit to construct non-profit elderly housing, the Commission may consider parcels consisting of less than 20 acres but not less than 10 acres.

12.3.2 An application for rezoning shall be accompanied by an application for a Special Permit in accordance with the requirements of Section 25. These shall be referred to the Planning

Attachment Zoning Commission QHI, 1/27/04 2-pg.

Commission for consistency with the Town Plan of Development. The Planning Commission shall have 35 days to report its recommendations to the Zoning Commission.

For Multi-family development, the following plans and information shall be included in addition to the information required to be submitted under Section 25:

- (a) All principal structures and streets within 50 feet of the boundaries of the proposed development;
- (b) Rendering to show the appearance of representative structures within the development, the number and size of units and the number and size of rooms per unit, and the specific exterior materials to be used.
- (c) Copies of covenants and restrictions to be recorded in the land records of the Town before the Certificate of Occupancy is issued to assure the development and maintenance of the property in accordance with the complete development plan.
- (d) Such other information as the Commission may reasonably request to carry out the high standards of development contemplated by this section.

12.3.3 All applications for development in the Special Use District shall include a traffic study which provides:

- (a) A description of the traffic circulation network within one mile of the site; existing and proposed intersections; proposed site access; roadway widths and rights-of-way; traffic signals and other control devices; existing and proposed public transportation services and facilities.
- (b) A description of existing traffic conditions based on three twenty-four hour weekday counts taken during the period from July 1 to September 1 on all roadways providing access to the site. Average daily traffic and average peak hour volumes shall be based on these counts.
- (c) Traffic projections for the proposed development prepared according to the data and procedures contained in the Institute of Traffic Engineers "Trip Generation Manual", indicating total average weekday and peak hour trips allocated to proposed phases and uses.
- (d) Analysis of projected traffic impacts from the development together with projected impacts of other developments approved for construction and utilizing the same elements of the traffic circulation network.
- (e) Recommended traffic circulation network improvements and traffic control devices required to maintain traffic operation at the level of service existing prior to the development.

12.3.4 Any separate lot, hereinafter created from any part of a Special Use District, shall conform in all aspects to requirements of this section.

12.3.5 If, in an area rezoned to the SU District, work does not commence and is not diligently prosecuted within twelve months of the date of approval of a Special Permit, said Special Permit shall expire. The Zoning Commission may grant an extension of time in which to commence work. As used in this subparagraph, the term "Work" shall be construed to mean at a minimum the substantial moving of earth or the construction or partial construction of permanent buildings or permanent structures.

12.3.6 The Commission may approve a development plan to be completed in stages. The minimum amount of land to be included within any single stage of development shall be five acres. The Commission may grant a Special Permit limited to each such stage of development. Each stage shall be capable of independent existence without the completion of succeeding stages. Buffer requirements shall not apply to the common line between stages of development.

12.3.7 The Commission shall hold a Public Hearing on an application for a rezoning as a Special Use District and Special Permit Approval.

*Restricts This dev. from Coastal Zone*

11. No such development may be constructed on a parcel if any portion of it lies within the coastal boundary as defined by Section 22a-94 of the Connecticut General Statutes and as delineated in the coastal boundary map for the Town of East Lyme.

IV. Modify Section 12.3.2 as follows: (Add bold face item)

“For multifamily and **open space/recreation community** development, the following plans and information shall be included in addition to the information required to be submitted under Section 25...”

*RU 40 zone  
L 200 acres - 200 units  
if SUE } 200 acres - 300 units  
w/in RU 40 zone  
1/10,000 sf or 4/acre  
current SUE*