

FILED IN EAST LYME ^p
Mar 9, 2004 AT 1:00 M

**EAST LYME ZONING COMMISSION
PUBLIC HEARING I
Thursday, MARCH 4th, 2004
MINUTES**

J. A. Blair, etc.
EAST LYME TOWN CLERK

The East Lyme Zoning Commission held the Theodore Harris Application Public Hearing to amend/modify Section 12 of the Zoning Regulations on March 4, 2004 at Town Hall, 108 Pennsylvania Avenue, Niantic, CT. Chairman Nickerson opened the continued Public Hearing and called it to order at 7:33 PM.

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

ALSO PRESENT: William Mulholland, Zoning Official
Attorney Theodore Harris, Applicant
Robert Pfanner, PE, LS
Marc Salerno, Alternate
Rose Ann Hardy, Ex-Officio, Board of Selectmen

ABSENT: Shawn McLaughlin

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

Pledge of Allegiance

The Pledge was observed.

Public Hearing I

1. Continuation of the Public Hearing on the 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. Nickerson asked Alternate member William Dwyer if he was up to date with this hearing record.

Mr. Dwyer replied that he was and that he has attended all of the hearings.

Mr. Nickerson seated Mr. Dwyer at the table.

Mr. Nickerson noted that this is the third night of this public hearing and asked Mr. Gada, Secretary to read the Zoning Officials' memo into the record.

Mr. Gada, Secretary read the following correspondence into the record:

- ◆ Letter dated 3/4/04 to EL Zoning Commission from Wm. Mulholland ZO – Re: Harris Amendment Recreational/residential Communities – suggesting that the Coastal Zone requirement of 1000 feet be increased to 3000 feet in Item 12 and that the word "grade" be added after the word lighting and drainage in Item 10.

Mr. Peck asked if the Coastal Area Management Zone limits building to 1000 feet from coastal water.

Mr. Mulholland said yes, however he is asking for another 2000 feet for a total of 3000 feet from coastal water and he has asked the applicant to address that this evening.

Mr. Peck commented for the record that he was absent for the 2/5/04 meeting however he did familiarize himself with the record and does not feel that he has a problem sitting this evening.

Mr. Nickerson echoed the same for the record as did Mr. Gada and Ms. Byrnes.

Mr. Dwyer asked Mr. Mulholland if adding the 2000 feet would be a discriminatory requirement.

Mr. Mulholland said that he did not think so as the 1000 feet already discriminates.

Mr. Dwyer said that CAM specifically requires the 1000 feet.

Mr. Mulholland said that they would be adding to it however he would ask the Town Attorney's opinion on it.

Mr. Nickerson said that they received another referral letter from Planning and asked Mr. Gada to read the new Planning referral letter into the record.

Mr. Gada, Secretary read:

- ◆ Letter dated 3/4/04 to Mr. Mark Nickerson, Chairman Zoning Commission from Francine Schwartz, Chairman Planning Commission – Re: 8-3a Referral – Application of Atty. Theodore Harris for a Proposed Amendment to Section 12 and Section 25.5 of the Zoning Regulations concerning Open Space/Recreation Residential Community in Special Use (SU) District – finding it Inconsistent with Section 3 in the Plan of Development – 'Densities currently allowed for cluster housing development without water and sewer should not increase with the availability of water and sewer.' A Fiscal Analysis of a Standard Subdivision vs. the Open Space/Recreational Community was attached.

Mr. Nickerson asked Mr. Gada to read again into the record the letter from the DEP.

Mr. Gada read:

- ◆ Letter dated 2/2/04 to EL Zoning Commission c/o Wm. Mulholland ZEO from Marcy L. Balint, Sr. Coastal Planner State of CT DEP – Re: Proposed Zoning Regulation to add a new Section Open Space/Residential Community to Section 12 of the Zoning Regulations – finding the proposed amendment generally consistent with the policies and standards of the CCM Act.

Mr. Nickerson read:

- ◆ Letter dated 2/12/04 to Mark Nickerson, Chairman Zoning Commission from Gene Lohrs, Chairman SECCOG Reference Committee – Re: Section 8-3b – finding the amendment confusing and they could not evaluate it for an inter-municipal impact.

Mr. Gada read:

- ◆ Letter received 3/4/04 to Town of East Lyme Zoning Commission from Patricia & Robert Katz – Re: Public Hearing on changes to the Zoning Regulations to be held on 3/4/04 – noting that they are vehemently opposed to any and all changes in the Zoning Regulations that may lead to large scale, high density residential or commercial development in our town.

Mr. Nickerson called for Attorney Harris to present his application.

Attorney Theodore Harris, 351 Main Street, Niantic said that this was his third night before them and that this was to allow by Special Permit a recreational community to be built on a large tract of land. He noted that he suspected that the Regional Planning Commission did not have the Zoning Regulations in front of them at the time to see how it all fit in. He again passed out a copy of the revised proposal reflecting areas that the Commission had requested be changed from their first public hearing. He briefly explained these changes noting that the may had been changed to shall in Section I. as requested. He said that he spoke with Mr. Pfanner on density and the rule of thumb is that the 15% reduction is typically what they see, so the density calculation would now be based on eighty-five percent (85%) of the gross land area of the community. They think that this is a much better way of providing a realistic calculation of what alternative development might yield versus the traditional subdivision. Also, they had expressed an interest in seeing some other Use Restrictions so he has attached an Alternative #8 that was culled from various other SU-E condo documents. He noted that it allows for no more than three full-time occupants in any one unit and has provisions for visitations by college age young adults 21 and over and provisions for grandchildren who come to visit. There is also a provision for a caregiver for someone who has medical or health needs.

Mr. Nickerson asked, to be clear that a 55-60 year old who remarries and has a child would not qualify as age restricted.

Attorney Harris said correct however, this would provide for a college kid. He continued that under #9 that he had added that the Commission may require sidewalks and/or walking trails in portions of the community where deemed appropriate. He also said that #10 was a new section on Internal Roadways that comes from the standard Special Use regulations. In Item #12 they added 2000 feet to the Coastal boundary for a total of 3000 feet although he does not think that there are any parcels in that range either.

Mr. Dwyer said that he is not sure that is a legal thing to do.

Attorney Harris said that they could not go less than the 1000 feet but felt that they could mandate in excess of it if they found it appropriate to do so.

Attorney Harris then said that they had initially discussed the Plan of Development and the consistency of this proposal with it. The Plan of Development clearly indicates that this can be delineated through the

Special Use Permit Process. This Commission adopted the elderly housing regulation concept and the density for SU-E is four times what is being proposed here tonight.

He said that he has read some articles and letters to the editor recently that he needs to respond to as they appear to be calculated towards creating havoc in Town. The unusual nature of this proposal is first, very similar to what we have now with the SU-E. Next, he passed out the Town of Marlborough Regulations to the Commission members showing that they do have a Special Permit floating zone for an open space community approach very similar to what he is presenting here. He noted that he had opened it to the area that speaks about the recreation and commercial components. Where impact is concerned, this approach has far less impact on Town services, as the roads are private and maintained by the homeowners. This proposal tends to reduce the fiscal impact on the Town and the letter from the Planning Commission showed this also. Yes, general Town services would be provided however they are not used on a one on one basis. Growth will be a factor in this Town and this tries to funnel it in the best and most positive way for the Town.

He then gave specific examples – One of a 500-acre parcel developed with large open space areas that can be used by the people. The proposal represents approximately a 10-year build out and has 65% of the land area as open space. It would have 376 age-restricted units and 62 undesignated units with 329 acres of open space.

Mr. Mulholland asked if this was designed to his proposed standards.

Attorney Harris replied yes.

Mr. Peck asked if the 65% open space was here.

Attorney Harris said yes, for this proposal. The minimum is 40% but they were able to provide 65% with this prototype. He then showed another prototype of the same area designed under the standard subdivision regulations, which depicted all roadways within the subdivision in order to adhere to the required lot dimensions.

He also presented the Walnut Hill Country Club design where there is 85% open space. This is geared towards the more active community with a golf course and some age restricted units. He noted that they are not getting large amounts of units considering the land size involved. He also has no trouble with accepting the requirement that no more than 50% of the open space would be wetland area. He felt that the Planning Commission really did not find this inconsistent but rather were concerned with the density. And, there is a cleaner way to calculate density that does take into consideration that you are going to lose some land to the various factors. He lastly presented his economic analysis of the 500-acre prototype suggesting that this could bring in some \$3M in tax dollars to this Town.

Mr. Nickerson listed the following Exhibits for the record:

Exhibit 1 – Town of Marlborough Regulations as presented

Exhibit 2 – Economic Analysis based on the 500-acre prototype shown

Exhibit 3 – Three sheets of Plans shown – Subdivision Plan, Property Regs. and Analysis, Current Zone

Mr. Mulholland asked Attorney Harris to go over the subdivision density on the 500-acres versus his density proposal.

Attorney Harris said that if it is a RU-40 zone, there is one unit per 40,000 sq. ft. With his proposal they reduce the overall density by 15% and start at the 85%.

Mr. Gada asked if the open space calculation for the 500 acres includes or excludes the water shown there.

Attorney Harris said that it includes it here on the prototype. He ran another set of numbers for this 500-acre property based on the existing density calculation of the SU-E zone, which would allow for 871 units plus an additional 211 residential units based on the RU-40. The current regulations would allow someone to try to design this property to that standard of over 1000 units. Under their proposal there would be 376 plus 62.

Mr. Nickerson explained to the public, how the public hearing process works. As Attorney Harris had finished his presentation, the Commission members would ask questions of the applicant and then the public would be invited to speak. He asked the Commission members if they had any questions of the applicant.

Ms. Carabelas asked Mr. Mulholland what, with the way that this is written, prevents them from building more houses on it than what is presented.

Attorney Harris replied, this Commission – in order to do that, we would have to come back to this Commission for approval and be granted it.

Mr. Mulholland stated that should this Commission adopt this proposal, next there is a two step process. They would ask for a zone change and a special permit and the Commission would have to decide on these two items. There is a whole process that would follow.

Ms. Carabelas asked about the impact on the Town of East Lyme as she did not hear how water and sewer would be provided.

Mr. Mulholland directed her to the Utilities in Item #11 of the proposal that states that this evidence has to be given before anything else is done.

Attorney Harris said that if this was in the sewer shed area that they would not be here before them as it would be allowable under the SU regulations. The septic systems would be on-site and would be approved by the DOH or the DEP. They would be known as a community septic system. They can drill wells on site.

Mr. Mulholland asked who would own, operate and maintain the septic system.

Attorney Harris replied that it depends on the size of the system. The Association maintains it as the owners pay fees. With the DEP system there is a back up required which is the Town of East Lyme – however that Town liability has to be bonded as part of the permitting requirement.

Mr. Mulholland asked if there is a threshold for the DOH.

Attorney Harris said that 5000 gallons is the threshold. If they can stay below the 5000 gallons then the DOH can approve it. If it goes over the 5000 gallons then it goes to the DEP.

Mr. Peck noted that the current zoning regs. 23.5 say that in a RU-40 with individual septic that 30% open space is required while with community sewer 55% is required. In a RU-80 zone with individual septic 50% open space is required while with community sewer, 75% is required. In his prototypes he gave examples of 65% and 85% open space – would he have any objections to increasing the open space requirement from 40%?

Attorney Harris said that he has no problem with the 55% as he thinks that typically you are going to see that anyway.

Mr. Peck said that he gave an example that no more than 50% of the open space could be wetlands – would he up that figure also?

Attorney Harris said that he would defer to Mr. Pfanner, Engineer to explain and present that aspect.

Bob Pfanner, Professional Engineer and Licensed Land Surveyor said that he has lived here for 60 years and has designed a considerable amount of units in this Town. From all of this, he said that he knows that when you start putting these restrictions on that you inhibit his ability to do his job and to make it a better project. You get the open space because of the steep slopes and the wetlands and you do not have to legislate to get it. When you legislate, you prohibit us from getting better designs. Further, he said that he has trouble with the formula that the Planning Commission gave because it does not leave any room to operate and if you restrict then you cannot bring a good plan to the table for the Town or the client. As the Zoning Commission, you people have the authority to ask me to explain what I am doing on a plan that I present to you. Also, I am the Chairman of the Parks & Recreation Commission and I like nice recreation areas and I ask you how many subdivisions have we had over the past 20 years that give you nice recreational space and the answer is zero.

Attorney Harris summed that they would get the additional percentages anyway but also get a much better product design.

Mr. Peck asked if there was the possibility of 50% active recreational space.

Attorney Harris said that was part of the Marlborough specs while the Walnut Hill project is over 50% active recreation so he would not want to limit the creativity of the type of development.

Mr. Peck said that assuming that these open space regulations in our Zoning Regulations are consistent with Planning -

Mr. Mulholland stated that the State Regulations require that, at a minimum, Planning follow the Zoning Regulations.

Mr. Nickerson commented that if this floating zone ends up in RU-80, the property ends up with 40% open space and the cluster subdivision states 75% open space –

Mr. Mulholland interjected that he is not falling under the cluster subdivision regulations so his 40% is applicable and he is proposing going to 55%.

Mr. Nickerson said that the Marlborough regulations were more specific concerning allowable recreation. In the Walnut Hill plan one can see a recreation center however, he can picture picnic tables in a large open space area and he does not see this as appropriate.

Attorney Harris said that the other plan was not that far along in design however, any plan coming before this Commission would have to show the specifics.

Ms. Byrnes said that she was getting confused as at the first public hearing it was discussed that these recreational areas might be a golf course with facilities where other people from outside might come to use the facilities. Yet, she does not see this as a general public use event as it is a private condo association and private property and it is confusing.

Attorney Harris said that there are a whole host of issues here where Zoning through the Special Permit process can exact conditions as this is presented to them. The condo form of ownership does not say subject to the condo review.

Mr. Nickerson said that it is private land and will continue to be private land.

Attorney Harris said that in order to have a large scale recreational facility such as a golf course that the homeowners are not going to want to pay to operate it as a private club, therefore it would have to be open to use by the public.

Mr. Nickerson asked Mr. Mulholland if Planning could put together this type of development.

Mr. Mulholland replied no, this applies to the Zoning regulations and Planning would have to do this under the subdivision regulations. This is much more creative in the design as opposed to the Planning subdivision with the cookie cutter lots.

Mr. Nickerson commented that if it could not be done under Planning then there is something wrong with the Planning regulations.

Mr. Mulholland cited Item I. and said that a restaurant is not ancillary to a picnic area, swimming pool or hiking trails but is to a golf course. He would like this to be changed to read and apply properly.

Attorney Harris agreed that they could limit the restaurant to golf courses.

Mr. Nickerson asked if there were any other questions of the Commission, hearing none - he informed the public of the rules of the public hearing pertaining to their speaking. He asked that they not repeat what someone else has said and said that he would call for those in favor of the application to speak first then those opposed to the application to speak. He called for those in favor of the application -

Eric Greenstein, Rose Lane, East Lyme said that he would break the ice. He was at the other meeting when Attorney Harris spoke. The heart of the matter that people are misunderstanding is that this does not increase housing. We're talking about private property that people have a right to develop and this sets up a better way to develop that property. With a proposal like this, you have to open your mind to the fact that you can do things better in this Town. This proposal takes our cookie cutter colonials with three kids and stops this and makes private roads that the Town does not have to take care of. This creates the recreational areas that we don't see in the subdivisions in Town. Also, there are not a lot of places to do this, as there are not many 200-acre parcels in Town. And, if you understand septic systems, this community septic system works better as you do not have to dedicate a great portion of each lot for a septic system. This allows for flexibility in the layout of the homes and recreation areas. He questions why anyone would want to do this when they could do a standard subdivision with more homes and obviously a higher return. The 500-acre parcel under a standard subdivision would allow for 800+ homes rather than less than 500 homes. He does not see this proposal as a big negative. While it needs some tweaking, (to the Commission) that is your job. It is easy to turn things down so you will not be criticized, but you have the opportunity here to do something different and something nice for the future of this Town.

Mr. Nickerson called for those wishing to speak in opposition to this application -

Joe Mingo, 397 Boston Post Road, East Lyme said his first comment was filibuster (there's already 10 people who left the meeting) and let it go at that and his second comment was that the Town of Marlborough has no public sewers so for them, this might be okay. For history, he cited Old Lyme, Miami Beach, Soundview, Point O Woods, Black Point, Saunders Point (can't support septic systems) and Crescent Beach. These places all have cluster homes with a million acres of open space we call the ocean. To his knowledge in the State of CT (and, he could be wrong) there is only one community septic system that serves residential homes and it is in the Town of Chester and has four homes on it. If they could separate the wells, this might be able to be done. The Town of East Lyme is responsible for the community septic system if it breaks down. If he had it his way, there would be none built except by the Town. This whole thing is concocted to favor two individuals. What he doesn't understand is the Walnut Hill Country Club is putting in community septic on part of their property. He thinks the whole thing is smoke and mirrors and cited the JC Penney land on Chesterfield Road that was supposed to have a golf course and that was 15 years ago and there still is no golf course there. Katz also said there would be no homes until the golf course is done first - well I have a bridge to sell you and I don't think we will ever see a golf course built there.

Mark Butterfield, 6 Upper Walnut Hill Road, East Lyme said that he is a lifelong resident of this Town. He spoke on February 5th at great length and will summarize it for those who were not here. He owns a horse farm in that end of Town and is concerned as other properties like his would be able to be combined and potentially zoned SU and meet these requirements. He lives adjacent to the Walnut Hill Country Club. He is in favor of making it as difficult as possible to develop the north end of Town. His wife lived in Marlborough on a horse farm before moving here. He asked if the SU property currently in Town today does not allow residential development.

Mr. Mulholland said that was not necessarily true. At this point, it does allow multi-family with public sanitary sewers.

Mr. Butterfield said that the layout we saw is nice but does not go to the maximum use of the Mostow property that was shown here. Planning has presented an interesting formula. He would like to see them use it as it would provide for less dense development if done this way rather than George Calkins walking the property and designating where septic and homes can go as multi-family SU properties do not allow for residential development without a sewer system.

Thomas Moriarity, 24 Manwaring Road said that he thinks that proposals such as this and the magnitude this presents and the qualitative change in regulation should be at the will of the public or Counsel or our Planning Commission. He is as confused as the Chair here, as this seems to be the wrong venue to decide this magnitude or the enormity of it.

Joe Kwasniewski, 67 Walnut Hill Road, East Lyme said that this is a very confusing agenda on the continuation of the public hearing on the application of Theodore A. Harris. He said he is opposed to Mr. Harris speaking – for himself is okay but if he is speaking for someone else he should identify who they are. He asked what recreational means, is it a meeting place?

Mr. Nickerson said that Mr. Kwasniewski was reading from the agenda and not the public hearing minutes. Recreation would be defined within the regulation.

Mr. Kwasniewski said that he is against the one person, if it is a bunch of people that he is representing then he might have a different consideration. He said that he has lived here for 50 years and he likes East Lyme the way it is.

Christopher Barrett, 301 Old Black Point Road, Niantic said that the word recreation is ill defined in this proposal the way that he sees it. He is one of the owners of Lyme Shores and he questions why a condo association would bring in what he already has and pays taxes on in this Town. Some time ago, Mr. Shapiro said that we were in the catbird seat on development in this Town. You have a difficult decision to make, the quality of life has to be thought about and he hopes that they consider it. He said he had a conversation with Mr. Fraser about senior housing. He now qualifies for it and is at the leading edge of the baby boomers. He asked what happens in 50-60 years to these places when that elderly association no longer exists and the housing is low-income cookie-cutter housing. We are putting in too much of that type of housing and need more mixed-use housing. 50 years from now people will not like what has happened to this senior housing. There is too much in this Town now and they have to have diversified housing or they will end up like the perpetual care cemeteries that are not cared for at all.

Bill Henderson, 19 Stoneywood Drive, East Lyme said that he too is concerned about the quality of life and has been to very few meetings in this Town that have the turnout that this one has. He has seen neighbor Towns where controlled growth seems out of control. He was concerned about Mr. Mingos' comments regarding the community septic system and recalled horror stories of septic problems down the road. We have a limited amount of water and he questioned the use of wells. He thinks that 75% open space is realistic and that the regulations should be harder and tougher as people in this Town have impacts made on them all the time. He thinks the Board is elected by the people and has to listen to the people and he's glad people came out tonight to speak.

Isidore Schwartz, 107 Columbus Ave., Crescent Beach, Niantic said that his concern is water. No one has told him where the water is going to come from to take care of these homes. Wells? Public water system? This past summer we had a moratorium on water and we have problems with water now as the Town has hired a special 'whatever' to look into our water problems. Who's going to take care of these people when they can't turn their water on or flush their toilets. They'll be sitting in this room pointing a finger at you.

Mr. Nickerson said to Mr. Schwartz that he saw two prototype boards up here for the same tract of land. The land is going to be developed and it is just a matter of the style. They will have a water supply up there. He asked Mr. Schwartz if he saw a difference in the types of development layouts presented.

Mr. Schwartz asked if with a water problem didn't he think that there should be a moratorium on building until they resolve the water problem?

Mr. Nickerson said that does not come from this Commission, sir.

Mr. Schwartz asked whom does it come from.

Mr. Nickerson said Planning.

Mr. Schwartz said that he is the Chairman of the Board of Finance and he asked if they knew what the budget was going to be. Another thing, with the subdivisions now they can't use the new garbage trucks and it is costing us extra money to send a special truck down to pick up their trash. These extra costs, it's costing us more if not done correctly. If a developer wants to come in and do something he's creating public service. A good question was raised – who's that public area for? Why not build soccer fields for the Town? Why not give it to the Town and let us use the free land and we control it and not the developer or the people who live there? You have a tough decision. At the last election the people voted to slow down.

Dave Houseman, 162 Chesterfield Road, said that he has some concerns that were already addressed about the water and sewers. He asked about the hydrants and who was going to maintain the hydrants. He also asked if this is going to change all the regulations from here on in.

Mr. Nickerson said that if this is approved that it is a floating zone and that an applicant/landowner would still have to come in for approval.

Mr. Mulholland clarified that this is an amendment proposal to the regulations and that it does not approve any specific project. They have applications that come in all the time and this Commission is required by Statute to entertain them and to look at all aspects. There is a Water & Sewer Commission that reviews those aspects. Even if it is approved, it does not mean that anything gets built, as there is a whole other set of processes that one would still have to go through.

Mr. Houseman said that the layout that they presented is beautiful. His concern about the water, sewer and hydrants is because he is a fireman and it is natural to him.

Robert Cassidy, 480 Laurel Hill Drive, said to the Chairman and members of the Board that he would urge them not to amend the special use permit. He thinks that it has implications down the road as far as setbacks from recreational use and water included in recreational use goes. He is a recent transplant to East Lyme and thinks that this is opening the door to high impacts down the road.

Mr. Nickerson asked him where he came from.

Mr. Cassidy replied Stamford.

Skip Mailett, 8 Round Rock Road, Niantic said that they talked about coastal setbacks. If the coastal setback was changed from 1000 feet to 3000 feet and later deemed in violation - would the entire amendment be voided or just the 3000 feet.

Mr. Nickerson said that according to the interpretation of the Zoning Official, this is not a problem.

Mr. Mailett said that they also said that in a cluster development RU-80 that 75% open space had to be set aside -

Mr. Nickerson clarified that the 75% is if they had community sewers.

Mr. Mailett said that if it passed or was enacted that those properties would be higher density so he is not in favor of it for those two reasons.

James Elliott, 45 Heritage Road, East Lyme said that he does not see anything beautiful in this design. He likes the cookie cutter design and houses. He thinks that if you put people close together like rats in cages that they behave like rats in cages. He likes his own cage. When you move people closer together, it does not work. He lives on Pattagansett Lake and they are doing that there and he sees what happens when you do this and how differently the people act.

Cheryl Lozanov, 9 West Society Road, East Lyme said that this is the first night that she has been here listening but that she has read, heard and talked with other people about this. She wants to ask them if - had they not been approached by an individual to change this, would they change this and if so, how, to make it better for the residents of this Town? She does not think that the cluster subdivision development is really the best way to go or has been the best type of development. She also does not think that the prototypes show

everything that needs to be done to come before all of the Boards that it would have to. She wants them to think about the water and what they do. She said that she came to speak as a citizen.

Bob Gadbois, 358 Boston Post Road, East Lyme said that he spoke twice before and that his concern is that they will have to hire more public safety, police, ambulance and fire protection. Also because of the sewer problem they could contaminate the water. If this land could have been built on how many houses could have been built on one-acre lots? He doesn't think that many could as if so they would have been built a long time ago. Thank you.

Randy White, 41 West Main Street, Niantic said that he's seen the formulas glossed over. They have come in saying the formulas are too difficult and are asking for them to be simplified for a reason that should scare you as they are trying to do something. He thinks there is a reason as suddenly a lake is a recreational zone and part of the property was a recreational area. He thinks they need to know the reason why they are asking for a change.

Marvin Schutt, 29 Edgewood Road North, Niantic, East Lyme, CT said that he had one request. He would like them to not approve an amendment to the regulations that would be so general that they would find out about it at a later time that it's not the right thing to do. He suggested that they maybe consider it on a one-time basis and see how it works first.

Terry Casey, 55 Holmes Road, East Lyme said that he is not against development but he does have a problem with the presentation, as he does not feel that it was completely honest. In the two prototypes presented one is profitable for the developer and one isn't. The old saying that all the good lots have been developed is a good one. He thinks that it is just not economically feasible to develop the lots with the current regulations and they are here for the money involved.

Barbara Johnston, 35 Seacrest Ave., Niantic said she would try to hit on topics that were not covered already. She asked about the restaurants and how they would work with no sewers and if they would be open to the public. She suggested that someone could buy up 200 acres of land and knock all the houses down to get this. They knock houses down all the time in Black Point where she lives. They are like matchsticks. Since this zone can land anywhere, what is to stop them from doing this? The 1000 acres is under the coastal boundary of the CGS. If the 3000 acres wasn't approved or legal could they cut a piece of property off and make it buildable under this proposal before you? The visitors three-week stay – who is going to enforce this? Is the Zoning Official going to stand outside and check who comes and goes? It's ridiculous. She has this problem at Black Point where people stay for over a year with out of state license plates and nobody comes and enforces it. What is the rate of sewage usage and how is it calculated? Is it in an aquifer protection district? They used to call this a floating zone, she urged them to deny this and held up a copy of the Pandora's Box ad from the last election.

Mark Butterfield, 6 Upper Walnut Hill Road, East Lyme said that he would like to respond to Mr. Nickerson's comments about how they are going to develop the property anyway. They can't unless you approve it. The golf course is SU so you have the power to not allow it. Also you have heard from people here tonight who are from all over Town and they have said no.

Mr. Nickerson asked if there were any further comments – hearing none – he asked Attorney Harris if he would like to comment.

Attorney Harris said that they have heard over and over about water & sewer. The first protection is that the application requires approval first that the property can support water and septic. Pondcliff is on a community septic system. He lives at Pondcliff and the system would have to be bonded in the event problems occurred. These set the pattern for how the regulations go. The Planning formula for density is just a rule of thumb, as it is not found in the regulations. What they are presenting is also a rule of thumb. With the Walnut Hill site, they are drilling wells to supplement the Town system. Yes, the Town's water company can take it over but they can also have a private water company do the same. Their objective is that this allows for different types of designs and not large-scale development. The letter from Planning also said that they did not anticipate large-scale development from this. This is an attempt at better and not more.

Joe Mingo, 397 Boston Post Road, East Lyme said that he is a member of the Water & Sewer Commission. Attorney Harris said that Pondcliff is a community system. To his knowledge it is a community collection

system that drains into the Town system. They have no tanks in the ground. Chapman Woods, Spinnaker and Pondcliff are all the same, they all empty into the Town system.

Mr. Nickerson asked if Mr. Mingo hadn't said that there is only one community septic system in this State and now you're saying there is one in this Town?

Mr. Mingo said that he said that there is only one stand alone that has treatment and it is in Chester with four houses. The State of CT hasn't embraced the concept yet. The law says that any two housing units attached are a community system. He hopes the State approves it. On Chesterfield Road there are no public sewers so they would require treatment.

Attorney Harris said that Mr. Pfanner designed and was involved in building the Pondcliff 96-unit system. It is all on-site septic.

Mr. Peck said he would be interested in the history of the failure of septic systems.

Attorney Harris said that the system at Pondcliff has been in effect since 1985 without any problems. He added that the system has to be approved by the DOH or the DEP and follow those standards plus bonding is required.

Hearing no further questions or comments –

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

****MOTION (1)**

Mr. Gada moved that they close this public hearing.

Ms. Byrnes seconded the motion.

Mr. Mulholland suggested that they close and digest this information and ask for a consensus regarding deliberation this evening or not so that the public would know and not have to wait around for something that they might not get to.

Mr. Nickerson said that it was his call that they would not deliberate on this tonight as they have another public hearing to conduct and a regular meeting to get to. He called for a vote.

Vote: 6 – 0 – 0. Motion passed.

Mr. Nickerson closed this Public Hearing at 10:22 PM.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary

East Lyme Zoning Commission
Public Hearing March 4, 2004

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

Dear Commission Chairman & Members –

*Trying to
hit
what
wasnt
covered*

I have a number of questions and concerns that I would appreciate your taking into consideration before you make a decision on the above proposal as presented.

1. How do you request or pick – not less than two hundred acres? What if I had one hundred fifty? Would you approve smaller lot sizes? Since this limits the size but no “specific property”, could this qualify as spot zoning? I think a specific location should be determined not just the whole town before such a regulation is approved.
2. Restaurants! How do these work in this proposal with no sewers? How many restaurants? Would they be open to the public?? *don't have answers*
3. Please explain density. I believe the proposal calls for 85% of gross land area of the community. Please remember this proposal is “not site specific”! More consistent with topography!
4. If a 1000' buffer is under the coastal boundary of the Conn. General Statues, I think a piece could be easily cut off and the land area left could make this land build-able under this proposal.
5. Is there a maximum number units per acre? How many units can be built in the build-able area and how many parking places?
6. How do to propose to enforce a three week stay? Who comes to visit! Even a two week stay would be very tough to enforce. Get real! Who is going to enforce this? The Zoning Enforcement officer would have to visit every day and record who comes and goes. I know I have this problem in Black Point even when the visitors have out of state license plates! *Nobody comes to enforce*
7. Please explain or show just how the sanitary waste water would be discharged. If it was a central area how would the discharge limits be calculated? If these would be separate units per dwelling than you should know how many dwellings.
8. We have Aquifer Protection Districts in the town of East Lyme. I will name them for the record. RU 200 Greenway Conservation, The Easterly & Upper Pattagansett Secondary Aquifer, The Bride Brook Primary & Secondary Aquifer, The Four Mile River Primary and The Latimer Brook Primary. I hope I got them all. Would propose building a large development that might effect these aquifers?
9. Under private club, the street line is 100 ft for locating a building and 150 ft, of any other property line. Under SU-E the requirement is 20 ft street line and 12ft. of the property line for the location of building. I believe the separation lines should be increased under SU-E.

*Covering
whole
town
with
this
proposal*

*if and
they
can
stay
for
over
a
year*

*6 or 7 of them
is this in an
aquifer
area –*

*Zoning Commission
Submitted Public Hearing 1 3/4/04*

(2)

10. Safety requirements would be greatly increased for Police and Fire personnel and equipment. Who is going to pay for these? Surely not the developer who has taken his money and ran.

I believe this commission should deny this proposal for amending/or modifying these regulations. I think your commission should have, at the least, a specific location within the town not the whole town as a "floating zone" as we use to call it. It could settle any place! Remember the applicant has clearly stated "this is not site specific"!!!!!!!

Sincerely,

Barbara Johnston

Barbara Johnston
35 Seacrest Ave.
Niantic, CT 06357

*member of
Harbor Right
Commission*

ZONING IN EAST LYME HAS BECOME A NIGHTMARE!

PANDORA'S BOX

ZONING

Individuals can't get the help they need without a hassle from the town. Developers, on the other hand, can get a development up with all the extras in no time, no hassle. Anything they want, sewers or no sewers, or tap into the water supply. Every year East Lyme is on water restrictions. What are the Town's top priorities? The Town has looked into hooking up Point of Woods, Old Lyme, to our sewer lines; Pine Grove and other areas are still on septic tanks. Niantic River is being polluted because of lack of sewers. Your quality of life is being threatened, open space is being threatened, traffic and smog are coming. This administration must go! ZONING NEEDS HELP!