

EAST LYME ZONING COMMISSION
REGULAR MEETING
Thursday, October 16th, 2003
MINUTES

FILED IN EAST LYME P
Oct 23 2003 AT 2:00 M
L.A.B. Davis ATT
EAST LYME TOWN CLERK

PRESENT: Mark Nickerson, Chairman, Bob Bulmer, Secretary,
Shawn McLaughlin, Norman Peck, Marc Salerno, Alternate
and William Dwyer, Alternate

ALSO PRESENT: William Mulholland, Zoning Official,
Rose Ann Hardy, Ex-Officio, Board of Selectmen
Attorney Theodore Harris, Applicant

ABSENT: Ed Gada, Andrew Manter, Alternate,
David Chamberlain

1. Call to Order

Chairman Nickerson called the Regular Meeting of the Zoning Commission to order at 7:45 PM immediately following the previously scheduled public hearing.

Public Delegations

Mr. Nickerson called for anyone from the public who wished to address the Commission on subject matters not on the Agenda.

Joe Kwasniewski, 67 Walnut Hill Road, East Lyme said that he is not against development but asked that they please slow it down as it is going too fast.

2. Accept Minutes of October 2, 2003 – Public Hearing and Regular Meeting.

Mr. Nickerson called for any corrections or discussion on the Zoning Commission Public Hearing I Minutes of October 2, 2003.

****MOTION (1)**

Mr. Bulmer moved to accept the Zoning Commission Public Hearing I Minutes of October 2, 2003 as submitted.

Mr. Peck seconded the motion.

Vote: 4 – 0 – 2. Motion passed.

Abstained: Mr. Nickerson, Mr. Dwyer

Mr. Nickerson called for any corrections or discussion on the Zoning Commission Public Hearing II Minutes of October 2, 2003.

Mr. Bulmer asked that on Page 4 in Line 7 where Mr. Tim Tomko is speaking that 'consult' be changed to 'consultation'.

****MOTION (2)**

Mr. Bulmer moved to accept the Zoning Commission Public Hearing II Minutes of October 2, 2003 as amended.

Mr. Salerno seconded the motion.

Vote: 4 – 0 – 2. Motion passed.

Abstained: Mr. Nickerson, Mr. Dwyer

Mr. Nickerson called for any corrections or discussion on the Zoning Commission Regular Meeting Minutes of October 2, 2003.

****MOTION (3)**

Mr. McLaughlin moved to accept the Zoning Commission Regular Meeting Minutes of October 2, 2003 as presented.

Mr. Salerno seconded the motion.

Vote: 4 – 0 – 2. Motion passed.

Abstained: Mr. Nickerson, Mr. Dwyer

3. Application of Theodore A. Harris to amend Section 25.5 (Multi-family SU-11) of the East Lyme Zoning Regulations

Mr. Nickerson said that they had three nights of public hearings on this. He noted that he had made himself familiar with anything he may have missed and polled the Commission members to see if they had done the same if they had not been present for all three hearings.

Mr. Dwyer said that he would abstain from comment and voting on this application.

Mr. Nickerson stated that they had five members who could discuss and vote on this application. He asked for comments from the Commission members.

Mr. Bulmer said that they had heard the applicant discuss the positive points and generally saying that this as a floating zone could be on 20 acres anywhere and not require sewers. They were told that the homes could be placed more judiciously on the land and that there would be fewer homes than the underlying area due to the setbacks and open space requirement. He maintains that the main issue is not the more attractive placement of the houses on the land but rather – if we want to place this multi-family housing all over the Town as a floating zone or put it only in the areas that have sewers. He further thinks that there would be an explosion of developers licking their chops and locating homes all over the Town with this change. This is a rather frightening prospect. He also reminded them that the Planning Commission found this to be inconsistent with the Plan of Conservation and Development and said so in their letter to this Commission. He read this letter to them. (Attachment 1 at end of Minutes). He added that he went to the Plan of Conservation and Development in search of the reference that Planning had made in their letter. He read from Page 16 – *Multifamily Housing – Multifamily Development – Any use of land containing three or more dwelling units on the same lot*. Items One through Three were read, noting that this type of development would threaten the predominantly single-family residential character of the Town. (Attachment 2 at end of Minutes) He also referred them to Pages 17 and 19 of the Plan of Conservation and Development. Page 17 offered recommendations for multifamily housing (Attachment 3 at end of Minutes) which stressed that it be allowed in areas with public water and sewer to combat urban sprawl to rural areas of Town. Lastly, on Page 19 of the Plan of Conservation and Development – Figure 3-4 shows the accelerated growth of multifamily housing units in East Lyme (Attachment 4 at end of Minutes).

Mr. Bulmer further said that a month ago he had attended a meeting of the Planning Commission and at that time they had 326 homes approved in 17 subdivision applications. He said that this regulation change is not something that we should allow. If they did then there would be two routes for subdivisions – one via the Zoning Commission which would be a private development with narrow roads and one via the Planning Commission with the nice wide standard roads and more open space. He feels that for these reasons, they should deny this change as if he were a developer, he would go for the Zoning version as that would be getting more bang for the buck. He said that we have something that works with Planning and he suggested that this be defeated now and anytime in the future should it come up again.

Mr. Nickerson commented that there are good reasons for this amendment however he thinks that there could be misuse of it as well. There are far too many ways that this could be used to create a development on land that might not be as developable just to squeeze more bucks out of the property. He is in favor of protecting the land values of current taxpayers and landowners. And – while we might be anxious about development in this Town people do have the right to develop their land as they have paid taxes on it and as long as they get the proper approvals they can develop their property. While he is open to amending our regulations, he is currently not open to, or in favor of changing the regulations to further growth. He is in favor of improving values for current property owners and this change could have a negative impact on that. There would have to be other restrictions on this change in order for it to be done. As it is now, a person with a pond (for instance) on their property could use it as the open space requirement and he is not in favor of that.

Mr. Peck said that he would address Mr. Bulmer's and Mr. Nickerson's comments. The statement that this development could be placed anywhere in Town is not correct because – 1) it cannot be placed in the Coastal Management Area and 2) if Zoning (this Commission) feels that it is inappropriate for an area, then they can deny it. Also, multifamily is used as a term and what the applicant is presenting is so far from the typical

multifamily project that it cannot be thought of that way. Further, with regard for the Plan of Conservation and Development - he was the chair of the land-use committee for the Plan of Conservation and Development Commission. He noted that the vision of multifamily is the big box with 6-12 houses on a piece of property. However in the comparison of the Zoning versus Planning subdivision, Planning allows for the cluster – open space development and they can get the houses closer together when you have problems with the land. The Zoning could be close in the number of houses but with a 100' buffer all around, 150' setback and the open space, he thinks that this is far better than the Planning subdivision. He noted that Mr. Nickerson said that he is concerned with the values of the neighboring properties. As it stands now, in a regular subdivision, the houses could be closer together with less of a buffer and this could devalue the neighboring properties more than the floating zone proposed. He is of the opinion that they have two choices here as the growth going on in this Town is phenomenal. They have to either stop development or make it the best that it can possibly be. He does not think that they have the tools to stop development so they have to make the best of what can be. They should also consider that all of the land could be used up in perhaps the next 50 years. He also noted that affordable housing needs in SE CT were mentioned in the newspaper again today and that affordable housing can throw out the window all of the regulations and a project could be built that might not look as good. Lastly, this kind of development is a very good way to develop land. They can have this or get rolled over by inferior types of development so he is leaning towards approving this application.

Mr. Salerno said that a lot of points have already been made here and he feels that the way that they have to vote is by looking at the worst case scenario that could be. He looks at this as increasing development in the rough areas of the Town – areas that have ledge, steep slopes, wetlands, poor drainage and are difficult to develop. This would bring more development and housing to our Town. He agrees with Mr. Bulmer and his distinction between Zoning and Planning subdivisions and that this would provide two outlets for those who are intent upon building. He also would not want to take away from the one to two acre rural zoning in the northern area of Town and he thinks that this would.

Mr. McLaughlin said that while he thinks that this is a good proposal, as written now it is good for the developer and he sees it as being more of a higher density use and as such, it should have sewers and not septic. He would rather see the regulations remain as they are.

Mr. Bulmer noted that Zoning Regulation 12.3.2 requires that this go to Planning for referral for consistency with the Plan of Conservation and Development and that because Planning has found it to be inconsistent, this Commission must pass it by a two-thirds majority if it is to pass. He said that affordable housing has no bearing on this as it can go anywhere. He asked how many houses can you get on 20 acres of land when right now we have used up most of the prime land in Town. What is left is rocky outcroppings, steep slopes, forested or wetlands and poor drainage. He invites them to go look at the land in the northern area of Town, as he would imagine that this would mean that the RU-40 zones would be used. This change would create a building boom that would be horrible for this Town as land is at a premium now.

Mr. Nickerson called for a motion.

****MOTION (4)**

Mr. Salerno moved to deny the application of Theodore A. Harris to amend Section 25.5 (Multi-family SU - #11) of the zoning regulations.

Mr. Bulmer seconded the motion.

Mr. Bulmer clarified that a vote in the affirmative is a vote to deny this change.

Vote: 4 – 1 – 1. Motion passed.

For: Mr. Nickerson, Mr. Bulmer, Mr. McLaughlin and Mr. Salerno

Against: Mr. Peck

Abstained: Mr. Dwyer

- 4. Application of Mystic Shoreline Investment, Inc., for a change of zone from RU-40 to CA-Commercial for a rear portion of property identified in the application as 199 Flanders Road, Lot 44 on East Lyme Assessor Map 26.3 and –**

5. **Application of Mystic Shoreline Investment, Inc., for a Special Permit to construct twenty-five (25) single family elderly housing units on property identified as 199 and 181 Flanders Road, Lots 44 and 45 on East Lyme Assessor Map 26.3**

Mr. Nickerson noted that they had just continued this public hearing until their next meeting on November 6, 2003.

6. **Application of John Fosgraw for a Coastal Site Plan review to remove an existing dwelling and construct a new single family dwelling in its place at 44 Shore road, Niantic, Connecticut.**

Mr. Mulholland said that the applicant has requested that he be heard at their next meeting on November 6, 2003.

OLD BUSINESS

1. **Stormwater**

Mr. Mulholland said that this is an on-going process that he and the Town Engineer are working on.

NEW BUSINESS

1. **NONE**

2. **Any business on the floor, if any by the majority vote of the Commission**

There was none.

3. **Zoning Official**

Mr. Mulholland said that he had nothing further to report.

4. **Comments from Ex-Officio.**

Ms. Hardy said that if they have not received one yet, that they will be getting a trash container with their own ID # and with a bill for \$20. This new program starts on November 3, 2003. The recycling will remain the same and everyone is expected to continue to recycle.

5. **Comments from Zoning Board Liaison to Planning Commission**

There was no report.

6. **Liaison to Planning Commission Meeting scheduled for October 21st**

To come.

7. **Comments from Chairman**

Mr. Nickerson said that he had no further comments.

8. **Adjournment**

****MOTION (5)**

Mr. Nickerson moved to adjourn this Regular Meeting of the East Lyme Zoning Commission at 8:25 PM.

Mr. McLaughlin seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary



EAST LYME PLANNING COMMISSION

108 Pennsylvania Avenue – P.O. Box 519
Niantic, Connecticut 06357
Phone: 739-6931

Chairperson: Gregg Ross
Secretary: George McPherson
FAX: 739-6930

August 25, 2003
Hand-delivered

Mark Nickerson, Chairman
East Lyme Zoning Commission
108 Pennsylvania Avenue
Niantic, CT 06357

*bracketed
Read into
record
10/16/03*

RE: Planning Commission Referral (CGS 8-3a)
Application of Theodore Harris - Proposed Amendment to Section 25.5 to allow use of septic systems for multi-family developments in the SU District.

Dear Mr. Nickerson,

At its meeting on August 18, 2003, the Planning Commission made the following finding in regards to the above referenced application:

The Plan of Conservation and Development recommends that sites being considered for multi-family development be *“within the boundaries of, or readily connected to, the municipal water and sewer service area.”* The plan further recommends that multi-family housing development be permitted *“in designated growth areas when such development is used to combat housing sprawl to rural areas of town.”*

By virtue of the density allowed in the underlying zoning district and defined sewershed area, it can be assumed that if sewers are not available to a site, it is not a “designated growth area”. The amendment, as proposed, could have the effect of allowing a greater density than existing infrastructure is capable of supporting and is therefore **INCONSISTENT** with the Plan of Conservation and Development. Any proposal to provide design flexibility through use of community septic systems must have sufficient controls to avoid inducing growth in designated rural areas.

The VOTE in favor of this finding was 5-0-1.

Respectfully submitted,

George McPherson
George McPherson, Secretary

received
8/25/03 *ae*

Cc: W. Mullholland, Zoning Official
T. Harris, Applicant

Attachment 1 - Zoning Commission Reg. Mtg. 10/16/03

(b.)

Read's
into record

MULTIFAMILY HOUSING

During the 1980s, the pace and location of multifamily housing development was a major land-use issue in East Lyme. Concern was expressed in the 1987 Plan of Development that multifamily housing would:

Multifamily Development - Any use of land containing three or more dwelling units on the same lot.

1. Threaten East Lyme's predominantly single-family residential character.
2. Create a burden on the taxpayers requiring expenditures for municipal services (particularly education) which are not balanced by property tax receipts.
3. Use up land that should be reserved for commercial development.

At the time of the 1987 Plan's adoption, the rate of growth in multifamily housing developments represented a growing percentage of East Lyme's housing stock: from 5.9 % of total year-round housing units in 1975 to 8.6 % in 1984 (see Figure 3-4). It seemed clear that the pace of multifamily housing development was accelerating based on permits issued for 114 multifamily housing units from 1983 to 1986. Another trend that can be discerned from the data in Figure 3-4 is the dramatic shift in multifamily development from apartments in the pre-1975 period to the present preference for condominiums or single-family detached on common land.

Whether the development of multifamily housing has yet impeded commercial development by using up prime commercial sites is under question. There seems to have been an adequate supply of sites with the preferred direct road frontage and relatively easy topography to accommodate commercial development. Multifamily developments, on the other hand, have tended to locate on sites that are either on the fringe of commercial development or are of more difficult topography or are set back from the roadway, allowing commercial uses to occupy the road frontage. Recognizing this, the Zoning Commission amended the Zoning Regulations in June 1987 to only allow multifamily housing in commercial zones where it is part of a mixed use. Later the Zoning Commission allowed multifamily as a primary use in the commercial business district to support village business.

Since the adoption of the 1987 Plan of Development, multifamily construction slowed marginally. Within the last three years, multifamily housing has been increasing at a rapid pace. As Figure 3-4 indicates, 364 units have been approved or built since 1997, compared with 263 units built between 1985 and 1996. While 83% of these units are categorized as elderly housing, 67% of those units are designed as two or three bedroom detached condominium homes. These homes have the potential to be converted to standard family homes, but would still be classified as multifamily. The other units were approved as assisted housing for the elderly within one building complex. The 1998 approval of Windward Village, a 60-unit rental complex in Niantic, is one of the only major standard multifamily developments since the 1980s.

Changing demographics as a result of the employment profile produced by the Mohegan Sun and Foxwoods Casinos, and many other proposed expansions of the Southeastern Connecticut tourism-based economy, are expected to produce an increased demand for more affordable housing, including multifamily. Rental rates were rising during development of this Plan due to the decline in supply of residential rental property. The demand and rental rates in East Lyme are likely to increase in the near future with the profitability of constructing new multifamily units.

While multifamily housing can provide affordability for the elderly population, current trends in housing development for the elderly show homes selling for \$180,000 to \$200,000. When planning for the location of future multifamily housing areas, the specific needs of the elderly community should be kept in mind. Areas planned for this type of housing should have easy accessibility to shopping and business centers and be located near bus routes. Developments should include sidewalks and/or access to lighted and improved crosswalks. In developing new multifamily regulations, consideration should be given to allow alternative types of multifamily housing, such as PUDs (Planned Unit Developments) and

congregate housing, which could offer another type of affordable housing to senior citizens. Special permit controls should be re-evaluated for adequate site and road design to accommodate proposed density. These controls should also incorporate guidelines for design, which preclude elderly housing from being easily converted to multifamily housing. This would include house design and number of bedrooms, as well as stipulations for homeowners associations.

Incorporating the recommendations of the 1987 Plan of Development, design site plan standards for multifamily housing properties will need to be upgraded to ensure that neighboring residential properties are protected. An additional benefit of specific development standards is that they tend to relieve the Commission from making Special Permit decisions primarily on the basis of judgmental general standards and decisions are therefore more equitable and less prone to challenge.

Recommendations for Multifamily Housing

For purposes of this document, multifamily development is defined as any use of land containing three or more dwelling units on the same lot; this definition is consistent with East Lyme's Zoning Regulations. Ownership of the dwelling units is of no importance from a land-use perspective; both apartments and condominiums are considered multifamily housing.

1. Permit multifamily housing development in designated growth areas when such development is used to combat housing sprawl to rural areas of town. Methods such as transfer of development rights and special permit for multifamily housing in village districts are examples that could be used.

2. Consideration should be given to the following as characteristics of development sites in deciding the placement of multifamily housing:

- ★ - generally free of major site development constraints, such as wetlands, bedrock soils, steep slopes and primary aquifers
- ★ - within the boundaries of, or readily connected to, the municipal water and sewer service area
- accessible to arterial roadways
- accessible to municipal services, particularly fire protection and schools
- ★ - removed by distance, topography or vegetation from existing large-lot single-family residential development.

3. Adopt upgraded standards for multifamily housing development:

- DISTRICTS - commercial business districts, Residential/Multifamily or PUD Overlay
- APPROVALS - Special Permit by Zoning Commission.
- UTILITIES - Where public water and sewer are available, connection should be required.
- LOT AREA - 20,000 square feet per unit except in commercial business districts where there is a mixed use.
- EXCEPTIONS - As it is in the public interest to encourage higher standards of development and provision of amenities for multifamily residents, the Zoning Commission, as part of a special permit plan review, may reduce the minimum lot area per dwelling unit up to a maximum 4,000 square foot reduction (from 20,000 square feet to 16,000 square feet per unit) if the applicant chooses to provide the following options:

(c)
Read
① title

②

③

Read into meeting record changes would be inconsistent w/ PPD for these reasons

**FIGURE 3-4
MULTIFAMILY HOUSING
DEVELOPMENTS IN EAST LYME**

<u>Name/Location</u>	<u>No. Units</u>	<u>No. Bedrooms</u>	<u>Apartment or Condominiums</u>
Prior to 1975			
Cedar Ridge, Flanders Road	96	1-2 BR	A
Dodgetown, East Pattagansett Road	60	2 BR	A
Hillside Acres, Rathbun Road	10	1 BR	C
Indian Woods, West Main Street	16	2 BR	A
JoVal, Route 1	36	2 BR	A
Nehantic Apts, Corey Lane	16	2 BR	A
Pattagansett Apts, East Pattagansett Road	12	2 BR	A
Peggy Lane, Attawan Road	22	1 BR	A
Williamsburg Manor, Mill Road	32	(8) 1 BR	C
	300		(258 A, 42 C)
1975 - 1984 10 years			
Black Point Farms, Black Point Road	40	(11) 1 BR (29) 2 BR	C
Briarwood, Flanders Road	16	2 BR	C
Brookfield, West Main Street	16	2 BR	C
Churchwood, Riverview Road	36	2 BR	C
Nazarko, East Pattagansett Road	4	2 B	C
Nicholas Manor, Route 1	15	(12) 1 BR (3) 2 BR	A
Patrissi, West Main Street	11	2 BR	C
Rowe, Main Street	4	2 BR	A
Twin Haven Elderly, Upper Pattagansett Road	40	(20) 1 BR (20) Studio	A
	192		(69 A, 123 C)
1985 - 1996 12 years			
Flanders Run, Upper Pattagansett Road	36	2 BR	C
Deerfield, King Arthur Drive	100	2 BR	C
Pondcliff, West Main Street	96	2 BR	C
AMPAT, Flanders Road	6	1 BR	A
Church Lane Assoc., Church Lane	14	2 BR	C
Flanders Partnership, Flanders Road	7	2 BR	A
Beefe Building, Main Street	4	(2) 1 BR (2) 2 BR	A
	263		(17 A, 246 C)
Approved or Under Construction (Since 1997) - 1999 (3 years)			
Chapman Farms	63	2-3 BR	SF
Windward Village	60	(42) 1 BR (18) 2 BR	A
Athena	70		A
Crescent Point	63		A
Chapman Woods	108		SF
Nathan Hale	33		SF
	397		(204 SF, 193A)

Now - There are 326 housing units in 17 applications approved for subdivision housing.