

FILED IN EAST LYME  
Oct 8, 2003 AT 3:30 M

EAST LYME ZONING COMMISSION  
PUBLIC HEARING II  
Thursday, October 2nd, 2003  
MINUTES

LaBlair  
EAST LYME TOWN CLERK

The East Lyme Zoning Commission held the Mystic Shoreline Investment, Inc. Public Hearing for a zone change and special permit to construct twenty-five single family elderly housing units on 199 and 181 Flanders Road on October 2, 2003 at Town Hall, 108 Pennsylvania Avenue, Niantic, CT.

Acting Chairman Bulmer opened the Public Hearing and called it to order at 9:54 PM after the previously scheduled public hearing.

**PRESENT:** Bob Bulmer, Acting Chairman Shawn McLaughlin,  
Ed Gada, Norman Peck, Marc Salerno, Alternate  
and Acting Secretary, Andrew Manter, Alternate

**ALSO PRESENT:** William Mulholland, Zoning Official,  
Rose Ann Hardy, Ex-Officio, Board of Selectmen  
Mike Tarbell, Tarbell, Heinz & Assoc. Engineers & Surveyors  
Jim Bubaris, Bubaris Traffic Association of Woodbridge, CT  
Tim Tomko, Creative Exteriors Landscape Design  
Lisa Mesick, Architectural Solutions of Old Lyme

**ABSENT:** Mark Nickerson, Chairman, William Dwyer, Alternate,  
David Chamberlain

**PANEL:** Bob Bulmer, Acting Chairman Shawn McLaughlin,  
Ed Gada, Norman Peck, Marc Salerno, Alternate  
and Acting Secretary, Andrew Manter, Alternate

**Public Hearing II**

1. **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 -**
2. **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. Salerno, Acting Secretary read into the record:

1. Letter from Bill Mulholland, Zoning Official to the East Lyme Zoning Commission dated October 2, 2003 Re: Mystic Shoreline Investment, Inc. proposed zone change and special permit regulation considerations
2. Letter to Bill Mulholland, Zoning Official from Mike Giannattasio, Town Engineer dated October 2, 2003 Re: Review of "Clark's Hollow, Elderly Housing Community, Flanders Road (U.S. Route 161), Town of East Lyme, Connecticut, prepared for Mystic Shoreline Investment, LLC Dated 4-29-03, Revised through 10/1/03," citing 10 issues that need to be addressed for the review to be completed.
3. Letter to Bill Mulholland, Zoning Official from Michael Tarbell representing Mystic Shoreline Investments, LLC dated July 21, 2003 Re: Mystic Shoreline Investment LLC Zone Change - CT Rte. 161 East Lyme from RU-40 to CA
4. Letter to Mark Nickerson, Chairman East Lyme Zoning Commission from Gregg Ross, Chairman East Lyme Planning Commission dated September 26, 2003 Re: C.G.S. 8-3a Referral and Zoning Referral (Section 25.1) Application of Mystic Shoreline Investment, Inc. noting the Commission found them inconsistent with the Plan of Conservation & Development

5. Letter to Mark Nickerson, Chairman East Lyme Zoning Commission from Gene Lohrs, SECCOG Regional Planning Commission Re: re-zoning of parcel – saying that the Committee has no jurisdiction to conduct a review of this proposed zone change
6. Legal Ads which ran in the New London Day on September 19, 2003 and September 29, 2003.
7. Mr. Mulholland noted that the certificates of mailing have been submitted for the record.
8. Mr. Mulholland noted that no CAM letter was required.
9. Letter from Fred Thumm of the Water & Sewer Commission to Mr. Mulholland, Zoning Official dated October 1, 2003 Re: referral on water & sewer capacity - found to be satisfactory with the recommendation that on-site water be used for outside use.

Mr. Bulmer asked that the applicant or his representatives give their presentation.

Mike Tarbell of Tarbell, Heinz & Associates, Inc. Surveyors & Engineers explained the area on the site plan map that was to be re-zoned. He noted that a number of uses are allowed in the CA zone and their proposal is to build 25 age restricted housing units on the property. He recalled to them that in 1995 Chapman Farms was approved by this Commission. It was an SU that was re-zoned to an SU-E. Then, in 1999 this Commission approved Chapman Woods, which was a CA zone that was re-zoned to SU-E.

Mr. Salerno noted that he was listed on the map and that he was a previous owner of a bordering property however he does not own it any longer and for the record he does not have a conflict with this application.

Mr. Tarbell explained the plan noting that the entrance road sweeps from the NE to SE and back to the NE to accommodate the 10% road grade which was part of a conversation early on with Town Staff. The road has a flat area where it meets Flanders Road. The State Dot found that this was okay and they approved the location of the curb cut. Public sewers and water that is presently located in Route 161 will serve the site. The drainage that they are proposing really divides the site into two areas. The easterly end drains down to the detention basin. The hill drainage goes to a smaller detention basin then to a catch basin on Route 161. The detention basin is designed to deal with the run-off from the developed areas. It is the same run-off that the area experiences at present, it would just move quicker over paved areas. He discussed the concerns of the Planning Commission – 1) an adequate buffer from other homes – he feels that they have achieved this; 2) the extension of the CA zone and compatibility – they think that it is compatible and - 3) pre-treated water – this involved a discussion with Staff on lowering the detention basin to give a wet bottom basin. This was just presented yesterday by the Engineer and will have to be addressed. The basin will be lowered and made a wet bottom with plants that will filter the water and treat it. They also will have a berm in place that works with pre-treatment. He thinks they have tried to address these issues. The plans also provide for a turn around at the top and he spoke with the Town Engineer on this and it is satisfactory for rubbish removal. As this is in the aquifer protection zone they have added notes to protect the groundwater and notes to plan to preserve the mature trees and save as much of the mature buffer as possible. There would be no clear-cutting and they will have a pre-construction meeting with Staff to go over this to implement some measures. They have also instituted some retaining walls – some were necessary due to the grade of the land but they need one near the road, as they have to put in a sidewalk. This was all based on meetings with Staff who want this to be architecturally pleasing. The detention basin area is where the Town Engineer indicated that he wants to see the easement so the easements are in place and will be part of the condo declaration and documents.

Mr. Bulmer asked if the detention basin is in the southern area.

Mr. Tarbell said yes.

Mr. Bulmer asked if the vacant house is part of that area or not.

Mr. Tarbell said that there are three parcels of land that will be acquired. The vacant house is a parcel. At the present time they are shown separately as they have not been merged yet.

Mr. Mulholland asked – if and should this Commission look favorably on this application if the applicant would look favorably on continuing the sidewalk to Damon Heights?

Mr. Contino, the owner and applicant said that they would be willing to extend it to Damon Heights.

Mr. Tarbell introduced Jim Bubaris of Bubaris Traffic Associates of Woodbridge, CT to present the traffic study that was conducted.

Mr. Bubaris said that they conducted the traffic study in the summer of 2002. They put an automatic device to measure for north and southbound traffic from Saturday August 24, 2002 to Wednesday August 28, 2002.

They found that for the traffic amount and speed that the driveway location maximizes the site line of 700' in either direction. What the report states is that the speed limit in the area is 35 MPH. The 700' site line

accommodates a speed of 55 MPH. The average speed north was 34 MPH and 37 MPH south. The 85<sup>th</sup> percentile (the speed used to evaluate site lines) was 40 MPH north and 44 MPH south. The roadway edge to edge is 42'. The State DOT requires a 20' average half section of centerline to edge of roadway. They then took the site itself and estimated the types of traffic it would generate. They rely on a document by the Institute of Transportation Engineers however they do not have a data pool for age restricted, as it is a new concept. They have instead been treating it like a traditional condo project where they remove the school traffic component, as this would be the difference. For 25 units they estimated 17 trips/hour weekday peak AM and 20 trips/hour weekday peak PM. For Saturday retail shopping they estimated 11 trips/hour peak. A trip is defined as going one way either in or out so this use is a low traffic generator. He also projected it via an operational analysis using estimated delay as the criteria. Delay is given ranking of A – F just like school grades. Southbound on the same side was an A service, the left-turn and right-turn were a C which is an average condition. The Stop & Shop was not included here but it might change it slightly. They also called the State for the accident history of the area for 500' in either direction and were told that it was virtually non-existent for that location. Their conclusion is that this is a low traffic generator that has good site lines, good to average levels of service and will not have an adverse effect on the area.

Mr. Mulholland asked about the encroachment permit.

Mr. Bubaris said that it would require an encroachment permit from the State DOT for the driveway to be constructed and located as on the plan.

Mr. Salerno asked if they looked at what the traffic would be if this were a retail project instead – as a comparison?

Mr. Bubaris said that he would need to know what it would be – if it were Dunkin Donuts it would easily be 200 trips per hour.

Mr. Mulholland asked him to suppose a general retail center of 15,000-sq. ft. – could he throw out any general numbers for comparison?

Mr. Bubaris said possibly 1000 trips per day and as much as 150 trips per hour during the peak hours.

Mr. Gada said that they collected the data to use during a four to five day time period in August 2002. He asked if they have looked at any other time periods?

Mr. Bubaris said that they did their study during the summer, as they know that shoreline communities are sensitive to this increased traffic. They did this for 96 hours during peak summer travel while the standard procedure is usually to run with four hours of data for a traffic study. The four hours of data, usually two hours peak on Friday and two hours peak on Saturday is recognized in the profession as the data for a traffic study. Again, they did 96 hours and found no adverse impact.

Mr. Mulholland asked Mr. Bubaris to again state what the speeds were that 'we' were driving on Flanders Road.

Mr. Bubaris said that the average speed north was 34 MPH and 37 MPH south. The 85<sup>th</sup> percentile (the speed used to evaluate site lines) was 40 MPH north and 44 MPH south. The higher speed south was attributed to it being downhill.

Mr. Mulholland noted that the Stop & Shop required an STC permit, which is a different type of review. He asked if they require a certificate of application as it abuts a State road.

Mr. Bubaris said no, Stop & Shop is a major traffic generator and we are not in that category.

Mr. McLaughlin asked if there was any discussion regarding lining up the entrance to the property with the curb cut of the property across the street.

Mr. Tarbell said that he met with the State DOT on the site and showed them where they were proposing the entrance. They watched the traffic, reviewed the area and the State found this was satisfactory to them. They would not be moving forward nor investing the time and money on this project if the State of Connecticut was not behind them on this.

Mr. McLaughlin asked if the service vehicles having access to the roadway would include them being able to go up and turn around.

Mr. Tarbell said yes, it was designed with that in mind.

Mr. Peck noted that the property across the street, a gas station says that it is an exit to the main road. This is directly across from their entrance and could cause an accident there.

Mr. Tarbell said that there are multiple curb cuts there.

Mr. Peck said that he sees the potential for a traffic problem there without a light.

Mr. Mulholland asked Mr. Tarbell to recap his discussion with the DOT on this.

Mr. Tarbell said that they met early on in the project with CT DOT to make sure that they had no problem with the location of their driveway curb cut onto Route 161 (a State road). At that time they also discussed the size and type of project and the CT DOT found that this was a satisfactory location for them.

Mr. Tarbell introduced Tim Tomko of Creative Exteriors to explain the plant selection and philosophy for the project.

Tim Tomko of Creative Exteriors said that they were in consult with Russell Dawson on the plant selection for this project. Their plant selection and philosophy on plant species is to use primarily indigenous species. White pine and white spruce will be planted along the access drive with sugar and red maples at the street level. This will be softened with juniper, winterberry and daylilies for color. The buffer areas, the edges of the property will be heavily planted with white pine and white spruce for screening from the adjacent properties. The eastern portion of the site will have a mixed planting of spruce, pine and northern bayberry as the area is fairly open. The center retaining wall at the middle of the site has evergreen plantings to buffer and screen from the road. The access drive will also have flowering crab apples and cherry trees for interest and color.

Mr. Bulmer asked if they have a specific site plan that calls out the location, height, type and number of trees to be used in detail.

Mr. Tomko said yes, it is in the planting plan of the proposal.

Mr. Bulmer asked the height of the trees when first planted.

Mr. Tomko said that they are typically better off with a 3" – 4" caliper tree (12'-15' high maple, 8'-10' high evergreen) as the smaller tree has the better chance of survival.

Mr. Bulmer asked what the height at maturity would be of the trees at the eastern border.

Mr. Tomko said that they typically grow about a foot a year and 30-40 years from now the white pine could be 100' tall at maturity.

Mr. Bulmer said that they have said that they were going to tag and keep as many of the large trees on the site as possible. He asked how they would get their trees to grow under this shade canopy of older trees. He said he would like this clarified and that he was recommending that this public hearing be continued to gather this information as well as the information regarding the drainage issues. He continued that the site is a highly vegetated site and should this project go forward, they would want to have a thorough understanding of the trees that are to be saved.

Mr. Tarbell said that they would flag them and see what the best approach would be in consult with the landscape architect and staff. They are looking to buffer the neighbors from the project.

Mr. Bulmer noted that there are some loose issues on the detention basin that would need to be finalized as well as the landscape design for the catch basin area.

Mr. Tarbell said that at the staff meeting two days ago changes were made and he will address them before their next meeting.

Mr. Bulmer asked how big the area was where the detention basin is.

Mr. Tarbell said that it is probably 180' long but not wide. It might be, at most, three-fourths of an acre.

Mr. Mulholland said that this was part of the staff meeting and an architectural fence would be put there and it would be landscaped. This would be addressed at the next meeting as the DEP is also involved with this so they would want a thorough knowledge of what is required.

Mr. Bulmer said that his concern is so that kids would not fall in as they are attracted to this type of thing and just seem to find it.

Mr. Peck said that the fence along Rte. 161 is about 20' from the road, he asked what the purpose of this fence was when the evergreens will be there.

Mr. Tarbell said that it is for safety so that no one will fall through a shrub or tree to the top of a retaining wall.

Mr. Peck asked what this fence would look like.

Mr. Tarbell and Mr. Mulholland said that this is still under discussion with staff.

Mr. Tarbell introduced Lisa Mesick of Architectural Solutions in Old Lyme to present the style of the homes.

Lisa Mesick of Architectural Solutions said that she, Dan and John looked locally and throughout the State at various unit styles. They came up with four preliminary designs and one set of construction drawings which were submitted for the record. Some of their concerns were accessibility, wider hallways, good lighting, and first floor self-contained living areas with extra space for visitors, recreation and storage. They also wanted the garages to be larger for ease with packages and for storage. The color scheme and design was to be homey

using earth tones. The style is cottage style, which fits in with the shoreline. The first floor will generally have a master bedroom, great room, dining room or eating area, kitchen, spare room for a den or office and a full and half bath. The second floor would have a full bath and other sleeping or living areas. The units are 1820-1900 sq. ft. as this is a bit smaller size that is not currently available in this community. There is also a porch off the back that can be screened or left open. The units are open and airy.

Mr. Mulholland asked if it was fair to say that they are a story and a half?

Ms. Mesick said yes as they really do not have two stories from the front. One or two have a dormer off the back but the rooflines are 26' high to the ridge. They are compact however in most cases they have three bedrooms.

Mr. Bulmer asked if each house would have a garage.

Ms. Mesick said yes, most are for two cars or can be just for the ease of getting in or out and for storage.

Mr. Salerno asked if they would have full basements.

Ms. Mesick said yes in most cases. They are providing them as part of the documents but the site will ultimately dictate this.

Mr. Peck commented that with a lot of the houses the garage comes forward and it looks like a garage with a house built on it. He asked if there was any way to make the garage doors look like something other than garage doors.

Ms. Mesick said that they couldn't have side approaches however they will try with colors other than white which draws your attention to the garages. A barn door rendering is also possible in conjunction with earth tone colors.

Mr. Salerno said that there are two lots on the front of the road and he wanted to know if they are part of this project.

Mr. Tarbell said not for the present. At some later time they might be merged.

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

Beverly Murallo, 11 Damon Heights Road, Niantic asked if the DOT had considered putting a traffic light at Damon Heights or at the gas station to eliminate the congestion. She has been here since 1963 and it is not the summer traffic that causes the longest wait but rather the wait during the school season as the traffic is extremely heavy then. While she thinks that this is a great idea she is concerned with so many houses in such a small area and what this will do to the value of her home. It seems very congested. Her lot is three fourths of an acre and she sees a forest now. She does not know that people would want to see this large congestion of homes and it might cause the value of her home to go down. She would like to see fewer houses in the development. Also, Damon Heights is on ledge and clay and they have trouble with underground streams. Once this property is developed, this might create a problem with a lot of heavy rains that roll down from Oswegatchie onto Damon Heights and this area. The run-off is a problem at times now and this might make it worse. It is a good plan but there are too many houses.

Mr. Bulmer summed up that her concerns were consideration for a traffic light on Rte. 161 at Damon Heights, run-off water from Oswegatchie Hills and any historical information they might have on what happens to the value of neighboring homes when elderly housing is built nearby.

Mr. Tarbell said that he has had no conversations with the DOT regarding a light at Damon Heights. He hopes that with the landscaping and the style of the homes that there would be no detrimental impact on neighboring properties as they are very concerned with this (it is too new for historical data). With regard to the run-off along the northerly border, this issue came up with Town Staff and the Town Engineer and it will be addressed.

Marie Cassidy, 40 Laurel Hill Drive, Niantic said that she has a question on the buffer and what size it would be on the southern edge near her home. She wanted to know what the distance would be from her property line to the first house.

Mr. Tarbell said that they are proposing 25' of buffering from the property line to the beginning of the first house.

Ms. Cassidy asked why they were proposing going from residential to CA - commercial when they are already residential and they are building residential homes.

Mr. Tarbell replied that as strange as it might sound, his understanding is that this type of development is allowed in a CA zone but not in a residential, so they would expand the CA to do this and not do a commercial development.

Raymond Murallo, 11 Damon Heights Road, Niantic said that if they expand all of it to a CA, couldn't they sell it for a shopping center to be put there.

Mr. Mulholland said that hypothetically speaking if this was leveled they would have to come back to this Commission for another type of permit. In reality it is doubtful and he doubts that it is probable.

Mr. Murallo said that the proposal and buffer seems okay however the traffic studies seem off. He goes up and down the hill every day and people go like crazy there. It is a bad situation and a light would alleviate this. East Lyme is changing and they have to watch what they are doing here.

Bob Gadbois, 358 Boston Post Road said that he built his house 35 years ago. The top of this drive is really a cul-de-sac. He asked if there was an accident at the bottom how an ambulance would get up the hill to get to a medical emergency there. Emergency personnel told him years ago that a cul-de-sac does not cut it. Also, the traffic is awful on that road and it has multiplied like rabbits over the years that he has been coming and speaking against adding to Route 161.

Susan Kraynak, 1 River Road, Niantic said that she was not for or against this project – she has not made up her mind yet on it. However, the traffic is an issue as it is very difficult to get out of the businesses on that road. Also, the Saturday traffic study should have been done in the morning as many of the businesses close by noon in that area.

Richard Lucas, 45 Laurel Hill Road, Niantic said that they keep talking about an adjacent property and an abandoned house that is not included. Please clarify this.

Mr. Tarbell explained the two parcels once again.

Mr. Lucas said that there is a huge oak tree on an abutting property – he asked if that was something that they would highlight to keep and if they were aware of it.

Mr. Tarbell said that he had walked the property yesterday and found a huge dead one however he and staff will go over the property and note what to preserve.

Mr. Lucas asked when there is a time that this Commission will entertain the Rte. 161 traffic problem.

Mr. Mulholland responded that Rte. 161 is a State road and that it is the States' call on lights, traffic, traffic lanes and shifting the lanes. This is mandated by the State and this Commissions' jurisdiction on this is extremely limited.

Mr. Lucas asked if they would go with them to speak to the State about Rte. 161.

Mr. Mulholland said that they should go to see the State on their own if they have concerns as the State has the final say.

Mr. Bulmer adjourned this Public Hearing at 10:54 PM and continued it until October 16, 2003 at 7:30 PM.

Respectfully submitted,

Karen Zmitruk,  
Recording Secretary