

**EAST LYME ZONING COMMISSION  
PUBLIC HEARING II and III  
Thursday, OCTOBER 7th, 2004  
MINUTES**

Oct 13 20 04 at 3:40 AM  
PM

*Esther B. Williams*

The East Lyme Zoning Commission held the Application of Theodore A. Harris for a change of zone for property off Indian Woods Road, Niantic, CT and for a Special Permit for elderly housing (SU-E) for the Spinnaker Elderly Housing project Public Hearing on October 7, 2004 at Town Hall, 108 Pennsylvania Avenue, Niantic, CT. Chairman Nickerson opened the Public Hearing and called it to order at 7:36 PM.

**PRESENT:** Mark Nickerson, Chairman, Ed Gada, Secretary, Norm Peck,  
Shawn McLaughlin, Rosanna Carabelas, Pamela Byrnes

**ALSO PRESENT:** Attorney Theodore Harris, Representing the Applicant  
Ray Jefferson, Landscape Architect for the Applicant  
Bennet & Smilas, Engineering, Architects for the Applicant  
Frank Hesketh, Traffic Engineer for the Applicant  
William Mulholland, Zoning Official  
Rose Ann Hardy, Board of Selectmen, Ex-Officio  
Marc Salerno, Alternate  
William Dwyer, Alternate

**ABSENT:** William Henderson, Alternate

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

**Public Hearing II & III**

1. Application of Theodore A. Harris for a change of zone from RU-40 Residential to Special Use Elderly (SU-E) for property off Indian Woods Road, Niantic CT. Assessor's Map 10.3, Lot 10 and Map 10.4 Lot 15 - and -
2. Application of Theodore A. Harris for a special permit for elderly housing, request to modify current permit and site plan for the Spinnaker Elderly Housing project to allow the addition of 26 units.

Attorney Harris commented that there was a typographical error on the Agenda regarding the number of units. All information submitted listed 26 additional units and not 21 as stated on the Agenda.

Mr. Nickerson noted for the record that the Agenda should be corrected to reflect 26 additional units.

Mr. Mulholland noted that the Agenda had also left off Map 10.4, Lot 15 which is also a part of this hearing. He asked that it be added.

Mr. Nickerson said that they have some correspondence to read into the record.

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

- ◆ Letter dated 10/7/04 from Wm. Mulholland, Zoning Official to East Lyme Zoning Commission - Re: Proposed Zone Change and Special Permit - Spinnaker Elderly Housing - noting this proposal will essentially become an extension of the Spinnaker senior housing project currently under construction and that the setback waiver request is in line with the previous reduction granted in Spinnaker's previous application.

Ms. Carabelas read the following correspondence into the record:

- ◆ Letter dated 8/27/04 from Theodore A. Harris to Wm. Mulholland, Zoning Official - Re: Spinnaker Application for Special Permit - noting the request for a change of zone from RU-40 and CA to SU-E for property off Indian Woods Road known as Assessor's Map 10.3, Lot 10 and Map 10.4, Lot 15.

Mr. Nickerson noted that the Legal Ad had run in the New London Day on September 24, 2004 and October 4, 2004. He asked for confirmation that the sign had been posted. Attorney Harris confirmed that the sign was posted and said that he would submit certificates of mailing with his presentation.

Mr. Nickerson read the following correspondence into the record:

- ◆ Letter dated 10/7/04 from Michael Giannattasio, PE Director of Public Works to Mark Nickerson, Chairman, EL Zoning Commission – Re: Referral/Zone Change RU-40 to SU-E off Indian Woods Road – noting that the EL Water & Sewer Commission has reviewed the zone change referral and has determined that the property is in the existing sewer shed and water can be serviced from the existing Spinnaker site.

Mr. Gada read the following correspondence into the record:

- ◆ Letter dated 7/21/04 from Richard Guggenheim SECOG to Ed Gada, Secretary EL Zoning Commission – Re: Proposed Zone Change from RU-40 to SU-E on Indian Woods Road – noting that no statutory authority exists for their agency to conduct such a review since the property is more than 500' from the Town line.

Mr. Nickerson read the following correspondence into the record:

- ◆ Letter dated 9/29/04 from Carol Hallas, Secretary, EL Planning Commission to Mark Nickerson, Chairman, EL Zoning Commission – Re: 8-3a Referral – Application of Spinnaker Homes, LLC for a change of zone from RU-40 and CA to SU-E (Assessor's Map 10.3, Lot 10 and Map 10.4, Lot 15) – noting that this change of zone was found Consistent with the Plan of Conservation and Development and citing the reasons.

Mr. Nickerson called upon the Applicant or their representative for a presentation.

Attorney Theodore Harris said that this is a dual application involving approximately 16 acres of land predominantly zoned RU-40 and a portion CA to be re-zoned to SU-E. They are proposing adding 26 units to the existing Spinnaker Community and are also requesting a setback waiver. He said that he would like to introduce some things into the record before continuing:

**Exhibit 1** – Zone Change Map

**Exhibit 2** – Complete site plan set with the most recent revisions

**Exhibit 3** – Certificates of Mailing

**Exhibit 4** – Picture of the sign posted on the premises

**Exhibit 5** – Copy of the condominium documents as required

**Exhibit 6** – Copy of the House Plans

**Exhibit 7** – Traffic Report – updated to reflect the addition of 26 units

Attorney Harris said that the Traffic Engineer would update them later in this presentation. He recapped the history of this SU-E project beginning in January of 2003 with the old window and screen eyesore building being removed from Rte. 156 and the area restored to wetlands. They are now in Phase IV of this SU-E development and the sales have been brisk as the area is very attractive and the homes are in much demand. He noted that the buyers in large part are from Lyme, Waterford and East Lyme, which also speaks for the design and development of this community. He then presented **Exhibit 8** – Press Release announcing Spinnaker as the winner of the Statewide 'Best Active Adult Community Over \$300,000'. He noted that this award is especially important by virtue of the fact that Spinnaker was selected by and from their peers. (Attached at end of Minutes)

Attorney Harris continued that in August 2003 Spinnaker looked at the buffer regulations and came back and requested a relaxation of the setbacks to 54.9' in two areas so that they could be better planted and work better with the community. He said that they would be looking for the same type of waivers here in the north side of Wynward Drive and the cul-de-sac as indicated on **Exhibit 9** – Map of Spinnaker showing proposed building setback distances. (Attached at end of Minutes) He said that the additional 16 acres would allow another 26 units to be built. This is less dense than what is allowed. It is about 1.2 units per acre when they are allowed 5 units per acre. They also hope to convert a gravel roadway into an emergency access. He showed the Commission through pictures of the development to date and the original site plan that they had built according to what they had originally presented. He then introduced Ray Jefferson the landscape architect to explain how the new section would be planted.

Ray Jefferson, Landscape Architect, place of business Farmington, CT explained the main entrance and noted that when they added onto this that the road pattern needed to be changed for the extra units. They will maintain the street tree planting, the sidewalks and picket fences with hedge rows. They will also have the traditional New England design 10' light pole with the light directed downward. He explained that the expanded site has vegetation and homes that will back up to it. Where the vegetation does not exist, they proposed to add it. He said that the walkways not only connect to the homes themselves but also up to existing walking trails throughout the property.

Mr. Peck asked that he show them what exists now and what the expansion area is.

Mr. Jefferson showed these areas and explained the old and the new and the road changes to accommodate the new area. He noted that the area would take on the New England park-like features including low stone walls with plantings. It will continue to have a street appearance rather than a parking lot appearance.

Ms. Carabelas said that the Planning Commission calls it elderly housing – is there a difference between elderly housing and an adult community.

Mr. Mulholland said that the terms are technically interchangeable. We call it elderly housing however active adult community is essentially the same thing.

Attorney Harris introduced George Smilas and Michael Bennet, the Project Engineers for the site and the buildings.

George Smilas of Bennet & Smilas Engineers and Architects located in Higganum, CT said that they were responsible for the original plan that was approved by this Commission and are responsible for the additional 26 units here. He explained the circulation pattern with the addition of the Norton property to the west and the Corey property to the northwest. They have modified the road intersection to the north to allow a larger park area. With respect to the utilities, water and sewer serve the project. The storm drainage with respect to the Norton property that currently drains to the west will continue to drain to the west. There is a view to the west that they want to retain so they will plant this with low growing vegetation.

Mr. Peck asked how much of the Norton property is being added to their property.

Mr. Smilas said that it is not all of it, only a portion of it – about eight (8) acres.

Mr. Peck asked if the whole Corey piece was being added.

Mr. Smilas and Attorney Harris replied yes.

Mr. Peck asked if there would be a shared emergency access to the other Konover subdivision nearby.

Mr. Smilas said that it does not lend itself to that, as they are all individual lots.

Mr. Mulholland added that there are significant wetlands adjacent to the existing gravel road that makes improvements difficult.

Attorney Harris then introduced Scott Hesketh, Traffic Engineer for the project.

Scott Hesketh of FA Hesketh & Associates from East Granby, CT said that he is a Traffic Engineer and the author of the original traffic report for the project. He said that he was asked to review the impact of the additional 26 units for this development. To do this, he used the original report to project traffic volumes for the additional 26 units. He said that they have the report before them and that the addition of the 26 units will generate approximately 30 trips during the morning and afternoon peak hour and that this will not have a significant impact on the traffic. The intersection will operate with an exceptional level of service which is what it operates at now. The Rte. 156 traffic will not be impacted. He noted that this information was also sent to the State Traffic Commission to update the certificate and they will also undertake a thorough review of the project. They do not anticipate any issues with this as they undertook a thorough review originally and the suggestions regarding the intersection were implemented then.

Mr. Nickerson asked what level of service the intersection is operating at now and what the level would be with the addition of the 26 units.

Mr. Hesketh said that it operates at a level of service A now and will continue to operate at a level of service A after the addition of the 26 units.

Attorney Harris noted that with respect to the archaeological study that was requested by the Planning Commission, this was originally requested and it was reviewed and nothing of significance was found in the area. He also noted that all of the outside watering on site is done by on-site wells and not with city water. The amount of open space in this project is nearly six times over what is required. They follow the nuts and bolts of

the regulations except for one – he then presented **Exhibit 10** – Photo of the existing natural buffers on the property. He explained that they are requesting a waiver of the setback distances in certain areas as shown on **Exhibit 9**. He explained that with the natural vegetation, the distance of the adjacent property due to the RU-40 zone (that only requires a 30' buffer) and the planting that they propose to do, that this request is in line with the previous one that they granted. The nearest home is about 300' away and the benefits from better planting of the area far outweigh anything negative. Lastly, he said that Spinnaker speaks for itself in the quality project that it is, in what it looks like, how it was built and the people that it has attracted. He said that he would answer any questions that they might have.

Mr. Nickerson entered the following exhibits into the record:

**Exhibit 11** – Landscaping Plan – Two boards A & B

**Exhibit 12** – Site Plan

**Exhibit 13** – Overlay Plan

**Exhibit 14** – Zone Change Map

Ms. Carabelas asked the Traffic Engineer if there was any information about an increase in accidents regarding traffic coming out onto Rte. 156.

Mr. Hesketh said that he has no information on that as the STC information lags behind in its compilation.

Ms. Carabelas asked if there was any need for a light delay.

Mr. Hesketh said that the level of service was A and will remain at A so there is no need for that. He added that the DOT also reviewed the entire area during the original review process and the modifications that were made with the light and the roads lining up for a better intersection were done via DOT suggestion and are functioning at level service A.

Mr. Peck asked about the buffer waiver request on the north side of the cul-de-sac.

Mr. Mulholland said that a 50' buffer is mandatory.

Attorney Harris referred them to **Exhibit 9** which shows the detail on this.

Mr. Mulholland asked how many trees they would be planting in the buffer area.

Mr. Jefferson said that they would be planting approximately 50 new evergreen trees and seven deciduous trees in a natural staggered fashion across the backs of the homes.

Mr. Mulholland elaborated that these would be planted across the backs of four homes or over about 300'.

Mr. Jefferson said correct.

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

Michael Dugan, 18 Indian Woods Road, Niantic said that he and his wife Debra have lived there for 18 years now so this project in the last two years is significant to them in a lot of different ways. They spoke two years ago as they felt that this was a good project for the Town. The intersection is so much better with the light. They can walk in and out of the area now. Spinnaker also moved their mailboxes, which were across Rte. 156 and would require them to cross traffic to get to. This has resulted in a great advantage to them, as they no longer have to cross the highway. Originally they were told about site lines and buffers and the site lines were okay in the summer with the leaves on the trees but during the winter, they could see lights from some of the windows and he is sure that they could see their lights also. He contacted Marty Smith and had him over to his house and they said that they would plant more trees for a better buffer and they have done this and increased the buffer. He said that he feels that the Commission should note this, as it is not always that a developer does what he says that he will do. It has been his experience with Marty Smith and Spinnaker that they have taken care of things and been accommodating. They had heard many rumors about expansion of this project and the area that would be taken over – including that their homes would be bought up and demolished to make room for the expansion. Again, he called Marty Smith and asked him about it and was told that their homes were not going to be bought up. They have been neighbors with the Coreys' for 18 years and will miss them however, things change and if someone is going to come in and develop the area, they prefer that it be Spinnaker.

Mr. Nickerson called for anyone else who wanted to speak in favor of this application –

Hearing no one –

Mr. Nickerson called for anyone who wished to speak against this application –

Bob Gadbois, 358 Boston Post Road, East Lyme said that he is not opposed to elderly housing as he is getting old himself. He said that he went to the Water & Sewer Commission meeting the other night and they were talking about this project and he thought that he understood that they said that their sewer capacity was

used up. He is not sure but he suggested that they look into this before making a decision here. Next, he drove down there to look at this project as he was told that it was nice and that he should go look at it. From the road, it is nice, so he drove down there and he was shocked. The houses are right on top of each other. They got everything they could out of that piece of property. He has seen pictures of factory homes in the old days where they are right on top of each other. When he moved back here and was in an apartment, he could watch his neighbors' TV and this is the same thing. If there is ever a fire there they can kiss all of them goodbye because every one of them is going to go. Thank you.

Mr. Nickerson clarified that this is considered cluster type of development where the units are clustered together to allow for more open space.

Attorney Harris added that this is SU-E, which allows for five units to be built per acre and this, is built at just a little over two units per acre. They are also providing about six times the amount of open space that is required.

Ms. Carabelas asked about the sewer comments.

Attorney Harris said that he spoke to Mr. Giannattasio about the sewer issue and what is happening is that they are reviewing the sewer capacity in light of future development and capacity needs down the road. This is in the sewer-shed area and is serviced as such.

Bob Gadbois, 358 Boston Post Road said that the developers are using up the sewer capacity. They were supposed to give sewers to Pine Grove who has been screaming for them – this was part of the sewer abatement along with Saunders Point. He does not know where we are going to get the extra capacity as Waterford and New London do not have it. New London also does not have anywhere to expand to.

Mr. Nickerson asked if anyone from the public wished to speak neutrally on this application –

Hearing no one –

He asked if the Commission had any other questions –

Mr. Peck asked about the water for the grass outside.

Attorney Harris said that it is on-site irrigation from a well.

Mr. Peck asked about the individual homes watering outside.

Attorney Harris said that they are serviced by the homes themselves, as they could not connect each of the homes to the well system and the Town water supply.

Mr. Nickerson called for any further comments or questions –

Hearing None –

Mr. Nickerson called for a motion to close this Public Hearing.

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

**Mr. Gada moved to close this Public Hearing.**

**Ms. Carabelas seconded the motion.**

**Vote: 6 – 0 – 0. Motion passed.**

Mr. Nickerson closed this Public Hearing at 8:45 PM.

Respectfully submitted,

Karen Zmitruk,  
Recording Secretary

(Note: A short break was taken prior to the start of the Regular Meeting)

Exhibit #8

## East Lyme Active Adult Community Wins State-wide Award

*Spinnaker awarded "Best Active Adult Community Over \$300,000" by  
CT Home Builders Association*

East Lyme, CT—October 1, 2004—

Robert Fusari Sr., president of Real Estate Service of CT, the developer of the 77 unit *Spinnaker* Active Adult Community on Route 156 in Niantic, announced that the Home Builders Association of Connecticut, Inc. (HBA) has selected *Spinnaker* as the HBA of Connecticut 2004 Home Building Industry (HOB) Award winner for Best Active Adult Community Over \$300,000. The HOB Awards are the most prestigious awards presented by the HBA for excellence in design, construction, sales, marketing and financing. *Spinnaker* was also selected to receive the award for Best Sales Center.

Fusari said "It is a great honor to have been selected from and by our peers to receive these awards." The award will be presented at the HBA's annual banquet on October 13.

Real Estate Service of CT, Inc. (RESC), the parent corporation of *Spinnaker* Homes LLC, is not a newcomer to community awards. Over the last fifteen years, RESC has received Best Community awards for Old Farms and Riverbend, both in Middletown, CT.

According to Fusari, sales at *Spinnaker* have exceeded expectations, and the company has an application pending to increase the project by an additional 26 units. Fusari credited his customers and the cooperation of the Town of East Lyme for the success of the project. "We are happy to be serving this segment of the market, and we believe the proposed expansion of *Spinnaker* will make the community an even better project in all respects" said Fusari. He also credited the professional attitude of the town staff and leadership, "We recognize that Active Adult communities such as *Spinnaker* offer communities tremendous tax revenues without a corresponding demand for services, so it is not unusual to have them welcomed by many communities, however, we have found East Lyme to have an exceptionally professional town government, which has been a pleasure to work with" he concluded.

Attachment Zoning Commission PH11-111 10/7/04

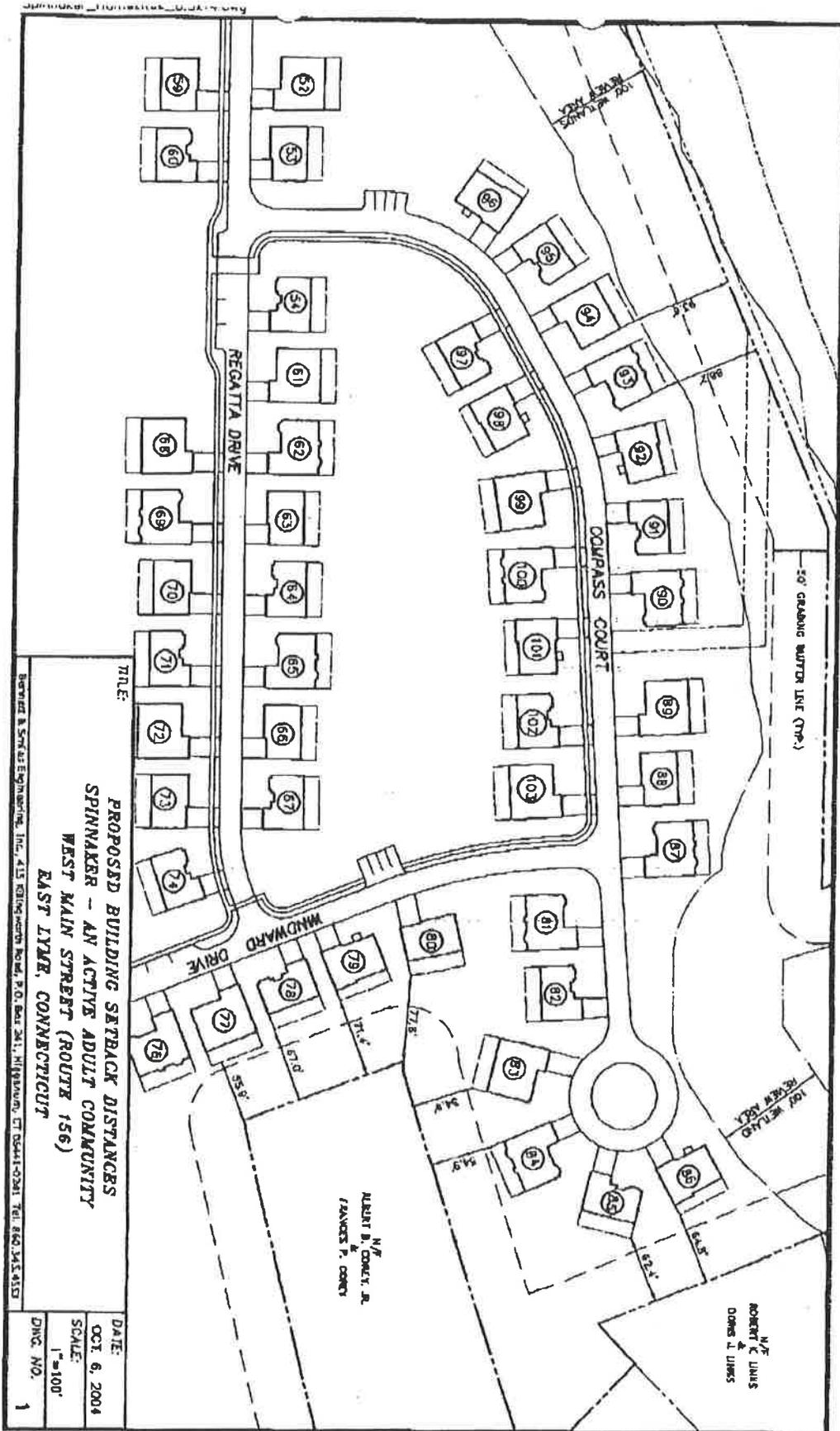


Exhibit 9

10/7/04

Showing setback warnings

Attachment Zoning Commission PH 11+111 10/7/04