

**EAST LYME ZONING COMMISSION
REGULAR MEETING
OCTOBER 3, 2002
MINUTES**

Oct 15 20 *02* at *12:20* ^{AM} _{PM}

Esther B. Williams

EAST LYME TOWN CLERK

The East Lyme Zoning Commission held a REGULAR MEETING on Thursday OCTOBER 3, 2002 at the East Lyme Town Hall, 108 Pennsylvania Ave., Niantic, CT.

Mr. Mark Nickerson, Chairman, opened the Meeting at 7:30 PM.

PRESENT: Mark Nickerson, Norman Peck, Ed Gada, David Chamberlain, Shawn McLaughlin, Alternate Marc Salerno, Alternate Robert Bulmer. Alternate William Dwyer

Absent: Athena Cone

Also present: William Mulholland, Zoning Official; Rose Ann Hardy, ex officio; Edward O'Connell, Town Attorney.

PLEDGE OF ALLEGIANCE

PUBLIC DELEGATIONS – none

PUBLIC HEARING I

1. Application of Attorney Theodore A. Harris, agent for Demitrios Orphanides, for a change of zone for 10 Black Point Road (lot 200, East Lyme Assessor's Map 11.2) and 12-B Black Point Road (lot 201, East Lyme Tax Assessor's Map 11.2), Niantic, CT. The applicant proposes to rezone the properties from their existing zoning designation to a CB Commercial Zoning District.

Mr. Nickerson opened the Public Hearing.

Mr. Mulholland indicated that the applicant has requested that the Public Hearing be opened and continued it. The applicant has granted an extension.

MOTION (1): Mr. Bulmer moved to Continue the Public Hearing on the application of Attorney Theodore A. Harris, agent for Demitrios Orphanides, for a change of zone for 10 Black Point Road (lot 200, East Lyme Assessor's Map 11.2) and 12-B Black Point Road (lot 201, East Lyme Tax Assessor's Map 11.2), Niantic, CT. The applicant proposes to rezone the properties from their existing zoning designation to a CB Commercial Zoning District.

Seconded by Mr. Peck.

Vote in favor: (6-0), Unanimous.

2. Zoning Board of Appeals request to amend Section 21.1.5 (enlargement of nonconforming dwellings) of the East Lyme Zoning Regulations.

Mr. Nickerson opened the Public Hearing.

MOTION (2): Mr. Bulmer moved to Continue the Public Hearing on the Zoning Board of Appeals request to amend Section 21.1.5 (enlargement of nonconforming dwellings) of the East Lyme Zoning Regulations.

Seconded by Mr. Gada.

Vote in favor: (6-0), Unanimous.

REGULAR MEETING

1. Mr. Nickerson called the Regular Meeting to order.
2. Acceptance of the Minutes of the meetings of September 19, 26 and 30, 200. – Tabled following brief discussion.
3. Application of Landmark Development Group, LLC for re: modification of affordable housing proposal to adopt Affordable Housing Regulations and for a change of zone for properties specifically listed in their application from their existing zoning district designation to a new “Affordable Housing Conservation District” (AHCD).

Mr. Nickerson noted that the Public Hearing has been closed and the Commission can take not further public comments or evidence. He noted that Mr. Gada had missed one of the Public Hearings. Mr. Gada stated that he had gone over the exhibits and familiarized himself with the Minutes of that meeting. Mr. Nickerson also noted that Mr. Chamberlain had missed a Public Hearing. Mr. Chamberland also stated that he had familiarized himself with the materials received during the Public Hearing and the Minutes.

Mr. Nickerson invited comment from the Commission members.

Mr. Bulmer commented that it is not an issue of Affordable Housing in Oswegatchie Hills, but rather an issue of high density housing use at that location. The district is currently zoned Greenway Conservation District with 5 acre building lot zoning. These Affordable Housing Regulations would allow 40 housing units per 5 acres. There is also the issue of water supply and sewerage system for that density. There are five agencies – Planning Commission, Water & Sewer Commission, Long Island Sound Program and East Lyme Public Works – have testified or presented evidence that there is no sewerage system available for the subject site. The applicant has presented no evidence to support his contention that he could connect to Waterford or Deerfield system. Additionally, he has presented no evidence of test holes or perk tests and the results of those. East Lyme has no water available to supply such a high density development. The Town is now under a Consent Order from the CT DEP to not pump water from some of the wells. What water could be made available would need to be utilized to provide relief for those with polluted wells. The issue of water and sewer are health concerns and Mr. Bulmer stated that based on these facts, he could not support this application. Mr. Bulmer added that the conceptual site plan is not legally binding on the applicant.

Mr. Gada stated his agreement with Mr. Bulmers position with respect to water and sewer supplies. Additionally, he mentioned that the majority of evidence presented discussed the ecological sensitivity of the site and the presence of threatened and endangered species, plant and animal. He questioned Mr. Titlow's comment that there are no threatened or endangered species as Mr. Titlow spent eight hours on one Monday on the site. There was testimony from people who have spent many years on and near the site who stated that they have observed Bald Eagles and Harbor Seals. He added that Mr. Stann has been in the area for decades and seen what wildlife populates the site and surrounding area.

Mr. Nickerson stated that he and, he believed the Commission, were not against Affordable Housing and noted the Planning Commission's guidelines presented by Ms. Parulis for Affordable Housing Regulations. He also stated his concern with respect to the high density on a current 5-acre zoning district. He stated that it is the job of the Zoning Commission to look at the possible build out of the land based on the conceptual site plan presented by the applicant. The Sept. 30th conceptual site plan was presented and represented, per the applicant, the build-out under the Regulations and addressing the concerns of the Commission. Mr. Nickerson stated that there was not enough time for the Commission to study this second conceptual site plan, but based on his best guess, there were approximately 517+/- housing units. He noted that the subject site is currently zoned for 5 acre building lots as a GCD and high density is not appropriate. He stated that the Commission members acted professionally, conservatively and questioned the accuracy and completeness of contradicting facts presented.

Mr. Chamberlain stated that he favored Affordable Housing in the Town of East Lyme, however he indicated that the high density on this site is not protective of the environment, or the safety of the citizens, particularly at Route 1 access. He also noted the contradictory testimony of the applicant and the town's 1st Selectman with respect to attempts to purchase the property for open space. He also supported a subcommittee to review the Affordable Housing guidelines for proposed Regulations.

Mr. Peck stated that there is a long history of efforts to preserve the Oswegatchie Hills. He noted the highly questionable water and septic system issues to the site, which present a possible hazard to the River and the land itself. He also noted the hazardous traffic potential on Route 161 and King Arthur Dr. if a main access were possible though Deerfield Village due to the potential for 1100 housing units using that street to access Route 161.

Mr. McLaughlin noted that the present set of regulations allows the owner to develop the land, but not at this high density. Intense development is not appropriate for this site. He reiterated the lack of municipal water and sewer available to the subject site. He noted that the applicant did not present evidence with regard to the possibility of supporting a Community Septic System on the land. Mr. McLaughlin reiterated previous members comments with respect to traffic onto Route 1 over Latimers Brook, and King Arthur Drive. He also noted that there was contradictory testimony with respect to the easement over Deerfield Village.

MOTION (3): Mr. Bulmer made a motion:

WHEREAS, Landmark Development Group LLC in accord with CGS 8-30g(h) filed a modified “Affordable Housing Application” with the Town on July 16, 2002. The application consisted of proposed regulations for a new Affordable Housing Conservation District and a proposal to rezone 230 acres from the existing Greenway Conservation District (RU-200) to the Affordable Housing Conservation District (AHCD).

WHEREAS, the applicant has not requested approval of a particular site plan, nor has it requested permission to conduct regulated activities in areas subject to inland wetlands or coastal area management regulation. The applicant has limited its request to the adoption of new Affordable Housing Conservation District (AHCD) floating zone regulations and the designation of 230 acres as an AHCD. Because no particular housing development is being proposed, there is a question as to whether this meets the statutory definition of an “affordable housing application” as set forth in Connecticut General Statutes 8-30g (i.e. “an application made to a commission in connection with an affordable housing development”). The applicant made no representations, and submitted no evidence, that it would actually build an affordable housing development if the zoning district is created and the regulations are adopted. Moreover, because there is no specific proposal for a particular housing development project, the Commission is not in a position to consider whether the public interest can be protected by changes to the affordable housing development. The Commission cannot consider whether any “plan specific” problems might be eliminated or modified by reasonable design adjustments; it cannot consider modifications of plans that do not exist and are not before it. Nonetheless, even though there may be no “proposed housing development” as contemplated by the definition of an affordable housing application, it is prudent to treat the application as though it is an affordable housing application, while reserving the resolution of this issue for the courts.

WHEREAS, the Zoning Commission held 3 additional public hearings for the modified application and listened to numerous hours of testimony during those hearings. A total of 96 exhibits were submitted by the applicant and various agencies and individuals for consideration during the hearing process.

WHEREAS, in making its decision, the Zoning Commission is considering and taking into account the testimony and exhibits submitted at the hearing on the original affordable housing application.

WHEREAS, for the purposes of this modified affordable housing application, separate Minutes will be made for each of the two parts of the application;

- A. The proposed amendment to the regulations
- B. The request for a zone change

A. MOTION CONCERNING PROPOSED REGULATIONS:

WHEREAS, the Zoning Commission, having thoroughly reviewed the proposed amendment to the zoning regulations submitted with this application and having considered all the evidence submitted throughout the public hearings, finds them to be inadequate to protect substantial public interests in health and safety, and inadequate to promote affordable housing for the following reasons:

1. The requirement of 50 acres to be designated as an affordable housing district will be overly restrictive and decrease opportunities for affordable housing.
2. While the applicant did not define the total number of units proposed, it is evident by the proposed regulations and conceptual site plan submitted showing at least 860 units and as many as 1100 units, that high-density development is contemplated and, in fact, necessary to accomplish affordable housing goals. The regulations do not require that the development be served by public water and sewer, which is deemed an absolute necessity to protect the public health.
3. The regulations do not contain a provision for submission of a conceptual site plan. Section 8-30g(c) provides that: *Any commission, by regulation, may require that an affordable housing application seeking a change of zone shall include the submission of a conceptual site plan describing the proposed development total number of residential units and their arrangement on the property and the proposed development 's roads and traffic circulation, sewage disposal and water supply.* The Blue Ribbon Commission to Study Affordable Housing, which was the basis of the latest revisions to the statute, recognized the need for a conceptual site plan to help local Commissions understand the implication of the proposal in the land use context. [Ex. #71] Furthermore, this practice is consistent with the designation of other floating zones in the Town of East Lyme (e.g. SU, SU-E) which permit multi-family housing. [Ex. #63 — Planning Report]
4. The regulations do not contain a provision for submission of an affordability plan as prescribed in Section 8-30g(b)(1).

WHEREAS, the Zoning Commission finds that significant changes must be made to the regulations proposed in order to protect substantial public interests in health and safety, specifically by requiring that public water and sewer service be available, which is deemed necessary in order to support high-density development as proposed and to better promote affordable housing within the Town of East Lyme by reducing the minimum area requirement for designation as an affordable housing district.

BE IT THEREFORE RESOLVED, that the Zoning Commission hereby DENIES the application of Landmark Development Group LLC for an amendment to the Zoning Regulations for an Affordable Housing Conservation District for the reasons stated above.

FURTHER, in accord with the requirements of 8-30g(g)(c), the Zoning Commission finds that reasonable changes can be made to the proposed amendment which would protect the public interest in health and safety, and better promote affordable housing in the Town of East Lyme. Particularly, that any regulations for Affordable Housing must include the requirement that public water and sewer be available to the site. In the Planning Commission Report to the Zoning Commission [Ex. #63], draft language was suggested for adoption by the Zoning Commission. It is the intention of the Zoning Commission to adopt its own set of affordable housing regulations.

Seconded by Mr. Chamberlain.
Vote in favor of the motion: (6-0), Unanimous.

MOTION (4): Mr. Bulmer made a motion:

B. MOTION CONCERNING ZONE CHANGE REQUEST

WHEREAS, the Zoning Commission finds that neither the modified application nor any of the additional information submitted by the applicant in support of the zone change request, served to substantially alleviate the concerns of the Commission in its original reasons for denial. They are repeated below as they pertain to the modified proposal based on the evidence submitted:

Reason #1: The modified proposal is incompatible with the 1999 Plan of Conservation and Development goals to preserve and protect Oswegatchie Hills. The area is designated as “Proposed Open Space” in Fig. 2-1 and specifically recommended for acquisition as open space [Ex. #51]. It is further identified on the Coastal Resources Map Fig. 12-1 as a “Special Resource Protection Area” and the Harbor Management Plan, Fig. 5-1 as a “Critical Environmental Area”. Cited below are excerpts from all previous Plans of Development for the Town of East Lyme and other evidence demonstrating a long and consistent history of the town’s desire to protect and preserve Oswegatchie Hills [Ex. #6 and supporting documents].

The Oswegatchie Hills area has long been identified for preservation as open space beginning with the 1967 Comprehensive Plan for the Town of East Lyme prepared by E.H. Lord-Wood, Associates, which states: *“The Oswegatchie Hills area represents a scenic hilltop with vistas of the ocean and the Niantic River worthy of protection. The area from the Connecticut Turnpike south to Pennsylvania Avenue and from the banks of the Niantic River to the crest of the*

Oswegatchie Hills should be maintained as open space to provide a place of passive recreation consisting of hiking trails, picnic areas, nature paths and camping areas."

In 1974, the Conservation Commission developed the Town's first Open Space Plan based on a study conducted by the New England Regional Commission in 1972. The objectives of this New England-wide project were "to identify and describe a variety of natural areas, and to establish a comprehensive data base from which town plans for the protection of such natural areas having major ecological and aesthetic assets could be developed". The areas specified in East Lyme included Oswegatchie Hills and Latimers Brook.

In 1977, the Planning Commission established a Land Use and Natural Resource subcommittee to "minimize pre-conceived ideas and explore any and all alternative ways of enhancing [the] Town through the long range protection and use of its natural resources." Building on the New England Regional Commission study, this committee developed a method of prioritizing properties for open space acquisition. The features which open space should possess in order of priority were as follows:

1. assist in protection of aquifers;
2. have active and/or passive recreational potential;
3. have special natural features
4. have agricultural value; and,
5. close to population.

Latimers Brook was found to possess all of these features while Oswegatchie Hills was found to possess features 2 & 3. The findings of the subcommittee report were adopted without change into the 1978 Plan of Conservation and Development.

In 1982, East Lyme adopted as an amendment to the Plan of Development, The Coastal Area Development Plan which cited the severe constraints of the Oswegatchie Hills area for development because of steep slopes and bedrock soils. While concurring with the Plan of Development designation of a portion of this area as Proposed Open Space, the Coastal Area Development plan recommended that the zoning of the area be changed from one-acre residential to a more restrictive classification because of the development limitations related to slope and soils.

In 1985, the Town of East Lyme adopted its Water Pollution Control Facilities Plan (for pollution abatement). Oswegatchie Hills was specifically designated as a "Sewer Avoidance Area".

The 1987 Plan of Development in Section 7- Open Space and Recreation, again lists preservation of Oswegatchie Hills and Latimers Brook as a recommendation. That same year, the State Legislature recognized the significance of Oswegatchie Hills by its designation as a "Conservation Zone" and creation of legislation (CGS Chapter 478 a) enabling the establishment of the Niantic River Gateway Commission tasked with developing minimum standards to

preserve the area within the conservation zone. The proposal is not consistent with the standards adopted by the Commission. [Ex. #16 & Ex. #17 and testimony of Mark Powers, Chairman of the Niantic River Gateway Commission].

From 1987 forward, the Town of East Lyme has steadily maintained a two-pronged approach to preserving and protecting Oswegatchie Hills which includes efforts to purchase the property [Ex. #93] as well as refinements to its zoning designation and development standards. The first successful re-zoning of the property occurred in 1989 when the required lot size was increased from one acre to three acres and provisions were added to allow cluster development. The second re-zoning of the property occurred in 1999 with the creation of the Greenway Conservation District as recommended in the 1999 Plan of Conservation and Development. The new zone increased the minimum lot size from three acres to five acres based on a more in depth analysis of site conditions utilizing the Town's Geographic Information System (GIS), mandated a cluster design and established a 500' buffer to the Niantic River. [Ex. #6 & #63 — PC Reports].

In their letter of Sept. 30, 2002 [Ex. #61] and subsequent testimony, the applicant tried to suggest that because the Town has not as of yet been successful in their goal to preserve Oswegatchie Hills through acquisition, that somehow, the value of the property for conservation is diminished. A preponderance of evidence [Ex. #6, 10, 18, 19, 20, 21, 22, 23, 44, 62] was submitted through the course of both applications indicating that Oswegatchie Hills remains a unique and sensitive resource of the Town and the State of Connecticut as evidenced in a letter from DEP Deputy Commissioner, David Leff [Ex. 93]. The Zoning Commission fully recognizes that the only true course for preservation is through acquisition of the property. The Commission also recognizes that some level of development is appropriate, but sees no reason to change from the present zoning which allows single family residential development on large lots to one that allows high density multi-family development given the severe site constraints and high potential for irreversible loss of natural resources that cannot be avoided even with large setbacks (100') and 20% open space.

Reason #2: The site proposed as the Affordable Housing District does not have the recommended characteristics for the placement of multi-family housing due to:

a. Lack of infrastructure and capacity to provide adequate water.

According to the Water & Sewer Commission Report [Ex. #11 & #64] and other evidence submitted [Ex. #12-memo from Director of Public Works, Ex. #6 & #63— PC Report, testimony of Chairman of Water & Sewer commission] municipal water, which is deemed necessary to supply a project of this size, is not available to the site. In addition, the applicant did not provide evidence to contradict the Water and Sewer Commission representations that an adequate quantity of water to a high density project on the subject site cannot be supplied with water from the Town of East Lyme because of the DEP consent order restricting the Town's use of its public water supply wells, and cannot be supplied with water from New London via Waterford because that would require a diversion permit being granted by the DEP to New London's already

stressed water supply system. New London has refused to consider requests in excess of 50,000 gpd. Assuming water use of 300 gpd per dwelling unit, the water supply needs for a large development will far exceed the available capacity. According to documentation submitted from the regional water supply agency [Ex. #92], the Town of East Lyme is the Exclusive Service Area Provider for the entire geographic area of East Lyme. Therefore, no other source of water is available to supply the site. No evidence was submitted by the applicant to demonstrate the feasibility of a high-yield well in lieu of public water that would be capable of serving the high densities contemplated with this proposal.

b. Lack of infrastructure and capacity to provide adequate sewer.

The Report of the Planning Commission (Ex. #6 & #63), and testimony of the Planning Director and the Director of Public Works (Ex. 13), the testimony of the First Selectman as Chairman of the Water and Sewer Commission (Ex.#11 & Ex. #64) and the report from the State of Connecticut Office of Long Island Sound Program (Ex. #10 & Ex. #62) has provided sufficient evidence that public sewers are not available and that the subject area is outside of the sewer shed boundary. While the applicant's Engineer provided testimony regarding feasibility of a generic community septic system, they failed to adequately demonstrate that a community septic system, capable of handling up to 8 units per acre as proposed, could, in fact, be constructed on the site. Furthermore, while the applicant has suggested that they are entitled to the estimated 600,000 gpd that the Town has reserved for areas within the sewershed and that sewer service could physically be brought to the site from King Arthur Drive through the Deerfield development, the sewer demand for a development of the magnitude contemplated, would place an unreasonable burden (e.g., 860 units x 300 gpd representing over 40% of remaining capacity) on an already limited capacity and would require taking capacity away from other areas planned for sewer service. The state of CT advanced millions of dollars [Ex. #69] to the Town through the Clean Water Fund Grant program for the purpose of building sewers in particular areas of the Town designated in the Water Pollution Control Facilities Plan, which was developed after extensive studies performed years before this application. The Zoning Commission finds the representations of the Water & Sewer Commission to be consistent with that plan and credible in this matter.

c. Unsuitability of soils for building site development at the density proposed.

A Soil Suitability Analysis [Ex. #7] was prepared by the Planning Department for this application based on the Soil Survey of New London County, prepared by the U.S. Department of Agriculture Soil Conservation Service which shows severe development constraints on the property proposed for designation as an Affordable Housing District. Over 60% of the site was shown to be encumbered by wetlands and/or steep slopes with severe limitations for development. This analysis was supported by testimony from D.W. Gerwick, P.E. [Ex. #35 & #36]. The Applicant provided no new physical evidence to dispute this finding other than the fact

that 90 units were built on adjoining property of similar topography and soil types located on the western side of Oswegatchie Hills known as Deerfield. A map of the Deerfield development [Ex. #72] was submitted showing that of the 89 acres developed, approx. 50% of the property, directly upgradient from Latimers Brook, was preserved in a Conservation Easement. It was also noted that the property is not within the watershed of the Niantic River and therefore has limited value for comparative purposes. The Deerfield development is also served by public water and sewer. The Zoning Commission finds that comparison alone to the Deerfield development without having performed actual soil testing on the site proposed for re-zoning is not adequate to demonstrate the feasibility of high-density development on the eastern side of the ridge adjacent to the Niantic River.

Reason #3 Development of the site at the density allowed by the proposed regulations will result in adverse impacts to the ecosystem and habitat of Long Island Sound, which includes the Niantic River. According to the report submitted by the Connecticut DEP Office of Long Island Sound Programs [Ex. #10 & Ex.#62], the 20% reduction in overall potential density will not significantly alleviate any of the potential adverse impacts to coastal resources, water quality, submerged aquatic vegetation, finfish, shellfish and wildlife on the Oswegatchie Hills site and in the Niantic River and Latimers Brook. The proposal would allow for inappropriately intensive development to be proposed in the Oswegatchie Hills region of East Lyme in an area incapable of supporting intensive development without significant environmental consequences. The subject site is characterized by both shallow depth-to-bedrock and steep slopes which would mandate significant alterations of the site to provide suitable land for road access, septic systems or water and sewer service, and inhabited structures. Such alteration of this natural area and associated runoff would significantly impact coastal resources and water quality along the river. Such a development would also cause sedimentation and erosion, nitrogen loading, and impacts on submerged aquatic vegetation, finfish, shellfish and wildlife on the site and in the Niantic River and Latimers Brook. The proposed 100' setback for residential units from inland wetlands, the Niantic River and Latimers Brook would not minimize the adverse impacts to the coastal resources, water quality and other to any significant degree. This setback only applies to residential units and does not include a restriction on clear-cutting or other ground disturbances including blasting, grading or filling on steep slopes which can have equal if not greater potential adverse impacts to resources and water quality. Additional evidence was submitted by B. Dassinger — Ex.#20, C. Stamm — Ex. #21, M. Keser, Ph.D.- Exhibit #22; N. Marshall-Exhibit #23 and others which corroborate the finding of the DEP Office of Long Island Sound.

Reason #4 Utilization of the portion of the property adjacent to Latimers Brook as the major access to the site will have adverse impacts on Latimers Brook. Construction of the main access road adjacent to Latimers Brook will require approval by the Inland Wetlands and Conservation Commission before it can be considered a viable access to the site. Major road construction in the location shown on the original conceptual site plan would likely be detrimental to Latimers Brook. It has been a consistent policy of the Planning Commission as

indicated in the Plan of Conservation and Development [Ex. #6] to require dedication of open space along the stream corridor of Latimers Brook to ensure its protection. The applicant did not adequately demonstrate that there were any other viable access routes available to the site [Ex. #6]. It must therefore be assumed that the approx. 50' of frontage on Boston Post Road adjacent to Latimers Brook remains the only access to the site. (See also reason #5)

Reason #5 The access available to the site is insufficient to handle the potential traffic generated from the proposed level of development and will result in unsafe traffic conditions due to inadequate lines of sight and volumes which exceed existing roadway capacity. The area designated for the AHCD has very limited access onto existing roads. The narrow widths (19' & 22'), steep grades and restricted line of sight created by a large retaining wall on Rte. 1 make the neighborhood roads (Calkins Rd., River Rd. and Hill Rd.) unsuitable for handling large volumes of traffic which would exacerbate existing safety problems. [Ex. #38 & testimony by S. Kraynak] A traffic study commissioned by the Town [Ex. #9] and testimony by Wilbur Smith & Associates indicated that the only viable access to the proposed site for the large volume of traffic anticipated is through a new access road onto Boston Post Road as indicated on the conceptual site plan submitted with the original application. With only one major access road to the development, improvements such as turning lanes would be necessary to maintain an acceptable level of service at the proposed intersection with Boston Post Road. He further testified that such improvements may not be feasible due to physical constraints such as Latimers Brook. Further, the Regional Planning Commission found that the project's proposed density could have adverse inter-municipal impacts with regards to increased traffic on the adjacent State Route system [Ex. #14]. The applicant alluded to possible alternate access through adjoining property but failed to produce evidence that there were any agreements in place with the adjoining property owner to allow use of the alternate access or that the access route was topographically feasible. No traffic study was performed or submitted by the applicant.

WHEREAS, a revised 'concept plan' [Ex. #91] was submitted on the last night of the public hearing which showed unsubstantiated access via the adjoining property, an unspecified number of units, and no provisions for sewage disposal and water supply.

WHEREAS, the Zoning Commission finds that the proposal fails to protect substantial public interests in health, safety, and other matters which the Zoning Commission may consider including the protection of the ecosystem and habitat of Long Island Sound (CGS 8-2(b)) and Coastal Resources (CGS Ch. 444) which includes the Niantic River.

WHEREAS, the Zoning Commission finds that such public interests clearly outweigh the need for Affordable Housing in the specified location especially because of the availability of other parcels in town which would be suitable for affordable housing.

WHEREAS, the Zoning Commission finds that such public interests can not be protected by reasonable changes to the Affordable Housing Development. Because there is no specific

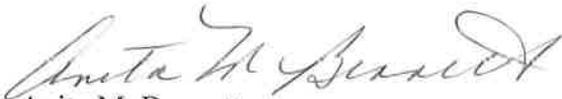
proposal for a particular housing development project the Zoning Commission cannot consider whether any “plan specific” problems might be eliminated or adjusted by reasonable design modifications. The Commission cannot require modifications of plans that do not exist and are not before the Commission. The physical “site specific” constraints in the area of the proposed zoning district including the lack of public water and sewer, cannot be changed by a decree of this Commission.

BE IT THEREFORE RESOLVED, that the Zoning Commission hereby DENIES the application of Landmark Development Group, LLC for a request to re-zone 230 acres of property as more particularly described in Schedule ‘A’ from the Greenway Conservation District (RU-200) to an Affordable Housing Conservation District (AHCD), which regulations creating said District were also previously denied.

Seconded by Mr. Peck.
Vote in favor: (6-0), Unanimous.

MOTION (5): Mr. Bulmer moved to adjourn the meeting at 9:15 PM.
Seconded by Mr. Gada.
Vote in favor: (6-0), Unanimous.

Respectfully submitted,



Anita M. Bennett
Recording Secretary
9 October 2002