

9/25, 02 at 4:10 AM (PM)
J. Blais, etc
EAST LYME TOWN CLERK

**EAST LYME ZONING COMMISSION
PUBLIC HEARING
SEPTEMBER 19, 2002
MINUTES**

The East Lyme Zoning Commission held a PUBLIC HEARING on Thursday SEPTEMBER 19, 2002 at the East Lyme Town Hall, 108 Pennsylvania Ave., Niantic, CT.

Mr. Mark Nickerson, Chairman, opened the Regular Meeting, following Public Hearing, at 11:00 PM.

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

Absent: Athena Cone, David Chamberlain,

Also present: William Mulholland, Zoning Official; Meg Parulis, Planning Director; Edward O'Connell, Town Attorney

Panel: Mr. Nickerson, Mr. Peck, Mr. Gada, Mr. McLaughlin, Alternates Mr. Bulmer and Mr. Salerno.

PUBLIC HEARING

Application of Landmark Development Group, LLC for modification of affordable housing proposal to adopt Affordable Housing Regulation and for a change of zone for property specifically listed in their application from their existing zoning district designated to a new Affordable Housing Conservation District (AHCD). The Public Hearing was continued to September 26, 2002.

Mr. Nickerson opened the Public Hearing at 7:35 PM. Mr. Bulmer will serve as secretary. Mr. Salerno was been present at all prior Public Hearings concerning Landmark Development Group, LLC application for proposed Affordable Housing Regulations and change of zone for property listed in their application.

Mr. Bulmer indicated that CT General Statute 8-30g(h) proves that if a Commission rejects an affordable housing application, the applicant may submit a proposed modification of its

application responding to some or all of the objections articulated by the Commission, which shall be treated as an amendment to the original proposal. By a letter dated July 16, 2002, the applicant, Landmark Development Group, LLC, submitted to the East Lyme Zoning Commission, a modified proposal. What is proposed is a modified amendment to the Zoning Regulations that the zone of the property considered in the original application be changed to a new "Affordable Housing Conservation District". Tonight's hearing will be on the application as modified. For recordkeeping purposes, the exhibits submitted tonight will be numbered in sequence with the exhibits previously submitted at the prior hearings on the original application.

Mr. Bulmer read into the record a letter dated July 16, 2002 from Michael A. Zizka, Murtha Cullina, LLP to the East Lyme Zoning Commission regarding Affordable Housing Application-Landmark Development Group, LLC.

Attorney O'Connell recommended incorporating prior exhibits and testimony by reference into the record of this proceeding.

Mr. Nickerson stated that exhibits and testimony received during the previous public hearings on this application of Landmark Development Group, LLC shall be incorporated into this public hearing.

Mr. Nickerson indicated that due to the amount of volume of testimony it is anticipated the applicant will present at this public hearing may be such that the public comment portion of the hearing may not be reached this evening and would thus be continued to September 26, 2002 and/or October 3, 2002.

Mr. Nickerson invited the applicant to make his presentation.

Michael Zizka, attorney for Murtha Cullina, LLP, represented the applicant. Mr. Zizka stated that there were five reasons given for denial of the initial application and if one were to review those reasons for denial without understanding what was submitted, it appears that one would think that an application for development of a specific site plan was being proposed. In fact, that was not being proposed and is not being proposed this evening. The application was in the nature of a proposal to create a set of Affordable Housing development regulations and then to apply those regulations to the particular site with which the applicant is involved.

Mr. Zizka reviewed Affordable Housing procedure and stated that it is different from the way that the normal procedure is followed. Under CT State Law, the CT Appellate Court decided that an applicant coming in with an Affordable Housing proposal can present the Commission with a proposed site plan and a proposed project that has nothing to do with the existing Regulations. The Court requires the Commission meet the burden of proof that involves issues

that don't have anything to do with the Regulations. Under CT Statute 8-2, Commissions are required to do something affirmatively to increase the diversity of housing within their community. East Lyme has not yet adopted Affordable Housing Regulations.

Mr. Zizka went on to say that the applicant chose to submit proposed Regulations specific to Affordable Housing and recognized that the Town has a number of concerns with this specific site. Mr. Zizka stated that the goal of the applicant was not to build the conceptual plan submitted (Exh. 3) in previous public hearings, which was maximum build out. He added that the applicant believes that the proposed regulations are consistent with the Town's concern for the preservation of the area of concern, i.e. Oswegatchie Hills. The reasons given for denial all presume that the conceptual plan was a proposal when, in fact, the presentation was for Affordable Housing Regulations and request for zone change. The applicant has modified the proposed Affordable Housing Regulation in a way that would be more closely aligned with the Town's concerns.

Mr. Zizka reiterated the modifications indicated in his letter of July 16, 2002, which Mr. Bulmer read into the record.

1. Required dedication of 20% (twenty percent) of the area as open space.
2. One hundred foot (100') setback from wetlands, Latimer's Brook and the Niantic River, will not contain residential structures.
3. The applicant understands that the ability to have a particular site plan is controlled by the availability of sewerage disposal facilities and water.
4. Reduced proposed density by 20%.
5. Any points of traffic access must satisfy applicable State requirements.

Mr. Zizka stated that in the presentation, he and the other presenters will explain why the applicant believes the site has potential for development of Affordable Housing, although it does have sensitive area.

Mr. Zizka stated that the presentation will deal with the considered incompatibility with the East Lyme Plan of Conservation and Development and the State's Plan of Conservation and Development. Mr. Zizka introduced Valerie Ferro, certified professional planner.

Ms. Ferro submitted *Exhibit 46 – Housing, a Regional Transition-Summary Report, an analysis of housing needs in Connecticut, 2000-2001. Prepared by Southeastern Connecticut Council of Governments. (COG)*

Ms. Ferro stated that a number of factors have been identified in this report and she noted several.

1. Housing vacancy rates have been steadily declining since 1990 and is currently approximately 1.4%, i.e. 1.4% available housing in the region.

2. On pages 11-12, the report speaks to zoning policies that have been influencing the supply and distribution of housing in the region. Suburban and rural communities like East Lyme have the greatest potential for accommodating the growth and housing needed by new employees and growing families. Low-density housing predominates, and zoning to permit multi-family housing is limited and is driving the critical demand for housing. The report indicates that the existing zoning policies must be examined to accommodate the housing trends to alleviate this critical housing need.
3. The study addresses housing needs in general with affordable housing a subset.
4. There are 5 interchanges going into East Lyme, making it an accessible community to the employment hub. East Lyme also has a high quality of life making it an attractive community to people moving into the area.
5. In the last several years, Zoning modifications have removed the opportunity for multi-family housing. There are two special zones remaining in place with small acreage and no support system, but are near large lot zoning which is inconsistent with the Plan of Conservation and Development. There is a conflict of trying to find multi-family and accommodating affordable housing in East Lyme.

Ms. Ferro submitted *Exhibit 47 – Location Map, Exhibit 48- Topographic Map of East Lyme* and *Exhibit 49 – Figure 8.1 of the East Lyme Plan of Conservation and Development – Community Facilities.*

1. East Lyme has two I-95 interchanges leading directly to the site, Exit 74 and Exit 75.
2. The physical site has excellent configuration, i.e., accessible, squared off.
3. Land uses around site, Flanders area, is commercial and residential with Deerfield Village, a high density, multi-family development.
4. Site offers linkage to community facilities within a short distance.
5. Because of proximity to commercial and community facilities, configuration and accessibility, this site accommodates multi-family development.

Exhibit 50 – Figure 1.2 of the East Lyme Plan of Conservation and Development – Existing Land Use.

Ms. Ferro indicated that the Plan of Conservation and Development recognizes that 83% of existing multi-family in East Lyme is elderly housing by design. The Zoning Regulations encourage elderly housing as opposed to multi-family housing and affordable housing. The Plan also recognized that the demographics has not shifted and the commuting pattern, because of the infusion of State dollars and economic development in the area, has resulted in the need to accommodate new housing. Page 17 of the Plan recommends site plan standards with the goal to facilitate decisions on technical merit. That is, the Plan recognizes that there is a need to work out the challenges of multi-family housing and to provide for a diversity of housing.

Ms. Ferro stated that the siting of multi-family on the subject site is consistent with the East Lyme Plan of Conservation and Development. The Plan recommends:

1. Free of development constraints. In Connecticut, no site is free of development constraints and sensitive site planning is a method for mitigating these constraints. Technology and expertise has resulted in ways to mitigate and avoid particular constraints.
2. The site should be within or accessible to water and sewer. This site complies.
3. The site should be accessible to arterial roadways. This site complies.
4. The site should be accessible to municipal services. This site complies.
5. The site be removed by distance, topography or vegetation from existing large lot or single family residential development. This site certainly complies with this as well.

Ms. Ferro stated that the standards recommended in the Plan speak to open space of 25%-40%. This proposal suggests 20%, not factoring in wetlands buffers. The applicant can meet that criteria. She indicated that there are no sites in East Lyme regardless of zone, that might allow multi-family by special permit because they do not meet the Plans criteria. This site, however, meets all of the criteria.

Ms. Ferro stated that she reviewed the goals and objectives of the Plan of Conservation and Development and the applicant wants to be consistent with those. In reviewing the goals and objectives, there are a number pertinent to this application.

1. Maintain the predominantly residential character of the Town. With the conversion of this site to multi-family, East Lyme will remain predominantly single family residential. The addition of this zone change will not alter or shift the predominance of single family residence.
2. The Plan states that "East Lyme should still continue to provide for multi-family housing limited by upgraded controls to meet a portion of the regional need for a variety of housing types at affordable costs."
3. The Plan states "to ensure that development meets high standards of quality." The applicant is requesting more stringent controls. If the applicant is given the opportunity to go forward with a site plan, the applicant will be demonstrating Best Management Practices and cutting edge mitigation and avoidance strategies.
4. The Plan states, "to manage East Lyme's natural resources wisely". The applicant is before the Commission for a zone change. If successful, the applicant will demonstrate the sensitivity of site planning techniques and methodologies.
5. The Plan states, "to promote wise use of the land in the coastal resources". The applicant will demonstrate in the site plan process, should the Commission approve the application, wise use of the land, consistency with local regulations and coastal policies.

Ms. Ferro noted that Exhibit 50-Figure 1-2 of the Plan of Conservation and Development erroneously classifies the subject site as “low density residential”. The area, in fact, at the present time is considered by land use, by defined standards, as “vacant”. There is nothing in East Lyme that is labeled “vacant”, although Ms. Ferro stated, she does not believe the Town is completely built out.

Exhibit 51- Figure 2-1 East Lyme Plan of Conservation and Development - Future Land Use

Ms. Ferro indicated that the subject parcel is noted in green and designated as “proposed open space”. She added that it is not now “open space” nor has it been acquired by the Town and there are not strategies in place for the Town to acquire the parcel. Presently, it is not open space and this designation does not preclude development because current Zoning Regulations deal with it in RU200 District.

Exhibit 52 – Connecticut Conservation and Development Policies Plan (1998-2003)

Ms. Ferro stated that previous testimony indicated that the subject site is an area of “critical environmental concern”. The area is identified as buildable land. There will be no State funds involved in the applicants acquisition or development of the site and therefore the CT Conservation and Development Policies Plan will not be valid.

Exhibit 53 – Physical Analysis Board

Exhibit 54 – Coastal Resource Map

Ms. Ferro indicated that this zone change will have to be a compromising balance. The applicant believes that the zone change and, hopefully, subsequent site plan will meet the need for housing in East Lyme and the region, it will also meet the need for some Affordable Housing in the town, it will provide open space and it will respect the natural features of the site.

Ms. Ferro stated that the applicant is not currently engineering the site at this time. The first step is to plan the site and the priority in planning is to recognize its natural features and note its restrictions. Ms. Ferro pointed out the location of Deerfield Village with the same soil, probably more slope and constraints. Deerfield Village is a successful multi-family development and can be used as a model.

Exhibit 53 demonstrates the physical characteristics of the site. It indicates flagged and surveyed wetlands performed by a certified soil scientist, slope greater than 25%; coastal boundary. She indicated that development in steeper slopes is more costly. Ms. Ferro stated that the applicant thought 25% would be a workable threshold. On the Deerfield Village site, the slope is much more significant.

Exhibit 55 – Soil Map from the New London County Soil Survey

Ms. Ferro indicated that the Soil Map demonstrates the soil on the subject site is very similar to soil on the Deerfield Village parcel. The applicant has located detailed soil analysis. The soil survey is from the 1950's and most of the data is extrapolated and only serves as a starting point for on-site investigation by a soil scientist.

Ms. Ferro summarized:

1. The applicant and/or his representative has done an initial physical characteristics analysis and noted natural features of the site and those that need to be preserved.
2. The applicant and/or his representative has read the Harbor Management Plan.
3. The applicant and/or his representative has read the standards for the Niantic Gateway Commission.
4. Equipped with the above, the team, and the zone change, the applicant will be able to demonstrate a very compatible development that will work with the site.
5. The applicant is willing to entertain taking the area around Latimer's Brook and the coastal area and providing public access trails to the Niantic River and open space.

Mr. Nickerson entertained questions from the Commission members.

Mr. Bulmer requested clarification regarding reliance on municipal water and sewer for the subject site.

Ms. Ferro stated that there is a concept that the applicant would consider if there is municipal water and sewer, but there are possibly other opportunities such as on-site and community septic system. Currently, she stated, the applicant is not proposing any plan, they are dealing only with the proposed Affordable Housing Regulation and zone change. She added that the details of the soil's ability to accommodate septic systems have not been fully investigated at this point.

Mr. Bulmer stated that per previous testimony, municipal water and sewer are not available to the site. He stated that he understood that the applicant was considering municipal water and sewer.

Mr. Nickerson requested elaboration on the coastal area delineation blue line on Exhibit 54.

Ms. Ferro stated that decades ago there was a national movement to protect coastal resources and the Coastal Area Management Act was passed. The CT DEP embraced the Coastal Resources Plan and the Coastal Management line or coastal boundary. The State looks for consistency with regard to development in the coastal area and the developer has to adhere to certain policies. The Office of Long Island Sound Programs reviews site plans and submits recommendations to the

Zoning Commission. The Zoning Commission may accept or reject the recommendations. The blue line delineates that coastal boundary.

Mr. Nickerson requested clarification of the 25%-40% open space requirement.

Ms. Ferro stated that the applicant is proposing at this time 20% open space. There is no site plan for the subject site at this time, but it is possible that, when and if a site plan is completed, open space could be more than 20%.

In response to Mr. Gada's question regarding areas proposed for building, Ms. Ferro stated that a site plan has not been submitted, however the most buildable area is away from the wetlands. Ms. Ferro stated that part of the proposed zoning regulation for Affordable Housing is a 100-ft. from wetlands buffer.

Mr. Zizka stated that the Connecticut Plan of Conservation and Development has certain areas that it calls "land intended for preservation". The subject property for zone change is not in that classification, or if it is, it's only a very narrow portion of the property along the Niantic River. Secondly, although one of the reasons given for denial was inconsistency with the Plan of Conservation and Development, Mr. Zizka pointed out that the Plan does have an extensive section on Affordable Housing and requires consideration of Affordable Housing in the CT Plan. One of the things it says is "automatic, large lot requirements may ignore the availability of water and sewer infrastructure or options for community septic systems." Mr. Zizka introduced Jason Sarojak, PE to address the water and sewer issues.

Jason Sarojak, PE, ASW Consulting Group, Managing Partner. He stated that he has provided Landmark Development Group, LLC with the A-2 and topographical survey of the subject site. ASW Consulting Group also flagged the wetlands and delineations at the property and reviewed documents regarding this site and surrounding area. Mr. Sarojak briefly discussed his qualifications. He stated that both public water and sewer can be made available to this site through two locations. 1) Made available through an existing access agreement through King Arthur Court at Deerfield Village, which has existing public water and sewer. 2) Via the town of Waterford's existing water and sewer that ends at the Waterford town line. The proposed water and sewer connections through King Arthur Court will be made available through an approval with Deerfield Village. He stated that his review of these existing water and sewer mains at Deerfield Village indicate that these connections can be brought into the subject site to provide public water and sewer. Both water and sewer is also available via Boston Post Rd. through an existing 10 inch sewer main and 8 inch water main at the Waterford town line at the bridge going over the Niantic River. Connections have been designed and approved by the East Lyme Water & Sewer Commission. This design was prepared for the proposed development at the Lulu's site by Haywood & Holbrook and approved in September 1999. The design consisted of an 8 inch

PVC sewer and an 8 inch diameter ductile iron pipe water main extending from 51 Boston Post Road to the existing water and sewer mains in the town of Waterford. Mr. Sarojak stated that he spoke with Mr. Haywood and personnel of the Town of East Lyme and Town of Waterford. He stated that he has reviewed the design plans and verified through these plans that they would extend past the subject site at Boston Post Rd. He stated that he was positive that the subject site could tie into these proposed plans mains.

Mr. Sarojak stated that if the tie in to water and sewer mains on Boston Post Rd. or Deerfield Village were not made available, both water and sewer disposal can be made available through private wells and a community septic system. The design and utilization of a community septic system (CSS) for the site was verified through three means.

1. Review of the existing CSS for a previously proposed residential development at this site in 1989. The design focused on the western upland portion of the property and consisted of an actual site plan design for the CSS. The approval was never finalized by CT DEP. Soil conditions identified in test pit logs, coupled with depth of bedrock, groundwater that were noted make this site very suitable for a CSS in the proposed area of development along the western upland portion of the site. The test pits indicate soil conditions to be mainly sandy loam from 6-48 inches on average and fine to medium sandy fill from about 48 inches-84 inches.
2. A 1985 design for a CSS for Deerfield Village was approved and implemented for the site by the Town of East Lyme and the CT DEP. Both found the site suitable for CSS. At a later date, public water and sewer was made available to Deerfield Village. A comparison of the soil conditions from Deerfield Village and the subject site revealed that the soils on the subject site displayed better soil characterization than Deerfield Village site.
3. On numerous site visits and walk-thrus of the property, survey and wetlands flagging, it was verified information from the previous CSS designs, but also verified the development potential of the subject site for sewer and infrastructure.

Mr. Bulmer stated that the developer may physically install pipe, however, the issue is the ability of the East Lyme Water & Sewer Dept. to actually provide water and sewer given the Town's allocation at the New London treatment plant and the limitations on wells.

Mr. Sarojak stated that once a formal site plan process is undertaken, the developer will investigate the issue or provide private wells and CSS.

Mr. Zizka stated that the applicant takes issue with the town's representation that public water and sewer are not available to the site. The records of recent years of the Water and Sewer Commission approvals have been examined and to the applicant and his representatives, there seems not to be a particular policy as to who connects. He stated that Landmark Development

Group believes that they are not being allowed to connect because of the nature of the development, not because of any lack of capacity. He added that the records of the Water and Sewer Commission indicate that there perhaps is about two-thirds of the available capacity that is presently being used. The Sewer Commission has said is that if sewers are extended to all of the areas that are currently within the sewer shed, then there would be no capacity. They have given no reason why an allocation that is being made to another area of the sewer shed that is not presently being used, where there is no demand for the sewer, could not be shifted to this project if the town's wished to do so. He stated that the question of whether or not there is sewer capacity available is not clear. He stated he has seen records of the Water Dept. that indicate that water connections to other towns were made available to serve other projects in East Lyme in the past few years,. Although there may not be additional capacity for the Water Dept. servicing a portion of East Lyme, there are other areas in the area of the subject site that have been allowed to connect to other towns where water is being supplied by Water Companies.

Mr. Zizka stated that he understands that the Water and Sewer Commission does not want to make water and sewer available to subject site, but he does not think it is accurate to say that it could not be made available to the site. All of the site planning activities that are ultimately done with respect to this property are going to be determined by what public infrastructure or private infrastructure is necessary. In the event that public water and public sewer is not available, the development will be limited and based upon the capacity of the natural soils to support the development.

Mr. Bulmer inquired if Mr. Zizka was refuting all the testimony of the previous experts regarding water and sewer availability including the Town Director of Public Works.

Mr. Zizka stated that this is not a site plan proceeding, but rather an amendment proceeding. The question is does the town want to accommodate Affordable Housing on this property to the extent that the natural soils or public infrastructure will allow. Ultimately the site plan will be based upon what is available to the site to service public water and sewer.

Mr. Zizka introduced Bud Titlow, Senior Environmental Scientist with ENSR (Environmental Consultants and Engineers). Mr. Titlow described his qualifications including a Master's Degree in Wildlife Ecology and professional Wetlands Scientists #754. Mr. Titlow stated that he reviewed the site and it is primarily all forested by oak dominated upland. He stated that he did not note any special or unique resources on the site. There are several wetland systems on the property which have been field flagged by professional soil scientist and surveyed. There is a combination of wetlands and watercourse systems on the property. Mr. Titlow stated that with regard to the wetlands, the proposed regulation provides for 100-ft. boundary around each wetland is designated as "no build". This criterion for protecting wetlands exceeds all local, state and federal wetland regulatory requirements. He emphasized that the developer and design

team will work to provide protection for significant resources on the property, both in terms of avoiding the most significant resources and maximizing the protection for all natural resources on the property.

Mr. Titlow stated that his firm also specializes in stormwater management and this site will be designed to incorporate state-of-the-art stormwater management systems, which will have all the latest Best Management Practices, including extended detention for removing total suspended solids from the stormwater run-off. Site design would meet all DEP and EPA guidelines for 80% removal of total suspended solids in the water column. Detention basins on-site would be planted with native wetland vegetation to provide a net enhancement of wetland functions on the property.

Mr. Nickerson stated that the proposed amendment stated "no residential building" in the 100-ft. wetland buffer. He stated that paving, therefore, could take place within the wetland buffer or a maintenance building within the buffer.

Mr. Zizka stated that it may be necessary to encroach with a roadway, for example, depending on the ultimate site plan design. It may be necessary in some instances to come within 100-ft. of a wetland with some type of infrastructure or impervious surface. He stated that the applicant will try to avoid encroachment into the buffer to the extent possible, but that cannot be guaranteed without doing a site design.

Mr. Titlow stated that by restricting buildings within 100-ft of the wetlands, you are avoiding impacts and minimizing the unavoidable impact.

Mr. McLaughlin suggested revising the language to read, "All development must be setback 100-feet from the wetlands". Mr. Zizka stated that the language could be considered, however, he stated that the access onto Boston Post Rd. is narrow and comes close to the wetlands associated with Latimer's Brook. For that access point, it may not be possible to restrict development to outside the 100-ft wetland buffer.

Mr. Zizka read from the proposed regulation: "If any part of the AHCD adjoins the Niantic River, the Open Space Plan must provide for public access along at least 20% of the shoreline with such access areas being at least 100 feet in depth as measured landward from the shoreline." (#4 Open Space and Coastal Access Plan).

Mr. Peck inquired if Landmark Development planned to test throughout the site for the depth of the ledge. Mr. Sarojak stated that based on the test pits that were done on the site and those previously done on Deerfield Village, there was a depth of bedrock that averaged 60 inches at

Deerfield Village area and average of 84 inches on the subject site. The area tested was the area where the previously designed CSS was proposed (about 50 test pits, 40-50 acres).

Exhibit 56 Letter to Landmark Development Group, LLC from Mr. Bud Titlow dated September 19, 2002.

Exhibit 57-Resume of Mr. F. Budd Titlow.

Mr. Nickerson reconvened the Public Hearing following a five minute recess.

Mr. Salerno stated that he has attended all previous public hearing relating to this application at the East Lyme High School and is familiar with all the testimony and exhibits submitted.

Mr. Zizka stated that the fifth reason the Commission for the original denial related to traffic issues. He added that until such time as there is an actual site plan with the number of units and estimated number of vehicles per day, it is not possible the state that there will be any particular traffic impacts at any particular point. He introduced Ted DeSantos, Traffic Engineer, Fuss & O'Neill, Manchester, CT to discuss his investigation of this issue.

Mr. DeSanto stated that he is a Traffic Engineer and registered Professional Engineer in the State of CT. He briefly stated his qualification.

Mr. DeSanto stated that should this project be approved at some point, it will be required to go through the State Traffic Commission (STC) Major Traffic Generator Process and to provide detail about the engineering analysis and plans that will be required to meet the requirements of the STC process. He stated that ample consideration will be given for the safety of traffic in and around the subject site, the mitigation of any traffic generated by any development proposed on this site and that he will provide sufficient analysis to determine what off-site improvements might be required to support development on the site. He stated that all the engineering analysis that will be done to support the STC process does not start until there is an actual application for site plan approval before the Commission. Mr. DeSanto stated that there is nothing on Exhibit 58 that is site specific.

Exhibit 58-CT Dept. of Transportation Map

Mr. DeSanto stated that STC is required for this site for the following reasons. It meets all three criteria dictated by the State General Statutes.

1. It is very likely that any project proposed on this parcel subject to the zone change would be greater than 100,000sf in magnitude gross floor area or
2. It is highly likely that any development on the site would have greater than 200 parking spaces and

3. The site abuts or adjoins a State Route. (Route 1; Route 161; Route I-95).

STC Major Generator Process guarantees 1) safety of access to the site and safety of the traveling motorist in and around the vicinity of the site and 2) guarantees that any developer who is proposing a project of this magnitude (that meets the above criteria) will mitigate any traffic impact which will result from that development.

Mr. DeSanto outlined the STC safety process. The STC requires an accident history study for the latest three years for all of the roadways and intersections in the vicinity of the site (.5 mile from site drive intersections). This review determines existing condition safety problems. The STC requires the review and guarantee sight lines from the site access point. As part of that application, the Traffic Engineer has to prove a safe turning movement can be made onto a state road from the driveway for the existing condition speeds on the adjacent roads (85th percentile speed). The STC sets the standards through the CT DOT Highway Design Manual for what the standards will be for design of any proposed roadways or intersections that one would be doing off-site improvements to.

Exhibit 59 – STC Application for Major Traffic Generator Certificate

Mr. DeSanto outlined the requirements for ensuring sufficient capacity on the roadways and intersections in the vicinity of the site.

1. Traffic impact study of current conditions.
2. Increase existing counts to account for background traffic growth to a time when the development might open. This is a natural growth factor consulting the Town Planner and the State Traffic Commission to ensure pending or approved developments in the vicinity of the site, which might add traffic, are considered and accounted for in the background traffic for this project.
3. Item #1 and #2 are analyzed for capacity and a Level of Service is determined for every intersection in the vicinity of the site, exclusive of the site drive intersections because they are not included in the background.. A Level of Service is basically a measure of driver delay. Level of Service is graded from A (very good) to F (very poor).
4. Based on his analysis and empirical data for this type of development, the Traffic Engineer estimates how much traffic will be generated by this development.
5. Once the Traffic Engineer determines what the site generated traffic will be, he distributes that traffic to the adjacent roadway network based usually on existing travel patterns in an around the vicinity of the site.
6. A combined condition analysis is conducted with the traffic from the proposed development. Intersections that decrease in Level of Service below a threshold which is acceptable to the State, usually a Level of Service B during peak hours, the State will

dictate that you must do improvements to the roadways or intersections in order to improve the Level of Service back to an acceptable level.

7. The difference between the combined conditions analysis and the background analysis is the Traffic Impact and it is the responsibility of the Traffic Engineer to make sure that there are either available capacity in the roadway system to accommodate that traffic or that off-site improvements are proposed to mitigate the impact or decrease in the Level of Service.
8. All conditions of approval must be met before the development can be issued a building permit by the town.

Mr. DeSanto stated that CT DOT oversees any off-site, intersection improvements and DOT reviews and approves the process throughout.

Mr. Nickerson inquired as to the frontage on State roads. Mr. Zizka stated the frontage on Route 1 was approximately 54 feet.

Mr. Nickerson inquired if the subject site currently has access to King Arthur Drive. Mr. DeSanto stated that he cannot testify to that.

Mr. Bulmer inquired if King Arthur Drive would have to be widened substantially in order to accommodate the increase for traffic. Mr. DeSanto stated he suspected so, however, he would have to look at it in more detail.

Mr. McLaughlin inquired if for some reason, DOT did not approve the access roads to the site, is there any other access to the subject site. Mr. DeSanto stated he was not aware of any.

Mr. McLaughlin stated he was concerned about the Route 1 limited sight lines. Mr. DeSanto stated that would be addressed by a Traffic Impact Study and improvements would have to be proposed to mitigate that condition. He added, in response to Mr. Peck's question, that the STC reserves the right to revisit the site if conditions arise that were not foreseen. He added that he was not aware if this condition has been tested, however. He stated that there was not time limit on the condition.

Mr. Peck inquired if there is a bond in case there are improvements that are required. Mr. DeSanto stated that the developer has to post a bond in the amount sufficient to cover the cost of the improvements dictated by the condition of approval.

Mr. Zizka introduced Chris Rixon, Managing Member, Mason's Island Realty Group, which is a development and financial engineering company that specializes in Affordable Housing in

Connecticut. He state his qualifications briefly. He indicated that he was involved with the financing of Deerfield Village, Niantic.

Mr. Rixon discussed the success that East Lyme enjoys in Affordable Housing and the potential for success if the subject site is zoned Affordable Housing.

1. Existing success: Deerfield Village is 100 units mixed income housing. 74 units designated affordable-rent restricted and income restricted, one management unit and 25 units market rate. Rents range from \$515-\$900+ per month. Deerfield Village is fully occupied with a six month waiting list. He stated he believes this success can be duplicated to the subject site. He indicated that there are in excess of 5,000 units in demand immediately for Affordable Housing.
2. He stated that there is a potential for common marketing and management of the sites. He stated it may make sense to have both access and utilities from Deerfield onto the subject site in his opinion.

Exhibit 60 – Deerfield Village Pamphlet and Photographs

Mr. Rixon stated that the Deerfield site has steeper grades making development more difficult.

Mr. Mulholland inquired if there was a right-of-way (ROW) through the Deerfield property to the subject site? And if not, would it be developed should Landmark's development go forward? He added that to his recollection Deerfield Village site consisted of approximately 100 acres.

Mr. Rixon stated that an easement exists which would provide both access and utilities. He indicated that approximately 60% of the acreage of Deerfield Village is undeveloped. The project was initially approved for on-site sewer, but municipal water and sewer were approved before construction was completed.

Mr. Zizka stated that in view of the late hour and the public wanted an opportunity to question the presenters, he stated that at this point, he would entertain questions.

Mr. Salerno stated that Mr. Titlow had stated that the subject site has no unique properties. Previous testimony seemed to contradict this statement. He requested that Mr. Titlow define "unique properties".

Mr. Titlow stated that a unique property or resource would be a listed species, endangered or threatened species. He stated he has not observed any unique or significant resources on the property to day. He indicated he was not aware of any documented occurrences. If they do find and endangered or unique species, he added, all necessary measures would to taken to protect

and preserve them and comply with local, state and federal standards for protecting those resources.

Following a two minute recess, Mr. Nickerson opened the floor to members of the public who had questions for any of the presenters.

Rose Ann Hardy, ex-officio, East Lyme Zoning Commission inquired how much time Mr. Titlow had spent on the property. She inquired if, in order to fall under the protection guidelines does a species or resource have to be rare or endangered?

Mr. Titlow stated he spent eight hours this past Monday, September 16th walking the property. He stated that the most significant resources identified on the site from a regulatory standpoint are the wetlands. He stated there are no state, local or federal regulatory protections for upland habitat. If there is a rare species that is a wetland species, then it has protection under federal, local and state regulations, however. As part of the design team, he stated he would do everything that could be done to minimize impact to that species.

Mr. Bulmer inquired if Mr. Titlow had read any of the previous testimony in this case. Mr. Titlow stated he had not.

Henry Fitting, 34 Hill Road, East Lyme stated that he has seen many animal species including red tail hawk.

Mr. Zizka suggested that if any members of the public have questions, they can be submitted to Mr. Mulholland and at the next public hearing on this case, the presenters will respond.

Rhonda Feldman, owner of 15 Boston Post Rd. and 17 Boston Post Rd. asked what kind of guarantees there are that Best Management Practices would be effective. She inquired what the impact would be on all the community services and if the internal traffic is regulated or controlled.

Ms. Ferro responded that land use is regulated by the Zoning Regulations. In addition there are other regulatory agencies such as the Conservation Commission and the Planning Commission. She indicated that Best Management Practices utilize various technologies and systems to best address issues that these Commissions and public are concerned about. The developer is offering to use the natural systems and the technologies that are available. She added that there is not site plan for the subject site and therefore she does not know how many units will be on the site.

Ms. Ferro indicated that a study of multi-family developments indicated that there were fewer children than perceived. She stated that if one logs onto the website for US Census Data, it will indicate in the town of East Lyme the number of children under 18 are less in multi-family dwellings than in single family dwellings. She indicated that from data she has seen, the affordability criteria imposed on Affordable Housing units has not bearing on the number of children, that it is a misperception Affordable Housing would invite increase in the number of children. She added that she is not a social scientist is not prepared to give testimony on the issue of the number of children in Affordable Housing units.

Mr. DeSanto stated that internal traffic is taken not consideration when there is a site plan. If there are connections to a local road, it is always a consideration that people will use it as a cut-thru.

Susan Kraynak, 1 River Rd., East Lyme inquired over what period of time the traffic studies are done. She stated that the volume traffic on Boston Post Rd. is heavier in the summer than at any other time of the year.

Mr. DeSanto stated that the counts, to get the best assessment of existing conditions, ideally would be at the time of year when the traffic volume is at its highest. The Traffic Engineer always wants to be conservative. Sometimes it is not feasible to obtain counts during the peak season, but what the DOT does is keep on record is historical fluctuation percentages and seasonal adjustment factors for all state roads.

Marvin Schutt, 29 Edgewood Rd. No., Niantic directed his comments to Mr. Zizka. He stated that Mr. Zizka has reminded the public several times, at previous hearings and this one, that we should be speaking to amendment to the Zoning Regulation. We should not have been speaking to the site plan. He stated that Mr. Zizka has sanctioned tonight a presentation that should have been directed to a requested amendment to the regulations. He requested Mr. Zizka explain.

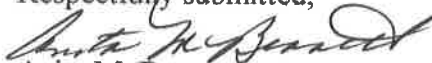
Mr. Zizka stated that the normal Affordable Housing appeal process allows an applicant to simply ignore the town's existing regulations. The Affordable Housing Act would permit Landmark Development Group, LLC to come into town with a site plan that was totally inconsistent with any regulations that the town has. This forces the town to state why that site plan should not be approved. The burden is on the town. Landmark did not want to use that tactic, but rather to say it was proposing to come in with a site plan that is going to be admittedly quite different and denser site development than your existing regulations would allow. This allowed Landmark to identify and discuss concerns of the town with respect to this site and develop regulations that would be more sensitive to the Commission's concerns while still accommodating the applicant's goal of providing Affordable Housing. The purpose of this, stated Mr. Zizka, is to try to come to a resolution on a set of regulations that Landmark is binding

itself to come in under with this development. It was an effort for the Commission to be told up-front what it is Landmark is going to do and to try to work with the Commission to determine what that would be.

There being no further speakers and due to the hour, Mr. Nickerson entertained a motion to adjourn.

Motion (1) Mr. Salerno moved to continue the Public Hearing on the application of Landmark Development Group, LLC for modification of affordable housing proposal to adopt Affordable Housing Regulation and for a change of zone for property specifically listed in their application from their existing zoning district designated to a new Affordable Housing Conservation District (AHCD) until Thursday, September 26, 2002 at 7:30 PM at the East Lyme Town Hall.
Motion seconded by Mr. Gada.
Vote in favor: (6-0), Unanimous.

Respectfully submitted,



Anita M. Bennett

Recording Secretary

23 September 2002