

TOWN OF EAST LYME
EAST LYME ZONING COMMISSION

MARCH 3, 2011

PUBLIC HEARING MINUTES

Members Present:

Marc Salerno, Chairman
Ed Gada
Mathew Walker
Steve Carpenteri, Secretary
Norm Peck, III
Rosanna Carabelas
Bob Bulmer, Alternate

FILED March 8, 2011
AT 8:15 AM.
L. Blain
TOWN CLERK

Members Absent:

Bill Dwyer, Alternate
James Liska, Alternate

Also Present:

Bill Mulholland, Zoning Officer
Rosa Ann Hardy, Ex-officio from the Board of Selectmen
Joan Bengston, Planning Commission Liaison

CALL TO ORDER

Chairman Salerno called the Public Hearing to order at 7:30 p.m.

PLEDGE OF ALLEGIANCE

Chairman Salerno led the assembly in the Pledge of Allegiance.

PUBLIC DELEGATIONS

There were no Public Delegations.

PUBLIC HEARING

The Town's attorney, Michael Carey, gave the Commission a brief review of Connecticut General Statutes Section 8-30g. He discussed what happens when a case is appealed. When there is an appeal of an Affordable Housing Application the burden is on the Town's Commission to prove that the decision was supported by sufficient evidence in the record. The Court will make the determination that there was sufficient evidence on the record. There has to be evidence beyond speculation.

Mr. Bulmer asked what they mean by “on the record.”

Attorney Carey stated it means any word that is said and any documents submitted during the Public Hearing.

Mr. Salerno asked if any members had any conflicts of interest.

Mr. Peck excused himself for the Public Hearing.

Chairman Salerno sat Mr. Bulmer as a Regular Member for the Public Hearing.

Chairman Salerno asked Mr. Bulmer if he had any conflicts of interest.

Chairman Salerno stated the legal ad had run.

1. **Application of Theodore A. Harris, agent for New England National, LLC for approval of affordable housing development, and a conceptual site plan to construct seventy four (74) residential units on property identified in the application as Upper Pattagansett Road, Assessor’s Map 39.0, Lot 10-1.**
2. **Application of Theodore A. Harris, agent for New England Nation, LLC to rezone from its zoning designation (RU-40 Residential) to Affordable Housing District for property identified in the application as Upper Pattagansett Road, Assessor’s Map 39.0, Lot 10-1.**

Mr. Carpenteri read a letter from Gary Goeschel, Town Planner and Wetlands Officer dated February 3, 2011.

Mr. Carpenteri read a Memo from the East Lyme Water & Sewer Commission dated January 25, 2011.

Mr. Carpenteri read a Memo from Bill Scheer, Town Engineer dated March 3, 2011.

Mr. Carpenteri read a letter from the East Lyme Fire Marshal.

Mr. Carpenteri read a Memo from Gary Goeschel dated March 2, 2011.

Mr. Carpenteri read a letter from Donald Klepacki and Richard Bennett dated March 1, 2011 of 3 Upper Kensington Drive.

Attorney Ted Harris presented this application for New England National at this Public Hearing.

Mr. Harris presented **Exhibit 1: Certificates of Mailing.**

Mr. Harris stated these are not low income, they are designed as market rate, and offered at a price that is affordable. Some are offered at 80% and some are offered at 60% of the median income rate. The Affordable units will not be any different from the market rate units, the only difference will be in the land records of the Town. They will be the same in quality and size. This application is for a conceptual site plan. They would have to return to this Commission with a complete and final site plan. Some details are not in the conceptual plan but would be designed into the final site plan. He referenced the Wisniewski court case which indicated that Affordable Housing overrides Zoning Regulations and even though the Affordable Housing may not necessarily comply with zoning. These will be private roads, and the owners will have to pay a maintenance fee. They are going to attempt to sell single family homes and duplex units. It will look like a subdivision, but will be high density. This is a good alternative to other Affordable Housing in town.

Mr. Harris Presented Exhibit 2: Affordability Plan

The Affordability Plan shows where the affordable units will be and shows that they are planned for throughout the area.

Mr. Harris Presented Exhibit 3: Rendering of Single Family Unit

The Single family unit will be 1600 square feet, have a garage and second story living.

Mr. Harris Presented Exhibit 4: Rendering of Duplex Unit

Utilities will be on site, they have done site testing for septic, and have test hole data, they have determined that there is sufficient septic area, and that is based on DEP or Department of Health systems. They will provide water on site provided by 1 or more wells. Once they are completed, the wells would either be turned over to the Town or to a Private Water Company. It will be the responsibility of the developer and then they will turn it over. Mr. Harris discussed Mr. Goeschel's letter and stated he failed to acknowledge that 8-30(g) overrides the local regulations. Affordable Housing is not required to be near city centers. They have spent two to three years analyzing this site. They have had full topography done, and extensive site testing, and drain analysis. They have not designed erosion and sediment controls yet. Mr. Harris discussed Mr. Scheer's letter and stated the Grade coming up from Upper Pattagansett was designed with the Town's grade standards. They do acknowledge that there is some details needed on the site plan and they will come back with that after the conceptual stage.

Mr. Harris Presented Exhibit 5: Conceptual Site Plan

There will be 8 Duplex units, and the units will be divided into pods, which gives privacy.

Mr. Harris Presented Exhibit 6: Aerial Photographs

It is a very heavily wooded area, and is not in the middle of a neighborhood. The main road will be 22 feet wide, and the smaller roads will be 16 feet wide. There will be emergency access from Nottingham Hills Subdivision.

Mr. Harris discussed the Fire Marshal's letter and stated they would have fire protection.

Mr. Harris stated they would have substantial areas for storm water control and drainage. He also stated there is a potential well area within 100 feet of the upland review area for Inland Wetlands, if they do decide to go with that well, then they would need to go to Inland Wetlands Agency, but there are also other potential well sites.

Bill Vleet, 41 Prospect Street, Manchester, Connecticut – Traffic Engineering

Mr. Vleet Presented Exhibit 7: Traffic Study

He did traffic counts during August of 2008, during the morning peak hour, and the afternoon peak hour. The proposed 2012 traffic volumes without this development would be on average one car a minute. There was more traffic heading toward Route 1.

Mr. Mulholland asked if there is sufficient area for a bus to stop on Upper Pattagansett near the entrance to the development.

Mr. Vleet stated there was sufficient vertical alignment on Upper Pattagansett for the bus to stop.

The current traffic speed average going west was 39 miles per hour, and 41 miles per hour going east.

Mr. Vleet Presented Exhibit 8: Traffic Speed Data Report

The site lines are 475 feet to the left and 650 feet to the right.

Mr. Salerno asked if they analyzed the intersection with Boston Post Road.

Mr. Vleet stated they have not, but this development, as proposed, is over 100,000 square feet which triggers a visit to the Department of Transportation State Traffic Commission to determine if the development is a major traffic generator. They determine what the impact will be on the nearest State facility.

Mr. Salerno asked if they did any studies while school was in session.

Mr. Vleet stated they did them on August 18, and there was no school but they are required to do the study in the summer months.

Ms. Carabelas asked how they came up with 25 vehicles leaving during the peak hours.

Mr. Vleet stated the method is to use the highest number of volume, creating a worse case scenario, this is the peak highest value.

Mr. Salerno asked Attorney Harris if this will be built in one phase.

Mr. Harris stated there will be 74 units, the first phase will be 16 units.

Mr. Salerno asked if they would be dedicating any open space.

Mr. Harris stated yes, there will be open space, which will also include storm water facilities, there is also more public open space nearby.

Bob Pfanner, 37 Grand Street, Surveyor stated there had been extensive studies done for water when they did Darrows Pond. There are 3 wells on Darrow Pond.

Exhibit 9 was presented: Well Radius Plan, Darrow Pond for Town of East Lyme

They would have to have a minimum of 2 wells, and they have calculated that they will need 22000 gallons per day and about 15 gallons per minute.

Every 16 units would have their own septic system.

The property is very steep in the middle, and flat at the bottom and top.

Exhibit 10 was presented: Well Report & Water Yield

Mr. Bulmer stated it looks very steep where the duplexes are proposed.

Mr. Pfanner stated that it does start to get steep in that area.

Mr. Bulmer asked where the wells would be.

Mr. Pfanner stated they have not decided.

Mr. Bulmer stated he feared contamination of the wells by the septic. He asked why they aren't on the map.

Mr. Harris stated this is a conceptual site plan, they need local approval first, but the wells and the septic will need to be approved by the DEP and the Health Department.

**** There was a five minute recess and the meeting resumed at 9:25 p.m.**

Mr. Salerno asked if there were any speakers from the public that were in favor of this application.

There were none.

Mr. Salerno asked if there were any speakers from the public that were against this application.

James Fobian – 17 Hathaway Road – lives across the street from the proposed subdivision. He is concerned with the impact on traffic, walkers, joggers, bike riders. They already have near misses on that road. He has two kids in the East Lyme School System, and they have to walk ½ mile from the bus stop on Upper Pattagansett.

Ching Chong – 222 Upper Pattagansett Road – lives 300 yards from the proposed site. He is concerned with the water supply. They already have a water shortage. Any new wells will have a significant impact on the living standards. Also, that is a very big slope, he is concerned about the storm water runoff.

Daniel Septon – 245 Upper Pattagansett Road – In the current economy the construction of new homes seems irresponsible. He also stated the map attached to the mailing had information obscured and information had been redacted. The information should be re-published without markings.

Beijing Tan – 228 Upper Pattagansett Road – The late bus for High School and Middle School drops off the kids ½ mile away, there are no sidewalks, which poses a significant danger to the kids. He is also concerned with the impact on wetlands.

Donna Burn – 158 Upper Pattagansett Road – In the summer the girls at the Girl Scout Camp walk across the road, also high school kids run cross country on that road. She suggested they do a traffic study during the school year.

Anita Dees – 233 Upper Pattagansett Road – Wants to have a recreation lane on Upper Pattagansett Road for walkers, bikers. At least put a sidewalk on one side. They could need traffic lights, and street lights, and the town will end up picking up the tab for this.

Tom Kalal – 80 Grassy Hill Road – Thanked all of the members of the Commission. He opposes this application.

David Brake – 196 Upper Pattagansett Road – He lives ½ of a KM south of the proposed development. Mr. Brake questioned the Wisniewski case overruling local rules. This is a gateway to the rural part of town, and would ruin the rural nature of the area.

Mark James – 200 Upper Pattagansett Road – This is a windy road, with dangerous spots. Mr. James asked if the emergency access road would be paved. He walks and bikes on Upper Pattagansett and this will impact his life.

Dan Gaffey – 2 Pepperidge Lane – He is opposed to increased traffic, there are blind curves, and it is more narrow in the winter, and is subject to flooding and black ice. The

high school athletes run on it, and there are cyclists and walkers, and in the summer the girl scouts are crossing the road.

Lee Ping – 224 Upper Pattagansett Road – He did not receive the letter about the hearing. He would like better communication.

Sijay Chan – 230 Upper Pattagansett Road –

Mr. Chan Presented Exhibit 11 – Petition

Pam Rothgeb – 3 Pepperidge Lane – She invited Mr. Vleet to go out there on a Tuesday night around 5 p.m., the road is an accident waiting to happen. The high school runners run 2 or 3 kids in a row. Her husband used to walk their dog, but wont do it anymore.

Tom Solinsky – 246 Upper Pattagansett Road – He is in opposition to the project because of Health and Safety. Cars drive too fast. The road is very unsafe. He also wanted to know who has to maintain the Water and Septic, does it become the Town's responsibility?

Frank Hoagland – 176 Upper Pattagansett Road – He is a former Conservation Commission member and Chairman. There are inadequate erosion and sediment controls in the Kensington Road area and where the former Hathaway Greenhouses were. He is 100% for Affordable Housing but not in that area.

Mark Christensen – 66 Grassy Hill Road – He stated that new property owners must know that farming is allowed on neighboring property. The new Plan of Conservation and Development (POCD) is in force and was required by the State. Public Hearings were held on the POCD, and nobody came forward to say a zone change was needed for Affordable Housing. That public hearing was just held in 2009. Areas of Town within the range of Water and Sewer were promoted for Affordable Housing. Zone change for one land owner is not in the best interest of the townspeople. He also stated that only land use Commissions can make land use decisions.

Jared Ford – 9 Pepperidge Lane – He asked how long the construction is going to be going on.

Ted Morrison – 244 Upper Pattagansett Road – He thinks the average speed on that road is more like 50 mph, and he feels the increased traffic would be terrible.

Exhibit 12 – Letter from David and Judith Funke was read into the record by Mr. Carpenteri.

Mr. Salerno asked how much of the 48 acres is not developable.

Mr. Harris stated about 3 or 4 acres.

Mr. Salerno asked if this was done as a regular subdivision how many lots would they be able to develop.

Jeffrey Torrance – Upper Pattagansett Road – Stated he would be able to develop about 40 lots if it was a regular subdivision.

Mrs. Carabelas stated they are looking at an older site map from 2008. The duplexes were added after.

Mr. Harris stated they had not yet decided how they would be developing the site.

Mr. Salerno asked if they would be willing to make more Open Space.

Mr. Harris said they would be willing to set part of the property as Open Space, and that area would have storm water facilities on it as well.

Mr. Bulmer asked about the emergency access road.

Mr. Harris stated it is an existing logging road, and is gravel and could be sufficiently improved for emergency access.

Mr. Torrance stated they built a trail system and deeded the property to the town. There is access to open space.

Mr. Bulmer asked if a fire engine could use that emergency access road.

Mr. Torrance stated yes.

Mr. Carpenteri asked if the gravel road would stay gravel.

Mr. Torrance stated yes.

Mr. Walker stated the POCD recommend areas for this type of housing have easy access to shopping and pedestrian areas. This is a glaring conflict.

Mr. Harris stated the Statutes say that Affordable Housing can override the Zoning Regulations. This is an opportunity for different housing type.

Ms. Carabelas asked if traffic studies look at accidents.

Mr. Vleet stated yes at some point they could do a report on the accidents.

Ms. Carabelas asked if there would be a condominium association, and that the roads will be privately maintained?

Mr. Harris stated yes.

Mr. Salerno asked what they would sell for.

Mr. Harris stated the numbers can change, but approximately for an 80% would be 220,000, and a 60% would be 165,000. The numbers change all of the time. Right now the median income is 81,000. The State gives them the numbers.

Mr. Bulmer asked about surface water runoff and if they have done bore hole testing.

Mr. Pfanner stated all runoff will be through a pipe system. The water will come out below in a drainage structure. The system will be designed for a 25 year storm. No additional runoff will leave the site.

Mr. Mulholland asked if they will be coming back to this commission if this application is approved.

Mr. Harris stated they will need to come back to this Commission for approval of the Site Plan.

Mr. Mulholland suggested they leave the public hearing open to get an answer on that from Attorney Carey.

Attorney Carey stated he does not believe they can build with what has been presented. He recommended they come back sooner than later to review what was brought to them tonight.

Mr. Salerno asked if the road was wide enough to handle this.

Mr. Vleet stated the road maintains 2 way traffic, and is sufficient width, additional traffic wont change that.

Ms. Carabelas asked if there was any kind of shoulder on the side of the road.

Mr. Vleet said there was not.

Mr. Salerno asked if the wells would be community well depth.

Mr. Pfanner stated it depends where the water is.

Mr. Harris stated the Department of Health would be used for approval of the wells and the septic. Storm water design and activities that affect the wetlands will have to go before the Town's wetland agency.

Mr. Walker asked who maintained the septic.

Mr. Harris stated the DEP considers it a community system, the Association would have to bond the maintenance.

Mr. Mulholland asked if the Water and Sewer Commission would have to accept that agreement.

Mr. Harris stated by Statute yes they would.

Motion (1) Ms. Carabelas moved to continue this Public Hearing to the next meeting.

Seconded by Mr. Carpenteri.

Motion Passed 6-0.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Karen Miller Galbo".

**Karen Miller Galbo
Recording Secretary**