

EAST LYME ZONING COMMISSION

REGULAR MEETING

APRIL 7, 2011

Members Present:

**Marc Salerno, Chairman
Steve Carpenteri
Norm Peck
Mathew Walker
Ed Gada
Bob Bulmer, Alternate
James Liska, Alternate
Bill Dwyer, Alternate**

FILED 4/12 2011
AT 8:15 AM.
L. Blais ATC
TOWN CLERK

Members Absent:

Rosanna Carabelas

Also Present:

**Bill Mulholland, Zoning Officer
Rose Ann Hardy, Ex-Officio
Bill Scheer, Town Engineer**

Chairman Salerno sat Mr. Bulmer as a regular voting member for the Meeting.

Chairman Salerno changed the order of the Agenda and moved the Application of the Town of East Lyme to item 1.

- 1. Application of the Town of East Lyme for a Special Permit to modify and expand the existing town parking lot located on Hope Street, Assessor's Map 12.1, Lot 94, by adding an additional 59 parking spaces.**

Mr. Salerno stated this is fantastic, the town is working hard, and the Westerly and Southerly sides will need a waiver, they have been trying for years to get shared parking, and this will double the spots downtown.

Mr. Bulmer stated he concurred with Mr. Salerno and this will be very attractive.

Motion (1) Mr. Bulmer moved to approve the application of the Town of East Lyme for a Special Permit and Coastal Site Plan approval to modify and expand the existing Town Parking lot at Hope Street, Niantic, Connecticut, with the following conditions:

- A. Granting of waiver or exception to Section 24E-3 buffer strip. Eliminates the 6' buffer requirement along a portion of the southerly property line and a portion of the westerly property line.**

Seconded by Mr. Carpenteri.

Motion Passed 6-0-0.

Mr. Mulholland stated this will be published next Thursday April 14th, and will become effective April 15th.

- 2. 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.**

- 3. Application of Theodore A. Harris, agent for New England National, LLC to rezone from its existing 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. Peck recused himself for Items 2 and 3, and Mr. Liska sat in his place.

Mr. Salerno ensured that all members that were seated had familiarized themselves with the Applications.

Mr. Salerno stated at the last meeting they had asked Mr. Mulholland to prepare Motions.

Mr. Mulholland stated he was directed to do resolutions in the affirmative, and he suggested that all of the members read through what was prepared.

Mr. Bulmer stated he thought he had asked for the Emergency Access Road to be paved.

Mr. Mulholland stated he did not see that in the Minutes.

Mr. Salerno stated they discussed that the Fire Marshal would have to approve the Emergency Access Road.

Mr. Bulmer stated he thought the secondary road should be paved.

Mr. Mulholland stated he is not sure that emergency access roads are treated as roads, and many are gravel.

Mr. Bulmer stated he also talked of backup power systems for the Water and Sewer Pumps.

Mr. Salerno stated they had reduced the units to 58, the duplexes were removed, the new plan reflects the additional conservation easement. They also agreed to reduce the bottom cut in the road.

Mr. Liska stated he is ok with that part of the road, it would be a nice place to walk or for kids to ride bikes.

Mr. Bulmer agreed with Mr. Liska, he has no problem with the way the road is.

Mr. Salerno stated they would not have to put the changes to the road in. The applicant testified that if they wanted to put in a subdivision per the CDD cluster regulations, they could get 58 units, he has determined that to be a little less at 54 or 55, but it is close to what would be approved by the CDD. This will have a condominium association, and the owners will own the units. This will also have community septic. This application is the first single family affordable housing plan. This probably won't be seen from the road. There are some concerns with traffic on that road, but the applicant's traffic engineer testified, and there was some anecdotal evidence from the public. In the past if you used traffic as a reason to deny you needed expert testimony rebuttal.

Mr. Gada thought the application was clear and concise.

Mr. Carpenteri stated he doesn't think it is bad the way it is. As far as affordable housing, this is the best one they have seen.

Mr. Liska stated Mr. Vleet covered the traffic issues. Mr. Bulmer had talked about the contingency plan for water and sewer, but they never agreed to do that, it was to be for DEP to approve.

Mr. Salerno stated they can put in any condition they want. If it is satisfactory to the Fire Marshal he would like to see the emergency access road not paved, as long as the width and surface are satisfactory to the Fire Marshal.

Mr. Gada stated we should let the Fire Marshal take care of it.

Mr. Bulmer stated he did not know if he wanted to leave it to him.

Mr. Walker thought gravel surface would be fine.

Mr. Mulholland stated the Fire Marshal would not approve unless it is passable by his vehicles.

Mr. Salerno wanted to add that the emergency access road be maintained. He asked if everyone was happy with 58 units.

Attorney Michael Carey stated in the Motion for the Zone Change, in the third paragraph after District, they should add “per the conceptual site plan revised to March 17, 2011.”

Motion (2) Mr. Bulmer moved to approve the following Motion, which was read into the record by Mr. Mulholland.

Whereas on November 10, 2010, Theodore A. Harris, Agent for New England National, LLC (Applicant), filed an “Affordable Housing Application” entitled “Evergreen Ridge” with the East Lyme Zoning Commission consisting of a set of conceptual site plans for 74 total units for sale or rent of which 30% would be affordable housing units on approximately 48 acres, and an affordability plan. Said Conceptual Site Plan is entitled “Site Concept Study Proposed SU-E Housing Development”.

Whereas the applicant has requested (1) the rezoning of the subject property of New England National, LLC (see Affordability Plan) identified in the application as “Lot 39 of East Lyme Assessor’s Map 10-1” containing approximately 48 acres from its existing designation to an Affordable Housing District; (2) approval of a conceptual site plan for the construction of 74 units, 30% of which would be affordable housing units.

Whereas the commission, having determined that the application includes a conceptual site plan and zone change request has made the requisite referrals to the Planning Commission pursuant to general statutes 8-3a and the Water and Sewer Commission.

Whereas the East Lyme Zoning Commission held two (2) public hearings on the application and site plan and listened to numerous hours of testimony during those hearings. Approximately fifteen exhibits were submitted by the applicant and various agencies and individuals for consideration during the hearing process. In making its decision, the East Lyme Zoning Commission is considering and taking into account the testimony and exhibits submitted at the hearings on the application.

Whereas, for the purpose of this Affordable Housing Application, the East Lyme Zoning Commission will address this motion in two separate parts.

- A. The request for the approval of the Zone Change.
- B. The request for approval of a “Conceptual Site Plan”.

A. The request for the approval of the Zone Change.

Whereas, the Applicant, New England National, LLC is applying for a Zone Change for the entirety of its property that is the subject of this application, having been identified as Lot 39 on East Lyme Assessor's Map 10-1. Said property consists of approximately 48 acres.

Whereas, the East Lyme Zoning Commission, having thoroughly reviewed the proposed zone change, considered all the evidence submitted throughout the public hearings, having evaluated the evidence, finds that approval of the proposal is in keeping with the public interest.

Be it resolved, the East Lyme Zoning Commission hereby approves with the following conditions the application of New England National, LLC for a change of zone from RU-40 to an Affordable Housing District, per the conceptual site plan revised to 3/17/2011, and finds that the reasonable changes made to the density, conceptual site plan and zone change protect the public interest in health and safety and better promote Affordable Housing opportunities in the Town of East Lyme.

Conditions:

1. Number of units will be reduced to 58 units consisting of all single family two bedroom units. The sixteen duplex units originally proposed are eliminated.
2. The Applicant shall apply to the East Lyme Zoning Commission for a formal site plan approval in accordance with Section 24 of the East Lyme Zoning Regulations. No zoning or building permits shall issue until such a site plan has been approved and the Applicant secures all required legal agreements and/or permits, including without limitation agreements, permits and approvals associated with the construction of on-site sewage disposal/septic systems and wells. No such site plan shall be approved unless the project includes affordable housing as proposed by this application. Said site plan shall provide specific and exact construction grade plans that provide sufficient detail and documentation as may be needed to assess such items as Road Construction, Drainage, etc. Such site plan shall also contain sufficient information to demonstrate that the affordable housing development will not adversely affect public health, safety, and welfare. Such information shall include, without limitation, a demonstration of the suitability of the site for on-site septic treatment; the availability of sufficient water for domestic and/or for fire suppression needs; a detailed storm water management plan; and a detailed traffic study. Said site plan shall also depict the provision of fire prevention facilities, including

without limitation underground tanks, as might be called for by the fire marshal.

3. All roads shall comply with Town Road standards, as contained in the East Lyme Subdivision Regulations for geometry, grades, cross-section, base construction and surfacing exclusive of width. All project roads shall be and remain private.
4. Storm water management shall be designed in accordance with the 2004 DEP Connecticut Storm Water Quality Manual.
5. Open Space shall be designated as conservation open space in perpetuity. Said open space shall consist of those lands described in Attachment A.

The Conservation easement shall be as defined in Section 47-42a of the Connecticut General Statutes which easement, shall be approved by the Town Attorney and will specifically allow the following activities:

The provisions of the preceding restrictions notwithstanding, the following uses and activities by Grantors, and their heirs, successors and assigns, and any work or activity otherwise prohibited by the preceding restrictions which is reasonably necessary or appropriate in connection with such uses or activities, shall not be prohibited by this Conservation Easement or considered inconsistent with the intent of this grant and are specifically permitted:

- a. The removal of dead, diseased or damaged trees or other vegetation when such removal is necessary for reasons of safety, to control the spread of disease, or to control obnoxious plant growth such as cat brier, poison ivy, wild grape, oriental bittersweet, or other invasive species, and when such activities are conducted in a manner which will otherwise not be harmful to the remaining plant life; and
 - b. Activities associated with an approved inland wetlands permit, such as, but not limited to, wetland mitigation or enhancement, storm water management, or storm water discharges; and
 - c. Use of the area for drainage and drainage structures, septic systems, wells and/or emergency access over existing access way to Upper Kensington Drive.
6. Emergency access shall be provided from the development to Upper Kensington Drive. Said access shall be maintained and shall be satisfactory to the Fire Marshal. A crash gate shall be provided.

7. An emergency back up power system shall be installed to provide power to the on site septic system and on site water.
8. The Commission finds that these modifications are essential to assure the Commission that before a site plan is approved and building permits are issued for an affordable housing project on this site, the applicant shall be required to present sufficient evidence to demonstrate that an affordable housing project ultimately approved for the site will not pose a substantial risk of harm to substantial public interests in health, safety, or other matters that the Commission may legally consider, e.g., clean water, protection of current and future water sources, adequate control and treatment of storm water and sewage, and traffic and fire safety, and that without the provision of such information, the Commission would be wholly unable to determine whether such public interests would be likely to be severely, adversely affected, and the need for such information therefore clearly outweighs the need for affordable housing. The protection of such public interests is only possible by way of these reasonable changes to the affordable housing application.

The request for approval of a “Conceptual Site Plan”

Whereas, the East Lyme Zoning Commission, having thoroughly reviewed the proposed modified Conceptual Site Plan and having considered all of the evidence submitted throughout the public hearings, recognizing the need for and benefit of an increase of Affordable Housing in the Town, having weighed the public interest and adequately addressing the Commission’s concerns:

Be it therefore resolved that the East Lyme Zoning Commission hereby approves, with the following conditions, the request for approval of a modified Conceptual Site Plan entitled “Evergreen Ridge 58 Unit Conceptual Site Plan Upper Pattagansett Road, East Lyme, Connecticut Prepared for New England National, LLC March 1, 2011 Rev. 3/17/11 J. Robert Pfanner & Associates, P.C. Civil Engineers & Land Surveyors”.

Conditions:

1. Number of units will be reduced to 58 units consisting of all single family two bedroom units. The sixteen duplex units originally proposed are eliminated.
2. The Applicant shall apply to the East Lyme Zoning Commission for a formal site plan approval in accordance with Section 24 of the East Lyme Zoning Regulations. No zoning or building permits shall

issue until such a site plan has been approved and the Applicant secures all required legal agreements and/or permits including without limitation agreements, permits and approvals associated with the construction of on-site sewage disposal/septic systems and wells. No such site plan shall be approved unless the project includes affordable housing as proposed by this application. Said site plan shall provide specific and exact construction grade plans that provide sufficient detail and documentation as may be needed to assess such items as Road Construction, Drainage, etc. Such site plan shall also contain sufficient information to demonstrate that the affordable housing development will not adversely affect public health, safety, and welfare. Such information shall include, without limitation, a demonstration of the suitability of the site for on-site septic treatment; the availability of sufficient water for domestic and/or for fire suppression needs; a detailed storm water management plan; and a detailed traffic study. Said site plan shall also depict the provision of fire prevention facilities, including without limitation underground tanks, as might be called for by the fire marshal.

3. All roads shall comply with Town Road standards, as contained in the East Lyme Subdivision Regulations for geometry, grades, cross-section, base construction and surfacing exclusive of width. All project roads shall be and remain private.
4. Storm water management shall be designed in accordance with the 2004 DEP Connecticut Storm Water Quality Manual.
5. Open Space shall be designated as conservation open space in perpetuity. Said open space shall consist of those lands described in Attachment A.

The Conservation easement shall be as defined in Section 47-42a of the Connecticut General Statutes which easement, shall be approved by the Town Attorney and will specifically allow the following activities:

The provisions of the preceding restrictions notwithstanding, the following uses and activities by Grantors, and their heirs, successors and assigns, and any work or activity otherwise prohibited by the preceding restrictions which is reasonably necessary or appropriate in connection with such uses or activities, shall not be prohibited by this Conservation Easement or considered inconsistent with the intent of this grant and are specifically permitted:

- d. The removal of dead, diseased or damaged trees or other vegetation when such removal is necessary for reasons of safety, to control the spread of disease, or to control obnoxious plant growth such as cat brier, poison ivy, wild grape, oriental bittersweet, or other invasive species, and when such activities are conducted in a manner which will otherwise not be harmful to the remaining plant life; and
 - e. Activities associated with an approved inland wetlands permit, such as, but not limited to, wetland mitigation or enhancement, storm water management, or storm water discharges; and
 - f. Use of the area for drainage and drainage structures, septic systems, wells and/or emergency access over existing access way to Upper Kensington Drive.
6. Emergency access shall be provided from the development to Upper Kensington Drive. Said access shall be maintained and shall be satisfactory to the Fire Marshal. A crash gate shall be provided.
7. An emergency back up power system shall be installed to provide power to the on site septic system and on site water.
8. The Commission finds that these modifications are essential to assure the Commission that before a site plan is approved and building permits are issued for an affordable housing project on this site, the applicant shall be required to present sufficient evidence to demonstrate that an affordable housing project ultimately approved for the site will not pose a substantial risk of harm to substantial public interests in health, safety, or other matters that the Commission may legally consider, e.g., clean water, protection of current and future water sources, adequate control and treatment of storm water and sewage, and traffic and fire safety, and that without the provision of such information, the Commission would be wholly unable to determine whether such public interests would be likely to be severely, adversely affected, and the need for such information therefore clearly outweighs the need for affordable housing. The protection of such public interests is only possible by way of these reasonable changes to the affordable housing application.

Seconded by Mr. Liska.

Motion Passed 6-0-0.

Mr. Mulholland stated this will be published on April 14th and would be effective April 15th.

Mr. Peck returned for the remainder of the meeting, and Mr. Liska was removed for the remainder of the meeting.

4. Review of recommended Changes to the Modified Site Plan for Seaside Village (38 Hope Street)

Attorney Ted Harris presented the changes for the Applicant. They revised the landscaping plan, the roof line of the flats building and they added the 8 foot vinyl fence. They also have renderings of proposed carports, which would be optional to buyers. The fence may be eliminated if the adjoining immediate neighbors don't want it built. The carports will not change the parking count, and do not extend beyond the footprint of the parking spaces.

Dennis Rieske the architect on the project presented the façade changes to the flats building, the vinyl fence, the Norway Spruce, dormers and sloped roof on the flats building. The flats building has underground parking, and is very New England in character.

Mr. Salerno asked if they had a picture of what it will look like from the front, the flats building will be seen from Main Street.

Mr. Rieske did not bring a picture of how it will look from the front.

Mr. Salerno stated this was not what he was looking for, and he is still not satisfied, it is becoming hodge podge. He would prefer a better design.

Mr. Mulholland asked if they had talked to the Fire Marshal regarding the carports, and have they talked to Water and Sewer?

Mr. Harris stated he did talk to Mike Giannatasio, and he had no issues.

There was discussion of the appearance of the roof on the flats building.

Mr. Peck suggested using Dark Green, it may give the image of a lower profile.

Mr. Rieske stated it is a metal roof, and comes in a number of colors, and he does believe it comes in darker green.

Mr. Bulmer asked about the maximum height of the existing Hope Street building.

Mr. Rieske stated it is 45 feet.

Mr. Bulmer asked what the maximum height will be of the proposed flats building.

Mr. Rieske stated 48 feet.

Mr. Harris stated the developers are trying to take reservations on units, and they are trying to move forward on this project.

Mr. Salerno stated it looks terrible, and the building will be there in 50 years and he doesn't want to get it wrong.

Mr. Mulholland asked if they had other options to present.

Mr. Rieske presented another drawing.

Gary Hofstetter representing the developer stated this is affordable housing in a difficult market, they took over the site in January of 2009, they are willing to invest 20 million dollars in this project. When they were here four months ago, they had concerns with the roof line, fencing and the landscaping. They cannot take reservations without showing potential buyers the plans.

Mr. Salerno stated this Commission's purview is land use. We are here two times a month, we could do a special meeting, they could come back in two weeks with other plans. He wants to get this right.

Mr. Peck stated he can live with the revised architectural designs, with Mr. Mulholland working with them on the roof colors. In the plan it appears that trees are touching the building, those Norway Spruces are at least 20 feet wide, he would hate to see complaints in the future if those trees are up against the windows.

Mr. Rieske suggested they use Canadian and White Spruce, which are not as wide, but will grow just as fast.

Mr. Peck wants them to work with Mr. Mulholland on the spruce, not as wide as the Norway, and also to have Mr. Mulholland tweak the colors of the roof. He is ok with this project, but not overjoyed.

Mr. Mulholland asked that they table the carport issue, he would like to talk to the Fire Marshal, Town Engineer, Water and Sewer Department.

Mr. Rieske stated the carports are at the ends and are not in front of anything.

Mr. Harris stated the carports are not longer than the parking spaces.

Mr. Mulholland sill recommended other input.

Mr. Gada stated he is seeing dormers with seating on the inside.

Mr. Mulholland asked how they will control the sunlight with the skylights on the roof.

Mr. Rieske stated they have a built in shade.

Mr. Bulmer stated he finds this whole complex massive and cluttered. Skylights are wonderful, but he is not sure about this design.

Mr. Walker stated he prefers the drawing that shows the dormers all the way across.

Mr. Peck stated we need to listen to the architect.

Motion (3) Mr. Peck moved to approve the Revised Architectural and Site Plan, subject to the Zoning Official working with the architect on the colors, and subject to a change in the trees to Canadian and White Spruce as recommended.

Seconded by Mr. Carpenteri.

Mr. Peck stated he wants to give the ok on the carports subject to town staff approval.

Mr. Salerno stated he will vote no, and would be willing to meet next week to see other drawings.

Mr. Gada stated he will abstain.

Motion Passed 3-1-2 (Mr. Gada and Mr. Bulmer Abstained) (Mr. Salerno – Nay)

5. Approval of Minutes of March 17, 2011.

Motion (4) Mr. Peck moved to accept the Regular Meeting Minutes.

Seconded by Mr. Gada.

Motion Passed 4-0-2 (Mr. Walker and Mr. Carpenteri abstained)

Motion (5) Mr. Bulmer moved to approve the Public Hearing Minutes.

Seconded by Mr. Gada.

Motion Passed 3-0-3 (Mr. Walker, Mr. Carpenteri, Mr. Peck abstained)

Old Business

1. Niantic Village Subcommittee (Norm Peck & Marc Salerno)

Mr. Salerno will not be at the next meeting. Mr. Peck will present something at that meeting.

2. **Parking Subcommittee (Matthew Walker, Marc Salerno, Steve Carpenteri)**

This subcommittee has not met.

3. **Sign Subcommittee (Marc Salerno, Rosanna Carabelas, Matthew Walker)**

This subcommittee had a second meeting. They will be meeting the first Monday in May.

New Business

Motion (6) Mr. Bulmer moved to add Outdoor Dining under New Business

Seconded by Mr. Gada.

Motion Passed 6-0.

1. **Outdoor Dining**

Mr. Salerno stated at first a special permit was needed, we were being conservative, now the feeling is if the outdoor dining is non-alcoholic Mr. Mulholland can handle it.

Motion (7) Mr. Gada moved to send Outdoor Dining to Public Hearing.

Seconded by Mr. Bulmer.

Motion Passed 6-0.

2. **Application of Tim Yuhas for a Special Permit for Indoor Recreation at property identified in the application as 239-2 Main Street (aka 14 Pennsylvania Avenue) Assessor's Map 12.1, Lot 109.**

Mr. Salerno asked Mr. Mulholland to schedule this for a Public Hearing.

3. **Application of Robert P. Sassi, for a Special Permit to operate a fast food restaurant at property identified in the application as 170 Flanders Road, Niantic, Connecticut, Assessor's Map 26.3, Lot 11.**

Mr. Salerno asked Mr. Mulholland to schedule this for a Public Hearing.

4. **Application of Louis Torelli, for Best of Everything Country Gourmet, for Outdoor Dining at property identified in the application as 214 Flanders Road, Niantic, Connecticut, Assessor's Map 26.3, Lot 18.**

Mr. Salerno asked Mr. Mulholland to schedule this for a Public Hearing.

Motion (8) Mr. Gada moved to add the following to the agenda:

Application of Craig Taft, for Outdoor Dining at property identified in the application as 267-283 Main Street, Niantic, Connecticut. Assessor's Map 12.1, Lot 103.

Application of Nicki Craddoc, for a Special Permit for Indoor Recreation (Dance Studio) at property identified in the application as 170 Flanders Road, Niantic, Connecticut. Assessor's Map 26.3, Lot 11.

Application of David McIlhenney, for a Special Permit for Indoor Recreation (Personal Fitness Training Studio) at property identified in the application as 19 Church Lane (aka 3 Church Lane) Niantic, Connecticut. Assessor's Map 31.1, Lot 16.

Seconded by Mr. Bulmer.

Motion Passed 6-0.

5. Application of Craig Taft, for Outdoor Dining at property identified in the application as 267-283 Main Street, Niantic, Connecticut. Assessor's Map 12.1, Lot 103.

Mr. Salerno asked Mr. Mulholland to schedule this for a Public Hearing.

6. Application of Nicki Craddoc, for a Special Permit for Indoor Recreation (Dance Studio) at property identified in the application as 170 Flanders Road, Niantic, Connecticut. Assessor's Map 26.3, Lot 11.

Mr. Salerno asked Mr. Mulholland to schedule this for a Public Hearing.

7. Application of David McIlhenney, for a Special Permit for Indoor Recreation (Personal Fitness Training Studio) at property identified in the application as 19 Church Lane (aka 3 Church Lane) Niantic, Connecticut. Assessor's Map 31.1, Lot 16.

Mr. Salerno asked Mr. Mulholland to schedule this for a Public Hearing.

8. Any business on the floor, if any by the majority vote of the Commission.

Motion (9) Mr. Carpenteri moved to add Farm Use to the Agenda.

Seconded by Mr. Walker.

Motion Passed 6-0.

Mr. Salerno stated currently farm stands are allowed by special permit. There is a new Agricultural Commission, and he would like to present this to them and get their feedback.

9. Zoning Official

They are suddenly very busy this Spring, at the next meeting we will be having 6 Public Hearings. There are hints of a new exclusive restaurant for the town.

10. Comments from Ex-officio

There were no comments.

11. Comments from zoning board liaison to Planning Commission

Mr. Liska did not attend the Planning meeting.

12. Comments from Chairman

Mr. Salerno went to the Niantic Main Street meeting, they discussed some of the subcommittee work we are doing, and signage getting to downtown.

13. Adjournment

Motion (10) Mr. Gada moved to adjourn the meeting at 10:35.

Seconded by Mr. Walker.

Motion Passed 6-0.

Respectfully Submitted,



**Karen Miller Galbo
Recording Secretary**