

TOWN OF EAST LYME

ZONING COMMISSION

MAY 30, 2013

SPECIAL MEETING MINUTES

Members Present:

Marc Salerno, Chairman  
George McPherson  
Matthew Kane  
Matthew Walker  
Terence Donovan  
Norm Peck  
Peter Lukas, Alternate (Did Not Sit)  
William Dwyer, Alternate (Did Not Sit)  
James Liska, Alternate (Did Not Sit)

FILED IN EAST LYME  
CONNECTICUT  
June 3, 2013 AT 9:58 AM PM  
Catherine A. [Signature]  
EAST LYME TOWN CLERK

Also Present:

Bill Mulholland, Zoning Officer  
Mark Zamarka, Town Attorney  
Holly Cheeseman, Ex-Officio

CALL TO ORDER

Chairman Salerno called the Special Meeting to order at 7:33 p.m.

PLEDGE OF ALLEGIANCE

Chairman Salerno led the assembly in the Pledge of Allegiance.

PUBLIC DELEGATIONS

There were no public delegations.

1. MODIFIED APPLICATION OF THEODORE A. HARRIS, AGENT FOR JAG CAPITAL DRIVE, LLC FOR APPROVAL OF AFFORDABLE HOUSING DEVELOPMENT, AND A CONCEPTUAL SITE PLAN TO CONSTRUCT SIXTY (60) RESIDENTIAL UNITS ON PROPERTY IDENTIFIED IN THE APPLICATION AS WEST MAIN STREET/CAPITAL DRIVE, ASSESSOR'S MAP 09.0, LOT 19.
2. MODIFIED APPLICATION OF THEODORE A. HARRIS, AGENT FOR JAG CAPITAL DRIVE, LLC TO REZONE FROM ITS EXISTING ZONING DESIGNATION (LIGHT INDUSTRIAL) TO AFFORDABLE HOUSING DISTRICT FOR PROPERTY IDENTIFIED IN THE APPLICATION AS WEST MAIN STREET/CAPITAL DRIVE, ASSESSOR'S MAP 09.0, LOT 19.

The discussion of Item 1 and Item 2 took place simultaneously.

Chairman Salerno stated they closed the Public Hearing on these items at the last meeting. They have 65 days to complete it. They wanted to meet tonight to let staff write up suggested motions per the consensus of the Board.

Attorney Zamarka stated they should reach a consensus and direct staff accordingly. The modified application is within the LI Zone, they had 65 days to conduct a Public Hearing and render a decision. The modified application began on April 4<sup>th</sup> and the 65 days runs out on June 8<sup>th</sup>, which is a Saturday, so they should make their decision at their next meeting, which will be June 6<sup>th</sup>. They denied the first application based on the industrial zone exemption, which allows them to deny applications placed in a zone for industrial use, which doesn't allow residential uses.

They can approve the modified application as submitted, approve it with conditions, they can deny it, or they can deny it based on the industrial zone exemption. If they deny it, they must state their reasons for denial on the record. If the denial is based on the industrial zone exemption, and the applicant appeals their decision, they can ask the Court to overturn their decision and ask the Court to approve the site plan.

He is in agreement with the applicant that they did not request the zone change, but historically the Town has treated it as a request for a zone change. This application, if approved would account for a drastic increase in density. In fairness to other property owners, if they treat it as a zone change the other property owners can receive notice of what is happening. This is a matter of procedure, so other property owners are notified of what is going on. If the Zoning Commission approves the modified application then the zone change would be approved. If they deny the modified application then the zone change would be denied.

If they deny this based on the industrial zone exemption and the Court agrees with them then it will end. If the Zoning Commission denies it and the Judge thinks the industrial zone exemption does not apply then the Judge will approve the site plan.

Mr. Mulholland stated the Zoning Commission should determine if the modified application is the best interest of the community.

Attorney Zamarka stated it is important to review and discuss the evidence submitted.

Mr. Donovan stated his feelings are the same. He believes there is a potential safety threat. They also mentioned they can't develop the area as LI, but they did get approved through Inland Wetlands and he believes it is developable land with LI.

Mr. McPherson concurred with Mr. Donovan.

Attorney Zamarka stated health and safety comes in under the affordable housing analysis.

Chairman Salerno stated he did get a chance to drive to the area. There is limited LI land zoned in this town. There was a lot of testimony from the business owners in that development. This is different from other industrial parks in town. This is used for more industrial uses. He is not in favor of this application; he is not convinced that they can't develop it as LI. They attempted to market it in the

worst economy in 25 years. There is plenty of land in town for affordable housing. They don't want to shut out other businesses from coming to town.

Mr. Peck stated the Plan of Development recommended accomplishing more industrial growth in town. Both abutting property owners mentioned their desire for future growth, and they would be unable to if this was approved. He did study this parcel about 8 years ago. He felt it was very sub dividable. The lots would be sellable if they were priced at market rate. They used Liberty Way as an example of LI and residential co-existing, but Liberty Way is more of a business park, it was developed to have more high end buildings and uses, there is deeded architectural design, there is landscaping, no outdoor storage, to make sure it looks better than average. There are a lot of non-industrial uses there, such as a church, and fitness center. Colton Road is an industrial park with trucks, and noise. The industrial zone doesn't allow residential uses. There are 3 permitted uses that the applicant mentioned, hotel, school and convalescent home. Hotel by definition is used for transient guests. When they mentioned school they mentioned dorm use. The school is the use, and the dorm is an accessory to the primary use. Convalescent means they are trying to get better. He does not see where we allow residential uses. As far as public safety he thinks there will be a problem. There was testimony from a business owner that there are already kids with bikes on Colton Road and Capital Drive, he thinks there will be kids wandering into the park.

Mr. Walker stated he drove by the site. He feels similar to Mr. Peck and Mr. Salerno. Their function as a Zoning Commission is to have authority over the use of the land in East Lyme. They first adopt the regulations and then they administer those regulations. LI does not allow residential uses. The modifications were impressive, the project looks impressive. He thinks the information provided by the business owners was very compelling, and he feels there is a question of public safety.

Mr. Kane stated he went to the site and walked it, he still feels the same way he did in the beginning.

Chairman Salerno directed the Town Attorney to write a motion in the negative.

Attorney Zamarka asked if the denial was based on the industrial zone exemption.

Mr. McPherson stated yes and the health and safety concern.

Chairman Salerno stated they will vote on this on June 6<sup>th</sup>.

Mr. Mulholland stated it will be on the Agenda.

**3. APPROVAL OF MINUTES OF MAY 16, 2013**

**Motion (1) Mr. McPherson moved to approve the Public Hearing and Regular Meeting Minutes of May 16, 2013.**

**Seconded by Mr. Walker.**

**Motion Passed 6-0.**

**ADJOURNMENT**

**Motion (2) Mr. McPherson moved to adjourn the meeting at 8:10 p.m.**

**Seconded by Mr. Walker.**

**Motion Passed 6-0.**

**Respectfully Submitted,**

**Karen Miller Galbo  
Recording Secretary**