

TOWN OF EAST LYME
EAST LYME ZONING COMMISSION

REGULAR MEETING

JANUARY 6, 2011

Members Present:

Marc Salerno, Chairman
Norm Peck
Rosanna Carabelas
Ed Gada
William Dwyer, Alternate
Bob Bulmer, Alternate
James Liska, Alternate

FILED IN EAST LYME TOWN
CLERK'S OFFICE

Jan 11 20 11 at 8:10 AM PM
Esther B. Williams
EAST LYME TOWN CLERK

Members Absent:

Steve Carpenteri
Mathew Walker

Also Present:

Bill Mulholland, Zoning Officer
Ed O'Connell, Town Attorney
Rose Ann Hardy, Ex-Officio from Board of Selectmen

CALL TO ORDER

Chairman Salerno called the meeting to order at 7:35 p.m.

PLEDGE OF ALLEGIANCE

Chairman Salerno led the assembly in the pledge of allegiance.

There were two members absent. Chairman Salerno sat Mr. Bulmer and Mr. Dwyer as regular voting members for this meeting.

Ms. Carabelas will be Acting Secretary for this meeting.

PUBLIC DELEGATIONS

There were no Public Delegations.

PUBLIC HEARING – NONE

There is no Public Hearing.

REGULAR MEETING

1. Executive Session – Pending Litigation

The Commission entered Executive Session at 7:36 p.m. Mr. Salerno asked Mr. Mulholland, Mr. O’Connell and Mrs. Hardy to stay for the Executive Session. Mr. Liska also stayed for Executive Session.

Mr. Peck left the Executive Session at 7:50 p.m.

The Commission exited Executive Session at 8:25 p.m.

2. Discussion – Village Crossing Settlement

****Mr. Peck excused himself from this Item on the Agenda.**

Mr. O’Connell discussed this affordable housing appeal. The Commission has to convince the Judge of the reasons for the denial. Normally it is up to the applicant to convince the Judge. The Pleading were closed in the case and the parties were encouraged to try to settle this matter. There can be no settlement between the parties until there is a hearing and the Judge approves the settlement. This Commission met in Executive Session but could not vote. They are required to vote in Open Session. This is not a Public Hearing so there will be no public participation.

Attorney O’Connell presented the following **DRAFT** Resolution to the Commission:

RESOLVED, that the East Lyme Zoning Commission agrees to settle the affordable housing appeal presently pending in the Superior Court for the Judicial District of New London entitled “Village Crossing of Niantic v East Lyme Zoning Commission” bearing docket number KNL-CB-08-4009020S (ACC) on the following terms and conditions:

- 1. The modified site plan entitled “Village Crossing of Niantic, Owner – James A. Barone, James M. Barone, and Michael Nebelung Bush Hill Drive, East Lyme, CT, Applicant – John Aldi Old Saybrook, CT Park Place, East Lyme, Connecticut February 23, 2008 Revised Thru November 29, 2010 Gerwick-Mereen LLC Civil Engineering & Land Surveying” consisting of 23 sheets is hereby approved, subject to the following conditions:***
 - a. The applicant shall not request and shall not receive building permits for individual dwelling units in excess of twenty (20) units in any one calendar year, unless otherwise authorized by the East Lyme Water and Sewer Commission.***
 - b. Four additional dwelling units shall be designated by the applicant as affordable units, over and above the statutorily required thirty (30%)***

percent of affordable units and the affordability plan will be amended accordingly.

- c. The relevant comments in the January 5, 2011 memorandum of the East Lyme Municipal Utility Engineer shall be incorporated into the plans.*
- 2. The reasons for the settlement include the following:*
 - a. The building originally proposed to be located at the rear of the property on the uppermost portion of the premises, designated as elderly housing condominium flats, has been eliminated entirely. The overall size of the project is thus reduced from the originally proposed one hundred (100) units to sixty six (66) units, all of the townhouse style.*
 - b. The elimination of the elderly housing condominium addresses the Commission's concerns regarding steep icy road conditions and emergency vehicle access for elderly residents.*
 - c. The area previously designated for the elderly housing condominium is now designated for use as an open space and recreational area.*
 - d. The elimination of the elderly housing condominium and the associated parking area and access road results in a smaller area of impervious surfaces and reduced water runoff and drainage impacts. Nonetheless, the drainage system for the larger originally proposed project will be installed.*
 - e. The elimination of the elderly housing condominium results in less traffic volume generated by the project.*
 - f. The elimination of the elderly housing condominium addresses the Commission's concerns regarding the dominating height of the buildings as originally proposed.*
 - g. The elimination of the elderly housing condominium will reduce the overall length of the road structure, thereby reducing concerns for secondary access. Nonetheless, a gravel base secondary access road connecting to Brook Street will be constructed by the applicant.*
 - h. The Commission's concerns regarding the availability of municipal public water are addressed by the requirement that no more than 20 building permits may be sought or received by the applicant in any one calendar year, thus affording time for the Water and Sewer Commission to develop sufficient additional sources of municipal water.*
 - i. The designation of an additional four units of affordable housing units over and above the statutory minimum serves to further and advance the State of*

Connecticut's objective of providing affordable housing to those in need thereof.

- j. Additional costs and expenses required to litigate this appeal to a conclusion will not be incurred by the Town.*
- 3. The Commission's attorney is hereby authorized to execute and deliver such stipulations as may be required to implement this settlement in the Superior Court and appear in the Superior Court on behalf of the Commission in proceedings relating to the settlement.*

Mr. O'Connell stated that the developer has also agreed to install sidewalks down Park Place to West Main Street.

Mr. Mulholland asked if the Public can speak at the Superior Court hearing.

Mr. O'Connell stated that would be up to the Judge. He also stated there is a reverse burden of proof in Affordable Housing Appeals.

Ms. Carabelas asked why sidewalks were not included in the Resolution.

Mr. Mulholland stated they are in the plans from the Applicant's property to West Main Street.

Mr. Bulmer stated this Commission had a problem with this originally because there was not enough Water but now we are connecting to the New London Water System, and they eliminated the elderly building, and added affordable housing.

Ms. Carabelas stated it still has to be approved by Water and Sewer Commission.

Mr. Gada stated he thinks the applicant could win his appeal and he is in favor of this settlement.

Mr. Dwyer stated he is in favor of this settlement.

Mr. Salerno stated that some of this Commission's arguments have been taken care of. He is in favor of this settlement.

Motion (1) Mr. Bulmer moved to approve the following Resolution:

RESOLVED, that the East Lyme Zoning Commission agrees to settle the affordable housing appeal presently pending in the Superior Court for the Judicial District of New London entitled "Village Crossing of Niantic v East Lyme Zoning Commission" bearing docket number KNL-CB-08-4009020S (ACC) on the following terms and conditions:

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 - a. The applicant shall not request and shall not receive building permits for individual dwelling units in excess of twenty (20) units in any one calendar year, unless otherwise authorized by the East Lyme Water and Sewer Commission.
 - b. Four additional dwelling units shall be designated by the applicant as affordable units, over and above the statutorily required thirty (30%) percent of affordable units and the affordability plan will be amended accordingly.
 - c. The relevant comments in the January 5, 2011 memorandum of the East Lyme Municipal Utility Engineer shall be incorporated into the plans.

2. The reasons for the settlement include the following:
 - a. The building originally proposed to be located at the rear of the property on the uppermost portion of the premises, designated as elderly housing condominium flats, has been eliminated entirely. The overall size of the project is thus reduced from the originally proposed one hundred (100) units to sixty six (66) units, all of the townhouse style.
 - b. The elimination of the elderly housing condominium addresses the Commission’s concerns regarding steep icy road conditions and emergency vehicle access for elderly residents.
 - c. The area previously designated for the elderly housing condominium is now designated for use as an open space and recreational area.
 - d. The elimination of the elderly housing condominium and the associated parking area and access road results in a smaller area of impervious surfaces and reduced water runoff and drainage impacts. Nonetheless, the drainage system for the larger originally proposed project will be installed.
 - e. The elimination of the elderly housing condominium results in less traffic volume generated by the project.

- f. The elimination of the elderly housing condominium addresses the Commission's concerns regarding the dominating height of the buildings as originally proposed.
 - g. The elimination of the elderly housing condominium will reduce the overall length of the road structure, thereby reducing concerns for secondary access. Nonetheless, a gravel base secondary access road connecting to Brook Street will be constructed by the applicant.
 - h. The Commission's concerns regarding the availability of municipal public water are addressed by the requirement that no more than 20 building permits may be sought or received by the applicant in any one calendar year, thus affording time for the Water and Sewer Commission to develop sufficient additional sources of municipal water.
 - i. The designation of an additional four units of affordable housing units over and above the statutory minimum serves to further and advance the State of Connecticut's objective of providing affordable housing to those in need thereof.
 - j. Additional costs and expenses required to litigate this appeal to a conclusion will not be incurred by the Town.
 - k. Sidewalks shall be installed by the Developer from the entrance to the Development to West Main Street.
3. The Commission's attorney is hereby authorized to execute and deliver such stipulations as may be required to implement this settlement in the Superior Court and appear in the Superior Court on behalf of the Commission in proceedings relating to the settlement.

Seconded by Mr. Dwyer.

Motion Passed 5-0-0

3. Approval of Minutes of December 9, 2010

** Mr. Peck returned for the rest of the meeting.

Motion (2) Mr. Dwyer moved to approve the Public Hearing Minutes from December 9, 2010.

Seconded by Ms. Carabelas.

Motion Passed 5-0-1 (Mr. Gada abstained)

Motion (3) Mr. Dwyer moved to approve the Regular Meeting Minutes from December 9, 2010.

Seconded by Ms. Carabelas.

Motion Passed 5-0-1 (Mr. Gada abstained)

OLD BUSINESS

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

This subcommittee has not met.

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

Mr. Mulholland passed out materials to the members of this subcommittee. They will try to meet at the beginning of February.

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

Mr. Salerno stated he will try to schedule this subcommittee to meet at the beginning of February also.

NEW BUSINESS

1. Application of Matthew Chilleri for a Special Permit for Indoor Recreation for a fitness facility for adults to be known as East Lyme Crossfit, at property identified in the application as 11 Freedom Way, Units B5 & B6, Niantic CT 06357

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

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

There was no business on the floor.

3. Zoning Official

Mr. Mulholland stated he has been working with Gateway; also there is a project on Main Street, and a few gas stations in town that may be modernizing. His office has been getting phone calls on some potential projects.

4. Comments from Ex-Officio

Ms. Hardy previously left the meeting after the Executive Session.

5. Comments from zoning board liaison to Planning Commission

Mr. Bulmer missed the meeting but did meet with Mr. Goeschel to review what transpired at that meeting. There was no Public Delegation and the Public Hearing of the East Lyme Application for a Subdivision Regulations Change was continued.

Mr. Peck stated that was their third night of Public Hearing and on that third night the Town Engineer came in with a list of 10 items of concern. Now they are hiring an attorney to review. This Town is setting itself up for lawsuits because there are no subdivision regulations in place. He highly recommended Mr. Mulholland speak to Mr. Goeschel to deliver the message that they pass those regulations quickly, and they can tweak the regulations at a later date.

6. Comments from Chairman

Mr. Salerno stated he wants the subcommittees to hopefully have something for this Commission by the summer time.

7. Adjournment

Motion (4) Mr. Bulmer moved to adjourn the meeting at 9:00 p.m.

Seconded by Ms. Carabelas.

Motion Passed 6-0-0.

Respectfully Submitted,



**Karen Miller Galbo
Recording Secretary**