

TOWN OF EAST LYME

ZONING COMMISSION

JUNE 20, 2013

REGULAR MEETING MINUTES

Members Present:

Marc Salerno, Chairman
Matthew Walker
Terence Donovan
George McPherson
Norm Peck
Peter Lukas, Alternate (Sat for Regular Meeting)
James Liska, Alternate (Sat for Item 2)
William Dwyer, Alternate (Did not Sit)

FILED IN EAST LYME
CONNECTICUT
June 20, 2013 AT 8:20 AM PM
Matthew Walker, Jr.
EAST LYME TOWN CLERK

Members Absent:

Matthew Kane

Also Present:

Bill Mulholland, Zoning Officer
Holly Cheeseman, Ex-Officio (Entered at 8:30 p.m.)

Mr. Lukas was seated as a Regular Member in Mr. Kane's absence.

1. APPLICATION OF THE COMMON LOON RESTAURANT, FOR A SPECIAL PERMIT FOR OUTDOOR DINING AT PROPERTY IDENTIFIED IN THE APPLICATION AS 135 BOSTON POST ROAD, EAST LYME, CONNECTICUT.

Mr. Salerno stated they are putting up a wrought iron fence, and will be under the existing canopy.

Motion (1) Mr. Donovan moved to approve the application of the Common Loon Restaurant, for a special permit for outdoor dining at property identified in the application as 135 Boston Post Road, East Lyme, Connecticut with the following conditions:

- a. Allow speakers and low level music, turned off at close of patio.
- b. Patio will close at 9:00 on weekdays, and 10:00 on weekends.

Seconded by Mr. McPherson.

Motion Passed 6-0.

This will be published next Thursday, June 27th, and will become effective on June 28th.

****Mr. Peck recused himself for Item 2, and Mr. Liska sat as a Regular Member for Item 2.**

2. APPLICATION OF JUSTIN KROL, FOR A SPECIAL PERMIT TO OPERATE A FAST FOOD RESTAURANT AT PROPERTY IDENTIFIED IN THE APPLICATION AS 323 FLANDERS ROAD, EAST LYME, CONNECTICUT.

Mr. Salerno stated they meet the parking requirements.

Mr. Liska wished them good luck.

Motion (2) Mr. McPherson moved to approve the application of Justin Krol, for a special permit to operate a fast food restaurant at property identified in the application as 325 Flanders Road, East Lyme, Connecticut.

Seconded by Mr. Liska.

Motion Passed 6-0.

This will be published next Thursday, June 27th, and will become effective on June 28th.

****Mr. Peck returned for the remainder of the Regular Meeting, and Mr. Liska stepped down.**

3. EAST LYME ZONING COMMISISON PROPOSAL TO AMEND THE EAST LYME ZONING REGULATIONS BY DELETING SECTION 13 AQUIFER AND PRIMARY RECHARGE DISTRICT AND SECONDARY RECHARGE DISTRICT, AND SECTION 30, AQUIFER PROTECTION DISTRICTS FROM THE EAST LYME ZONING REGULATIONS, AND TO AMEND THE ZONING MAP BY REMOVING THE AQUIFER PROTECTION ZONES. JURISDICTION AND RESPONSIBILITY HAS BEEN TRANSFERRED TO THE TOWN'S AQUIFER PROTECTION AGENCY.

Mr. McPherson stated they would need 2/3 majority to approve.

Mr. Donovan stated this will be shifting from being confusing. To adopt 1 map versus 2.

Mr. Peck stated we are not scientists, and we need to depend on the experts, and they said this is fine. If we can't enforce something we shouldn't have it in the regulations. If someone challenges something they could win.

Mr. Mulholland stated the jurisdiction and responsibility will be transferred to the town's Aquifer Protection Agency.

Motion (3) Mr. McPherson moved to approve the East Lyme Zoning Commission proposal to amend the East Lyme Zoning Regulations by deleting Section 13 Aquifer and Primary Recharge District and Secondary Recharge District, and Section 30, Aquifer Protection Districts from the East Lyme Zoning Regulations, and to amend the Zoning Map by removing the Aquifer Protection Zones.

Seconded by Mr. Donovan.

Motion passed 6-0.

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4. REQUEST OF THEODORE A. HARRIS, ESQ., AGENT FOR GATEWAY COMMONS, FOR A SITE PLAN MODIFICATION FOR PROPERTY KNOWN AS GATEWAY DEVELOPMENT DISTRICT.

Mr. Salerno stated the conceptual site plan was approved by the Zoning Commission; this is a modification of that.

Attorney Harris stated this is an application for site plan approval. This is the first phase of Gateway. According to the Master Development Plan on Gateway that was approved in July of 2008, they are applying for administrative site plan approval.

The site is in the vicinity of Exit 74 of I-95, and it bounded by East Society Road, Subdivisions, Route 1, and Flanders Road. The main challenge of the site is access. There is no access off of I-95. Offsite improvements to get access to the site would cost in the range of 12 to 15 million. They would not be able to sustain that. KGI and Konover Group have formed an alliance, each lending their expertise regarding the potential development of the site. The Master Development Plan is a conceptual site plan for the site. There are general locations, traffic flow, and list of design criteria for the site. It covers setbacks, heights, design criteria, siding, architectural controls. It is similar to a special permit without the final site plan. They had three public hearings before the Zoning Commission. It is a phased plan, and it will not happen overnight. During the public hearings there was spirited comment from the public. The Zoning Commission denied it after that. They then reached out to the neighborhood and had informal workshops with the Zoning Commission. They revised the structure, and returned with a new Master Development Plan. The Zoning Commission did approve the development of the site. Then step 2 was to approve the application of the Master Development Plan. That public hearing was quite different; there was only one person with public comment during that hearing in July of 2008. The Zoning Commission did approve the Master Development Plan on July 31, 2008. They had anticipated construction immediately, but they did not anticipate the financial crisis of 2008. They continued looking for users of the property. They are now confident that there is a demand for high end residential units, and they have designed for that phase. There is also renewed interest in the commercial end, and they have a letter of intent from a major commercial tenant. They are here to review the residential units. There are more wetlands on the site than anticipated. They want to avoid wetland impacts and that has dovetailed in with the type of building they are proposal, which are multi story buildings. They are able to manipulate around the wetlands. There are no direct impacts, just upland review areas. The Master Development Plan provides standards for parking which are different than the zoning regulations. The goal is to minimize impervious surfaces; there are no masses of black top. The master development plan is within the national standard and is based on the expertise of the Konover Group. There is also abundant room on the roadways for parking.

Mr. Walker read a letter from Mr. Mulholland.

Ray Gladwell of DL Companies of Hartford discussed the Site Plan. The site is right off of I-95, and is about 160 acres. The development would take up a portion of plus or minus 30 acres. The topography on the site is a challenge. The site can be served by public utilities. They will improve approximately 3800 feet of East Society Road all the way into the site. They will improve it to Town Road Standards. The road from East Society Road will continue through the site to Flanders Road as the project is developed. There will be 10 buildings with a total of 275 units, with 2 garages per building. There will

be 544 parking spaces. 42 of those will be with the clubhouse and the pool. There will 502 spots distributed among the site. They got to those numbers by published information as well as comparing this type of development in other communities. 1.79 spaces per unit are what that is based on. They came up with a number of 493, and increased it to 502. Each building will get two 8 car garages.

Mr. Gladwell presented the following exhibits:

Exhibit 1 Parking Memorandum
Exhibit 2 Wetlands Permit

Mr. McPherson asked if everyone would get a garage.

Mr. Gladwell stated the rent is higher with a garage; there will be a mix of 2 bedroom and 1 bedroom apartments. There will be emergency access to the site from Flanders Road. Utilities will be outside of the I-95 off ramp area because of future projects by the State to improve the ramps.

Mr. Salerno stated he understood that the entire infrastructure was to be constructed.

Mr. Harris stated that was to be the infrastructure assigned with each phase. This phase involves improvement of East Society Road; the infrastructure is to be completed with the phases.

John Mancini of DL Companies stated they have already submitted an application to the State for an interface with Exit 73, they have discussed with the DOT and they are comfortable with the traffic going to East Society Road. They believe the infrastructure is to be completed per each phase.

Mr. Salerno stated they put that in to make sure the whole project was developed.

Mr. Harris stated the infrastructure is assigned with each phase. It is not for the whole development. Nobody will be able to put all of those costs up front.

Mr. Gladwell stated the closest point to a property line is about 40 feet from a corner of a parking lot.

Mr. Harris stated there is a buffer requirement, with an option to substitute decorative fencing. The area is undeveloped.

Mr. Mancini stated they were much closer to the buffer with their original proposal. They have pushed the development to the West in this proposal.

The landscape architect prepared a plan with approximately 325 trees of various varieties, 1200 shrubs. The nearest residential building will be 600 feet from the highway. The road will be a Town road, and will go all the way through when it is finished. There is presently a mature forest on the site, which is pretty dense.

Mr. Peck asked if they have designated open space.

Mr. Harris stated it is not formal open space, but because of the wetlands it is not developable.

Mr. Peck stated there is substantial buildable fronting on town roads and either side on the property could theoretically be sold off.

Mr. Harris stated single family is not allowed in this zone.

Mr. Salerno asked if they would be willing to designate open space.

Mr. Harris stated the RU-40.

Mr. Mulholland stated the RU-40 cannot be developed.

Mr. Mancini stated the only way to develop the RU-40 would be if a developer bought the house above the land and then developed.

Mr. Gladwell stated there would be a mix of street lights, and there would be 116 street lights on the site.

Mr. Salerno asked who owns the lighting.

Mr. Harris stated the Town would own the lighting.

Mr. Gladwell stated the lighting on the poles on the street would be 20 feet high, and the onsite lights would be 14 to 16 feet tall. Also the buildings would be illuminated. There will be zero foot candles to the adjacent property. They will not be LED, they will be night sky compliant and be 72 watts.

The utilities served will be water and sewer from Flanders, the gas service will be from Flanders, and communication will be from East Society.

Mr. Harris stated they will get water and sewer approval after, it is assessed for water and sewer so they don't anticipate any issues.

Mr. Gladwell stated there will be 3 detention ponds on the site, and 4 rain gardens which allow storm water to go back into the ground.

Mr. Harris stated they had significant discussion with the Inland Wetlands Agency to make sure they are not drying up the wetlands. The Inland Wetlands Agency hired their own expert to analyze the plan.

Mr. Gladwell stated the rooftop water goes into rain gardens, and if that overflows then it will go into the driveway then will be piped to the detention pond. They will use erosion controls and sediment traps, there will be sediment control measures for each building, silt fence will be installed, and it has been planned with the town engineering staff.

Mr. Salerno asked if there will be an association.

Mr. Harris stated they will be rented units.

Mr. Gladwell presented the following exhibits:

Exhibit 3	Overall Site Plan
Exhibit 4	Overall Landscape Plan
Exhibit 5	East Society Road and Utility Access Plan
Exhibit 6	Typical Building Planting Plan
Exhibit 7	Overall Lighting Plan
Exhibit 8	Overall Site Utility Plan
Exhibit 9	Initial Erosion Control Plan
Exhibit 10	Final Erosion Control Plan

Mr. McPherson asked if there will be access to Route 1.

Mr. Gladwell stated potentially in the future.

Architect, Tim Wentz of Bryn Mawr, Pennsylvania stated they will be 3 story buildings in front and 4 stories in back. Garden level units will only be half of the building. It is classified as 3 stories with a basement. They will use a variety of materials on the building, the base will be cultured stone. They have not decided if they will use hearty plank or vinyl. They will be varying heights of the materials, and will probably use different colors, all of the buildings will be different color schemes, but will be earth tones and will complement each other. All of the buildings will be the same, but some will have 5 less units.

Mr. Mulholland stated it will be worked out so there are no more than 275 units.

Mr. Wentz stated they will use very large windows, and each apartment will have its own balcony.

Mr. Donovan asked what the heat source will be.

Mr. Wentz stated it will be a gas fired split system. The units will be on the balcony. There will be studio apartments, 1 bedroom apartments and 2 bedroom apartments.

Mr. McPherson asked if they will be handicapped accessible.

Mr. Wentz stated every unit on the first floor will be.

Mr. Donovan asked if there is a fire protection system.

Mr. Wentz stated it will have fire sprinklers throughout.

Mr. Salerno asked the height of the buildings.

Mr. Harris stated they will be 45 feet.

Mr. Wentz stated the clubhouse will be 5700 square feet. The materials and the color palette will be very compatible with the project. There will be a leasing center, fitness center, media center, billiards area, central great room, serving kitchen, pool area, activity rooms, and locker rooms. The fitness center will be accessible when the clubhouse is closed.

Mr. Salerno asked if there would be a restaurant.

Mr. Wentz stated no there would be a serving kitchen with no stove, but it will have a sink, dishwasher, refrigerator, and microwave.

Mr. Salerno asked if they considered paved trails that connect the units.

Mr. Harris stated they can see if that works topographically.

Mr. Wentz stated the pool will be fenced with landscape around it. The garages will be for 8 cars, with gable ends, and will be compatible with the residential buildings. The back will be plain, but will be facing a steep slope. The bays are 11 feet wide.

Mr. Wentz submitted the following exhibits:

- Exhibit 11 Residential Building Floor Plan and Front Elevation**
- Exhibit 12 Residential Building Rear and Side Elevation**
- Exhibit 13 Residential Building Floor Plans**
- Exhibit 14 Residential Unit Plans**
- Exhibit 15 Residential Unit Plans**
- Exhibit 16 Clubhouse Front Elevation and Floor Plan**
- Exhibit 17 Side and Rear Elevation of Clubhouse**
- Exhibit 18 Garage**

Mr. McPherson suggested they re-think putting an elevator in the buildings.

Mr. Salerno asked if there was any open space designated for fields, or playgrounds.

Mr. Harris stated they have to make sure they can physically do it. He respectfully disagreed with the Chairman regarding the phasing of the infrastructure. It was originally intended to be phased in. This phase alone they will be putting 1 Million dollars into East Society Road.

Mr. Mulholland agreed with Mr. Harris, that each phase was to receive a CO as it was phased in.

Mr. Salerno stated he is concerned the residential will be built and the Commercial will not. They don't want just a portion of the project.

Mr. Harris stated the developer has purchased the lion share of the property. They do not intend to let it lay stagnant. They currently have a letter of intent for an anchor store. They firmly believe it will happen.

David Getman of KGI stated they have spent in excess of 5 million dollars to get to this point. As soon as possible they will be getting everything approved, they are trying to keep the project rolling.

Mr. Peck stated he likes the project, he would prefer the RU-40 zone be designated as permanent open space, and it will enhance the value of the project.

Mr. Getman stated they would be willing to look at that.

Mr. Peck stated it looks developable and that could be a condition of approval, the owner of which to be determined later.

Mr. Walker stated he is impressed with the design of the apartment, the landscaping, it will be a benefit to the town, and he hopes this sparks commercial development.

Mr. McPherson mentioned the lack of press coverage tonight.

Mr. Salerno stated he likes what he sees. The architecture is very nice. He would like to see something done with open space for recreation.

Mr. Harris stated they will work on that.

Motion (4) Mr. McPherson moved to approve the application of Theodore A. Harris, Esq., Agent for Gateway Development East Lyme, LLC for site plan approval to construct 275 residential dwelling units on property identified in the application as:

Ancient Highway	Map 25.0	Lot 35
286 Flanders Road	Map 26.0	Lot 2
284 Flanders Road	Map 31.3	Lot 1
282 Flanders Road	map 31.3	Lot 2
Flanders Road	Map 31.0	Lot 1

With the following conditions:

- a. The RU-40 Portion of the property be designated as open space with ownership to be determined.
- b. Provide a non-regulated area for recreation space.

Seconded by Mr. Walker.

****Mr. McPherson rescinded his Motion.**

Motion (5) Mr. McPherson moved to approve the application of Theodore A. Harris, Esq., Agent for Gateway Development East Lyme, LLC for site plan approval to construct 275 residential dwelling units on property identified in the application as:

Ancient Highway	Map 25.0	Lot 35
286 Flanders Road	Map 26.0	Lot 2
284 Flanders Road	Map 31.3	Lot 1
282 Flanders Road	map 31.3	Lot 2
Flanders Road	Map 31.0	Lot 1

With the following conditions:

- a. The RU-40 Portion of the property be designated as open space with ownership to be determined later, and to be left in its natural existing state, except for possible walking trails.
- b. Provide a non-regulated area for recreation space.

Seconded by Mr. Walker.

Motion Passed 5-0-1 (Mr. Donovan-Nay)

This will be published on June 27th and will be effective on June 28th.

5. APPROVAL OF MINUTES OF JUNE 6, 2013

Motion (60 Mr. Walker moved to approve the Minutes of June 6, 2013.

Seconded by Mr. McPherson.

Motion passed 5-0-1 (Mr. Donovan – Nay)

OLD BUSINESS

1. SIGN SUBCOMMITTEE

They did not meet.

2. OUTDOOR DINING BARS SUBCOMMITTEE

They did not meet.

NEW BUSINESS

1. ANY BUSINESS ON THE FLOOR, IF ANY BY THE MAJORITY VOTE OF THE COMMISSION

Mr. Peck stated there are 5 lots in the Rocky Neck Business Park available. This Commission could get an application for construction at any time. The architectural review was previously done by the Economic Development Commission. The architectural review is required by deed.

Mr. Mulholland asked if there was an expiration on that. He will look into that and report back to them at the next meeting.

2. ZONING OFFICIAL

Mr. Mulholland stated he has been busy. The blue house across from Midway Mall has come down. There will be a 10000 square foot commercial building there. Henny Penny is going to try to stay in

business while the second store is being built. The architect of Gary Smith's building is finishing up plans. The Norton job is being shopped around.

Mr. Donovan asked about that sidewalk on Main Street.

Mr. Mulholland stated he has five years, but he will not have a CO until he does it.

He also anticipates Gateway back in the next few weeks.

3. COMMENTS FROM EX-OFFICIO

Ms. Cheeseman had already left the meeting.

Mr. Salerno read her report, there was a Special Town Meeting and they appropriated money for the Board of Education, and for town vehicle lease and/or purchase, and for CNRE, Capital Improvement, Local Capital Improvement Plan, Town Aid Road Program, and the new playscape at Bride Brook, and they approved the new one year contract with the Fire Fighters union.

4. COMMENTS FROM ZONING BOARD LIAISON TO PLANNING COMMISSION

Mr. Donovan stated they discussed Gateway. There was some housekeeping on the FEMA Flood Maps, and there was discussion of parking in front of businesses.

Mr. Mulholland stated the new flood maps are effective on August 5th.

5. COMMENTS FROM CHAIRMAN

There were no comments.

6. ADJOURNMENT

Motion (7) Mr. Lukas moved to adjourn the meeting at 10:50 p.m.

Seconded by Mr. Donovan.

Motion Passed 6-0.

Respectfully Submitted,

**Karen Miller Galbo
Recording Secretary**