

TOWN OF EAST LYME

ZONING COMMISSION

JUNE 18, 2015

PUBLIC HEARING MINUTES

MEMBERS PRESENT:

MATTHEW WALKER, CHAIRMAN
WILLIAM DWYER
TERENCE DONOVAN
NORM PECK
GEORGE MCPHERSON
JAMES LISKA, ALTERNATE (SAT FOR PUBLIC HEARING)
SHAWN SINGER, ALTERNATE

FILED IN EAST LYME
CONNECTICUT
June 24, 2015 AT 8:50 AM/PM
Matthew Walker
EAST LYME TOWN CLERK

MEMBERS ABSENT:

MATTHEW KANE
PETER LUKAS, ALTERNATE

ALSO PRESENT:

BILL MULHOLLAND, ZONING OFFICER
MARK NICKERSON, FIRST SELECTMAN
HOLLY CHEESEMAN, EX-OFFICIO
ED O'CONNELL, TOWN ATTORNEY
MARK ZAMARKA, TOWN ATTORNEY
GARY GOESCHEL, TOWN PLANNER
RITA FRANCO-PALAZZO, PLANNING REPRESENTATIVE
FRANK BALANTIC, PLANNING REPRESENTATIVE

CALL TO ORDER

Chairman Walker called the Public Hearing to order at 7:35 p.m.

PLEDGE OF ALLEGIANCE

Chairman Walker led the assembly in the Pledge of Allegiance.

Chairman Walker welcomed everyone in the audience and thanked the National Guard for the use of their building, this is the third public hearing on Item number 1, and the National Guard has been very gracious in allowing the use of this building.

Mr. Liska sat as a Regular Member for the Public Hearing.

PUBLIC DELEGATIONS

There were no public delegations.

PUBLIC HEARING:

1. CONTINUATION OF PETITION OF TIMOTHY S. HOLLISTER FOR LANDMARK DEVELOPMENT GROUP, LLC AND JARVIS OF CHESHIRE, LLC UNDER CONNECTICUT GENERAL STATUTES SECTION 8-30G TO REZONE 123.02 ACRES FROM RU-120, ITS EXISTING ZONING DESIGNATION, TO AFFORDABLE HOUSING DISTRICT (SECTION 32 OF THE EAST LYME ZONING REGULATIONS) AND FOR APPROVAL OF A PRELIMINARY SITE PLAN (SECTION 32.9 OF THE EAST LYME ZONING REGULATIONS) WHICH PROPOSES OPEN SPACE OF 87 ACRES FOR PROPERTY IDENTIFIED IN THE APPLICATION AS CALKINS ROAD, EAST LYME, AND FURTHER IDENTIFIED IN SECTION 9 OF SAID PETITION AS BOSTON POST ROAD, (EAST LYME ASSESSOR'S MAP 31.0, LOT 4), 23 CALKINS ROAD, (EAST LYME ASSESSOR'S MAP 32.0, LOT 1) AND QUARRY DOCK ROAD (EAST LYME ASSESSOR'S MAP 27.0, LOT 14).

Attorney Hollister submitted the following exhibits:

Exhibit 39 – Applicant's Supplemental Materials dated June 18, 2015;

Exhibit 40 – Presentation Slides

Exhibit 41 – Email exchange between Attorney Hollister, town staff, and Attorney Zamarka

Exhibit 42 – June 11, 2015 letter from Gary Goeschel to Mr. Russo

Exhibit 43 – Darrow Pond Pollution Prevention Plan

Attorney Hollister stated Section 32 of the Zoning Regulations was drafted two years ago. This complies with the remand direction from Judge Frazzini. Section 32.9.1 provides for the Preliminary Site Plan, it gives the applicant permission to layout the big picture and defer engineering and impact assessments until the final site plan. This is a proposed preliminary layout; they are proposing to rezone 123 acres to an Affordable Housing District. Within that, there would be 87 acres with no residential structures. Some of those 87 acres may be needed for septic; otherwise it will be open space. The driveway will be boulevard style. He provided them a checklist of 32.9.1 showing that he complied with their Regulation. CT Fund for the Environment is not understanding what they are applying for. Everyone is pining for open space and here it is being offered. They will be developing outside the wetlands. It is a relatively flat area and is adjacent to Deerfield Village. Conditional approval of this is acceptable. They can approve the Preliminary Site Plan conditioned on Water and Sewer; they are not prejudicing themselves if they issue this conditionally. The Judge decided it can be approved conditionally on traffic, water and sewer. If there has not been a substantial change in traffic since 2005 there is no basis to reopen that. Landmark does have a portion of this property in the sewer district. They have been approved for approximately 14,000 gallons of capacity. They have asked the Court why they are not entitled to more. The only thing in the coastal zone is the driveway. The Fire Marshal presented two exhibits. If fire trucks can't get in they can use Deerfield as a second access point. There was a statement that River Road floods. If that is true why does the Town let people live there?

Scott Hesketh of F.A. Hesketh & Associates, East Granby, Connecticut stated he is a traffic consultant. He read a letter dated June 18, 2015 to Mr. Russo. He stated the traffic volumes have not changed significantly since 2005. He also stated there have been no recently approved projects in the vicinity of

the site. They will install a new traffic signal. They will also widen the road to allow a two lane approach.

Guy Hesketh of F.A. Hesketh & Associates stated he is a professional engineer. This is not their final design, this is their preliminary design. There will be 840 units with an access drive, clubhouse, and pool area. All proposed development is outside of the coastal area. The building site is as far from the river as possible. The building area has no wetlands. There will be a little over 87 acres of open space. He discussed some housekeeping measures, pet waste stations, water basins, sand removal, pesticides, snow removal, groundwater recharge, storm water management.

Attorney Hollister stated Attorney Geraghty made the statement that Landmark is not playing by the rules. We are challenging Zoning on this, we are challenging the Water & Sewer Commission ruling, we are also challenging the discrepancy in how this application is being treated by the Zoning Commission. There is a Special Meeting next week of the Inland Wetlands Agency next week on this, and they will attend. If the Zoning Commission denies this because they did not apply to Inland Wetlands on this they will argue in court that the Zoning Commission waived their right of review. They are asking that they conditionally approve this. Final engineering will be deferred to the Final Site Plan stage. He is disappointed how the first public hearing unfolded. The developed area is limited to 36 acres, it is outside the coastal zone, there will be a minimum of 87 acres as open space at no cost to the town.

Mr. Mulholland asked if there is evidence to support the emergency access from Deerfield.

Attorney Hollister stated there is no marked access and there is no easement, but the fire trucks can go wherever they want. If they need to get to a fire and access on River Road is blocked then fire trucks can go where they want.

Mr. McPherson asked what the land is like between Landmark land and Deerfield.

Attorney Hollister stated it is a slight incline, there is a lawn area and then woods, if it is developed then the woods would then be lawn.

Chairman Walker stated at the June 4th public hearing you stated the buildings would be about 1500 feet from the river, but from the maps it looks to be about 800 feet.

Mr. Russo stated the coastal line is about 1000 feet from the River and the buildings are above that.

Mr. Peck asked if it is a right of way for egress to Deerfield for residents.

Attorney Hollister stated there is no proposed vehicular access.

Mr. Peck stated at the last meeting there were questions raised regarding ownership of the road on River Road.

Mr. Mulholland asked if there was an easement for water and sewer through Deerfield.

Attorney Hollister stated they have water and sewer at Deerfield but there is no formal easement to allow an extension to the Landmark property.

Mr. McPherson asked why the traffic counts were done in February.

Scott Hesketh stated the counts were done by the DOT. Fuss & O'Neill did some in August in 2005 and 2007.

Mr. McPherson asked if winter storms affect traffic counts.

Mr. Hesketh stated he doesn't know if there were storms during the counts.

Mr. McPherson asked who can determine who owns the roads.

Attorney Zamarka stated that is not the Zoning Commission's jurisdiction to determine title to private lands.

Chairman Walker clarified that would not be a reason to not approve.

**There was a recess. The Public hearing resumed at 9:00 p.m.

Attorney Roger Reynolds introduced Steven Trinkaus of Southington, Connecticut. Mr. Trinkaus stated he reviewed the preliminary storm water management plan. There are many assumptions made, but no evidence to support those assumptions. Runoff is being directed to the systems, rainfall that falls on the roofs is not clean, runoff is not clean, there will be 36 acres of impervious cover, they have to keep it clear of ice. That will pass through the treatment systems and into the river.

Mr. Trinkaus presented the following exhibits:

- Exhibit 44 - 1 page letter from Mr. Trinkaus**
- Exhibit 45 - 2 page letter from Mr. Trinkaus**

Mr. Reynolds presented the following exhibits:

- Exhibit 46 - Environmental Review Team Report**
- Exhibit 47 - Letter from Mary Dunne, State Historic Preservation Office**

Mr. Reynolds stated Attorney Hollister did not address if his site plan application needs to go to Inland Wetlands. He skipped key provisions of the Regulations. Open space is indicated, but it may be taken up by septic. Judge Frazzini stated a CAM report has to be provided. The Judge stated they should consider this information during the preliminary site plan.

Attorney Geraghty stated Attorney Hollister has indicated there will be no activity in the wetlands so they have not gone to Inland Wetlands. The driveway is two lanes, each is 18 feet wide, that is anything but a driveway. A CAM review is absolutely required. The septic capacity that was approved will only serve approximately 10% of the units. The map shows open space, but it would more correctly be undeveloped land. Mr. Hesketh stated there are no new development approvals in the area, but he has overlooked Gateway. The DOT reviewed the highway ramps in the area, all of them received E or F grades, and a long range study predicts they are only getting worse.

Mike Dunn of The Friends of Oswegatchie Hills, 9 King Arthur Drive, Niantic stated the letter from Mr. Trinkaus talked about the level of environmental impact. The community septic in the area has not yet been designed. Landmark failed to properly identify the location of the wetlands on this preliminary plan. The Friends routinely survey the property within the preserve. There are wetlands in the upland review area.

John Hianey (sp?) a Professional Soil Scientist of Coventry Connecticut stated he was hired by the Friends to do wetlands mapping, he reviewed survey maps, and did a vernal pool study. The vernal pools are extensive. There are significantly unmapped wetland resources, specifically in the area of building 5.

Mr. Dunn presented the following exhibits:

- Exhibit 48 - Packet from Friends with letters, photos, and survey maps**
- Exhibit 49 - Resume of John Hianey**

Attorney Hollister asked if Mr. Hianey went on the Landmark property.

Mr. Hianey stated he tried not to, he would never intentionally trespass, as a surveyor he does have the right to walk property lines to determine wetland boundaries.

Mr. Dunn stated the Landmark plans don't show the wetlands. He obtained permission from Deerfield and walked the common boundary line. Building 5 is approximately 25 feet from the property line. Wetlands don't end when the standing water ends. Why was this not identified?

Jason Westcott of 1 Post Hill Place, New London stated he has been involved with the Water and Sewer case from the beginning.

Mr. Westcott presented the following exhibit:

- Exhibit 50 - Letter from Attorney Westcott**

Mr. Westcott stated most of that document that he submitted has quotes from Judge Frazzini, the drawings today using the boundary are not accurate, there are three different lines. There are expectations that this will include common septic. It is disturbing that this applicant presented plans with an incorrect sewer line. The Judge's decision was very long, but he did recognize the value of the Hills to the town and the area.

Mr. Liska asked if the buildings are moved to the East to avoid wetlands what percentage would be in the sewer service district.

Mr. Westcott stated it would depend how far they are moved. There is no case law in which they can condition a decision on a Court overturning another Commission's decision.

Two East Lyme Middle School students, Sarah Fulcher and Ellie Stetson gave a brief presentation. They stated you cannot replace nature; it would be a shame to not see it there. The parking lot will be seven times as big as Stop and Shop's parking lot.

Fred Grimsey of 35 Oswegatchie Road, Waterford stated there is a pump out program on the River, and they are committed to the health of the river. There is a water quality monitoring program. After rainfalls there is runoff to the river.

Mr. Grimsey presented the following exhibit:

Exhibit 51 - Photo of water runoff

Susan Kraynak of 1 River Road, East Lyme stated she raised the issue of access at the last meeting. She is disappointed tonight that nobody seems to know who owns the roads. It appears that it belongs to the property owners in the Golden Spur neighborhood. Without proper ownership the roads can't be widened. There was an incident yesterday and traffic was backed up. She rebuts any traffic study that says the traffic has not increased.

David Karg of 20 Hill Road, East Lyme stated he spoke against this application on June 4th. This is the wrong use for this property. In the spring of 1982 this area got 16 inches of rain in 3 days. Their small neighborhood was isolated; there is only a single way in and a single way out. This is ill advised.

Attorney Hollister asked why he lives there if it is so unsafe.

Mr. Karg stated it is unsafe for that many cars.

David Karg presented the following exhibit:

Exhibit 52 - The New London Day articles regarding the flooding.

Bob Linden of 82 Quarry Dock Road, Niantic asked Mr. Hesketh if he has determined how much ledge is there as opposed to topsoil.

Vincent Jalbert asked if the members of this Commission have walked the neighborhood.

Chairman Walker stated they have discussed walking it in the immediate future.

Mr. McPherson asked Mr. Mulholland if they can take the Inland Wetlands Agency report after the close of the Public Hearing.

Attorney Zamarka stated they can receive the report after the close of the Public Hearing. Their decision is dependent on when the Inland Wetlands report is received. They have 35 days from when they receive that report to make a decision.

Mr. Peck asked if they have information on the ledge and the depth of the topsoil.

Attorney Hollister stated there is deep hole testing in the record.

Motion (1) Mr. McPherson moved to close the Public Hearing.

Seconded by Mr. Dwyer.

Motion Passed 6-0.

2. APPLICATION OF TODD SAKOWSKI, TO AMEND THE EAST LYME ZONING REGULATIONS SECTION 1.79, 9.2.10, 20.20.8 AND 25.5 TO PERMIT THE OPERATION OF A TAPROOM BREWERY

This Item has been continued to the June 24th meeting.

3. APPLICATION OF JULIE SMART, FOR SMARTY'S, FOR A SPECIAL PERMIT FOR OUTDOOR DINING AT PROPERTY IDENTIFIED IN THE APPLICATION AS 215 MAIN STREET, NIAN TIC

This item has been continued to the June 24th meeting.

4. APPLICATION OF DAVID J. HAYLON, JR, FOR HAYLON'S DELI, FOR A SPECIAL PERMIT FOR FAST FOOD RESTAURANT AT PROPERTY IDENTIFIED IN THE APPLICATION AS 157 W MAIN STREET, NIAN TIC

This item has been continued to the June 24th meeting.

5. APPLICATION OF PATRICK & LORI MASSEY, FOR A SPECIAL PERMIT FOR FAST FOOD RESTAURANT AT PROPERTY IDENTIFIED IN THE APPLICATION AS 44 BLACK POINT ROAD, NIAN TIC

This item has been continued to the June 24th meeting.

Respectfully Submitted,



Karen Miller Galbo
Recording Secretary

