

**TOWN OF EAST LYME**

**ZONING COMMISSION**

**OCTOBER 6, 2016**

**REGULAR MEETING MINUTES**

**Members Present:**

**Matthew Walker, Chairman**

**John Manning**

**William Dwyer**

**George McPherson**

**Terence Donovan**

**Norm Peck**

**James Liska, Alternate (Did Not Sit)**

**Peter Lukas, Alternate (Sat for Item 4)**

**FILED**

OCT 12 20 16 AT 8:00 AM/PM  
(Caren Galbo, ATC)  
**EAST LYME TOWN CLERK**

**Also Present:**

**Bill Mulholland, Zoning Officer**

**Rose Ann Hardy, Ex-Officio**

**Mark Zamarka, Town Attorney (Present for Executive Session)**

**CALL TO ORDER**

Chairman Walker called the meeting to order at 7:30 p.m.

**PLEDGE OF ALLEGIANCE**

Chairman Walker led the assembly in the Pledge of Allegiance.

**PUBLIC DELEGATIONS**

Carol Russell, 4 Bramble Bush Drive wanted to talk about there being no public hearing tonight. She wants there to be a public hearing about Costco. She asked that the decision be rescinded.

Mr. Mulholland stated the application falls under the Master Development Plan passed in 2008 by the Zoning Commission that allows an anchor store.

Chairman Walker stated there can be no testimony on items that are on the Agenda. There were multiple public hearings regarding the Master Development Plan including the anchor store.

Carol Russell stated she is asking for consideration for a public hearing, that is important regarding the water supply and it warrants debate.

Mr. Mulholland stated Inland Wetlands approved it and had two public hearings.

Nancy Kalal, 80 Grassy Hill Road invited everyone to a presentation regarding groundwater and the aquifer on October 19<sup>th</sup>.

**1. EXECUTIVE SESSION – PENDING LITIGATION – JAG CAPITAL DRIVE**

The Commission entered Executive Session with the Town Attorney, Ex-Officio, and Mr. Mulholland.

**Motion (1) Mr. Donovan moved to exit Executive Session with no action taken.**

**Seconded by Mr. Manning.**

**Motion Passed 6-0.**

**2. REQUEST OF KEITH B. NEILSON, PE OF DOCKO, INC., FOR BEVERLY A. LOUGHLIN, OWNER, FOR A COASTAL AREA MANAGEMENT REVIEW FOR THE CONSTRUCTION OF A WOOD LANDING, TO JOIN AN 8' WIDE STONE ACCESS STAIR AND ASSOCIATED WOOD STAIR LEADING TO A CT DEEP AUTHORIZED FIXED PIER, TO INCLUDE WOOD BENCH AND LIGHTS, LANDWARD OF THE HIGH TIDE AND CONNECTICUT COASTAL JURISDICTION LINES AT 5 N. MAIN STREET, NIAN TIC, CONNECTICUT, EAST LYME ASSESSOR'S MAP 22.3, LOT 41.**

Mr. McPherson read a memo from Mr. Mulholland.

Mr. Neilson stated he has met with Mr. Mulholland to make sure they are following proper procedures. There will be a platform stair landing 25 feet off the face of the house. It conforms to setback lines; there are 3 existing stone steps on top of the bluff. It has been approved by DEEP and the Corps of Engineers. The pier has been built. Erosion and sediment controls for the project will be downhill of the construction area to prevent erosion and sediment entering the Niantic River. It is his opinion there will be no adverse impacts on coastal uses or resources. It will satisfy all flooding requirements.

**Motion (2) Mr. Donovan moved to approve the request of Keith B. Neilson, P.E. of Docko, Inc., for Beverly A. Loughlin, Owner, for a Coastal Area Management Review for the construction of a wood landing, to join an 8' wide stone access stair and associated wood stair leading to a CT DEEP authorized fixed pier, to include wood bench and lights, landward of the high tide and Connecticut Coastal Jurisdiction Lines at 5 N. Main Street, Niantic, Connecticut, East Lyme Assessor's Map 22.3, Lot 41.**

**Reasons:**

- 1. Application is consistent with all applicable goals and conditions of the CAM Act.**
- 2. Applicant has taken all reasonable measures to mitigate any adverse impacts of the proposed activity on both coastal resources and future water dependent uses.**

**Seconded by Mr. McPherson.**

**Motion passed 6-0.**

**3. APPLICATION OF J. ROBERT PFANNER & ASSOCIATES PC FOR AVIVA SISITSKY, OWNER FOR A COASTAL AREA MANAGEMENT REVIEW FOR PROPOSED REPAIR OF DAMAGED SEAWALL LOCATED ABOVE THE COASTAL JURISDICTION LINE AT 54 EAST SHORE DRIVE, NIAN TIC, EAST LYME ASSESSOR'S MAP 05.15 LOT 95.**

Mr. McPherson read a memo from Mr. Mulholland.

Mr. McPherson read a letter from Marcy Balint of DEEP.

Mr. Pfanner stated this property is at the corner of East Shore Drive and Seaview Avenue, the seawall runs the length of the property, it was damaged by Storm Sandy. The majority of damage was done to the middle. Some of the cap was damaged. They will have to excavate behind the wall to see what other damage was done. He submitted the following exhibits:

- Exhibit A - Architectural Drawing**  
**Exhibit B - Series of Pictures**

They plan to do a new cap and remove stones that were dislodged. The entire wall will get a new cap. They are not raising the wall. Any bulk increase will be on the landward side of the wall. They will use a silt fence along the beach. The work will probably take about two weeks.

Mr. Mulholland asked if all excavating will be landward.

Mr. Pfanner stated yes, and he and the structural engineer will be on the job from time to time.

**Motion (3) Mr. McPherson moved to approve the application of J. Robert Pfanner & Associates, PC for Aviva Sisitsky, Owner for a Coastal Area Management Review for proposed repair of damaged seawall located above the coastal jurisdiction line at 54 East Shore Drive, Niantic, East Lyme Assessor's Map 05.15, Lot 95.**

**Reasons:**

- 3. Application is consistent with all applicable goals and conditions of the CAM Act.**
- 4. Applicant has taken all reasonable measures to mitigate any adverse impacts of the proposed activity on both coastal resources and future water dependent uses.**

**Seconded by Mr. Dwyer.**

**Motion Passed 6-0.**

- 4. APPLICATION OF THEODORE A. HARRIS, AGENT FOR COSTCO FOR SITE PLAN APPROVAL TO CONSTRUCT AN ANCHOR STORE IN THE GATEWAY ZONING DISTRICT, PROPERTIES FURTHER IDENTIFIED AS PORTIONS OF 0, 282, 284, 286 FLANDERS ROAD, EAST LYME ASSESSOR'S MAP 31.0, LOT 1, MAP 31.3, LOT 1 & 2, MAP 26.0, LOT 2**

**\*\*Mr. Peck recused himself for this item; Mr. Lukas sat in his place.**

Mr. Donovan read a memo from Mr. Mulholland.

Chairman Walker read a memo from Victor Benni, Town Engineer.

Attorney Harris stated this is Phase I of the commercial development. The anchor store will serve two functions. This will bring customers that the other stores will feed off of. It will be a catalyst for growth. The Master Development Plan process started 10 years ago. The Master Development Plan is not a unique concept, but it is unique to East Lyme. In 2007 they applied to adopt the Master Development Plan. There were 2 public hearings that were widely attended. The Zoning Commission denied the application. They then started informal review and neighborhood outreach. They reapplied to the Zoning Commission and had more public hearings and it was approved in 2008. Shortly after that there was a financial collapse. The applicants did buy a substantial portion of land after that. In 2013 they were sensing the economy was taking a turn and they had a market analysis done. They applied to the Commission for the apartment and construction began on those in 2013. They are now 80% occupied. They are here tonight for the Costco anchor store. It is a catalyst for future development on the site. The crossing of the Pattagansett River is before DEEP and the Army Corps of Engineers right now. Then they will go to Inland Wetlands. The OSTA permit for temporary access to the site is ongoing. There are no direct wetlands impacts on the plan, but they are in the upland review area. Inland Wetlands required a public hearing; they had it for two nights. Despite public notice nobody spoke at either. They have no objection to Mr. Benni's bond suggestion. Portion of the site is in the Aquifer Protection District. The part of the site that is not in the district will be the fueling station. The design of the fueling station exceeds current state requirements.

Michelle Carlson, Engineer for BL Companies stated the front door will face the frontage road. There will be a second entrance for trucks. The parking requirements are 635 spaces, they are proposing 644. The fueling station is outside the Aquifer Protection area. There will be 2 storm water management basins designed according to town and state regulations. They will exceed the water quality standards. The fueling station has its own collection system. The erosion and sediment plan meets the 2002 erosion and sediment guidelines. They will use full cut off light features. The gas station is compliant with State and Federal regulations and complies with California standards. It is state of the art. It will only be for members, and will be only gas, not diesel. There will be an attendant at the site at all times when they are open. Senior management will be in the warehouse. There will be non-operating power shut off, emergency shut off switches, closed circuit tvs, tank and piping alarms, alarm system, double walled piping and tanks, no joints on the product piping, vapor recovery air pollution control, overfill spill prevention, automatic tank level gauge, secondary containment sumps, Veeder-Root electronic monitoring system, pressure line leak detection, 24 hours a day 7 days a week monitoring by a third party monitoring company, fire extinguishers, joint sealer to prevent product from entering underlying soil at concrete joints, storm drainage system designed in accordance with best management practices, monitoring wells will be sampled annually and analyzed,

Mr. Dwyer asked if there will be a generator.

Michelle Carlson said there is no generator planned for the fueling station.

- John Mancini of BL Companies stated if the power is off they are not dispensing gas, but the monitoring controls go into the building and there is backup for the controls.

Michelle Carlson stated there are three tanks, 30000 gallons total.

Mr. Manning asked if there is exterior containment if one tank is breached.

Attorney Harris stated it is a double walled tank.

Mr. Mancini stated there is fluid around the tank, then another tank. The liquid around it is constantly being monitored.

Michelle Carlson stated if there was a leak the system will shut down.

Wayne Violette of BL Companies stated the building will be consistent with the Gateway district. They have proposed buffer plantings; there are existing trees in the state right of way estimated to be 40 to 60 feet tall. They cannot change those. It will be consistent with the Master Development Plan and the Gateway guidelines, 15 feet on center, approximately 30 to 40 trees. Interior parking will be consistent with the guidelines, landscape islands, street trees proposed along the road that provides access.

Chairman Walker asked about the loading area being visible from 95.

Mr. Mulholland asked if it was possible to in fill more trees in that area of the loading dock.

Michelle Carlson stated no problem. She also wanted to correct something she had said earlier; the fueling station tanks are over 300 feet from the Aquifer. The parking lot material will be asphalt and concrete, snow will be put in the far corners unless there is too much then it will be trucked off. They will use environmentally friendly salt. They went over all of this with Inland Wetlands. The tanks will be installed by a certified installer.

Mr. Mancini stated Costco doesn't use diesel in this market. They have discussed specifics of the exit project with DOT including a new bridge and new interchange.

Mr. Mulholland stated the State is moving forward, OSTA has met with Town Staff, they have started public outreach locally.

Chairman Walker stated the presentation was very thorough. The big consideration is the fueling station, they very clearly illustrated it is outside of the Aquifer.

Mr. Donovan stated his biggest concern was the fuel tanks, those were addressed.

**Motion (4) Mr. McPherson moved to approve the application of Theodore A. Harris, Agent for Costco for Site Plan approval to construct an anchor store in the Gateway Zoning District, properties further identified as portions of 0, 282, 284, 286 Flanders Road, East Lyme Assessor's Map 31.0, Lot 1, Map 31.3, Lot 1&2, Map 26.0, Lot.**

Mr. Dwyer stated he doesn't like the entrance.

Chairman Walker stated the infrastructure doesn't have anything to do with this application.

Mr. Mulholland stated that is not the purview of the Zoning Commission, OSTA is moving forward.

Seconded by Mr. Donovan.

Motion Passed 5-1 (Mr. Manning – Nay)

\*\*Mr. Peck returned for the remainder of the meeting.

**5. APPROVAL OF MINUTES OF SEPTEMBER 1, 2016**

Motion (5) Mr. McPherson moved to approve the Public Hearing and Regular Meeting Minutes of September 1, 2016.

Seconded by Mr. Manning.

Motion Passed 4-0-2 (Mr. Manning and Mr. Dwyer abstained)

**OLD BUSINESS**

**1. SUB-COMMITTEE MIXED USE IN CB ZONE**

There was nothing to report.

**NEW BUSINESS**

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

There was no business on the floor.

**2. ZONING OFFICIAL**

There was no report.

**3. COMMENTS FROM EX-OFFICIO**

There was no report

**4. COMMENTS FROM ZONING BOARD LIAISON TO PLANNING COMMISSION**

They did not attend.

**5. COMMENTS FROM CHAIRMAN**

There were no comments.

Motion (6) Mr. McPherson moved to adjourn at 10:25 p.m.

Seconded by Mr. Donovan.

Motion Passed 6-0.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Karen Miller Galbo". The signature is written in a cursive, flowing style.

Karen Miller Galbo  
Recording Secretary