

**EAST LYME ZONING COMMISSION
REGULAR MEETING
Thursday, FEBRUARY 16th, 2006
MINUTES**

PRESENT: Mark Nickerson, Chairman, Rosanna Carabelas, Secretary,
Pamela Byrnes, Norm Peck, Marc Salerno, William Dwyer,
Alternate

ALSO PRESENT: Attorney Ronald Stevens, representing the Applicant
Phil Biondo, representing the Developer
Keith Hayden, EL Engineering Department
Joe Barry, Alternate
William Mulholland, Zoning Official

FILED IN EAST LYME TOWN
CLERK'S OFFICE

Feb 22 20 06 at 11:40 AM PM

Esther B. Williams

EAST LYME TOWN CLERK

ABSENT: Ed Gada, Bob Bulmer, Alternate

1. Call to Order

Chairman Nickerson called this Regular Meeting of the Zoning Commission to order at 8:06 PM after the previously scheduled Public Hearing.

Public Delegations

Mr. Nickerson called for anyone from the public who wished to address the Commission on subject matters not on the Agenda.

There was no one.

2. Application of Cornerstone Consulting for a Special Permit to operate a fast food restaurant at property located at 250 Flanders Road, East Lyme, Connecticut. The property is further identified as East Lyme Assessor's Map 26.1, Lot 6.

Mr. Nickerson said that they had just closed this Public Hearing and asked if they were ready to make a motion on this. He opened discussion.

****MOTION (1)**

Ms. Byrnes moved to approve the Application of Cornerstone Consulting for a Special Permit to operate a fast food restaurant at property located at 250 Flanders Road, East Lyme, Connecticut. The property is further identified as East Lyme Assessor's Map 26.1, Lot 6. This use is consistent with the previously approved site plan and there is adequate parking to accommodate this fast food restaurant.

Mr. Salerno seconded the motion.

Mr. Nickerson said that he would vote in favor of this as the developers have greatly improved that property and area from what was there previously.

Vote: 6 - 0 - 0. Motion passed.

3. Application of the Town of East Lyme for a Coastal Site Plan review to replace a public restroom facility and reconfigure, resurface the existing parking area at the Hole in the Wall parking area.

Mr. Nickerson explained that this is for Town owned property, the Hole in the Wall parking area and its subsequent improvement.

Ms. Carabelas said that she had some correspondence to read into the record:

- ◆ Letter dated 2/16/06 to EL Zoning Commission from Wm. Mulholland, Zoning Official – Re: Coastal Site Plan Review/Hole in the Wall Beach – Proposed New Building/Parking Lot Rebuild Existing Parking Lot - noting that the Commission must determine whether or not the proposed activity is consistent with all applicable coastal policies and standards and whether or not the potential adverse impacts of the proposed activity on both coastal resources and future water dependent development activities are acceptable. In this application the Town proposes to reconstruct the existing parking area at the Hole in the Wall Beach and construct a 22' x 48' single story building to house public restrooms, storage and an office area.

Mr. Nickerson asked Keith Hayden from the Town Engineering Department to explain this CAM application.

Mr. Hayden gave an in-depth overview of the project noting that there would be a 99 space paved parking area and that the rest would be set up and used as an open-air classroom on stormwater. They are proposing to put low-flow to a Vortech unit that will separate particulate matter out. There will be a rain garden, swale and basin set up where students will come to study and calculate this type of stormwater treatment. There will be a grass-filtering strip with the vegetative swale. The paved part of the parking area will also house the handicap parking.

Mr. Mulholland asked the purpose of these mixed surfaces.

Mr. Hayden said that they want the students to come and study these areas and the suspended solids will be a classroom to allow them to use and study this technology and see how it works.

(Note: Ms. Hardy arrived – 8:20 PM)

Ms. Carabelas asked if this was donated or if it is being paid for through grant money. She also asked if non-source point run-off was considered.

Mr. Hayden said yes to both. Various items that are donated have come from the manufacturers and the only cost is that of installation. The Town was awarded a \$500,000 STEAP grant that will be covering much of this project. The donations from the manufacturers are intended such that this can be studied for its effectiveness and everyone can gain valuable information from this.

Mr. Mulholland asked about erosion controls.

Mr. Hayden said that the railroad has some there already and any other would be added such as hay bales and sediment fencing.

Ms. Carabelas noted the NEMO project at UConn and said that this is their type of program.

Mr. Hayden said that they have been in contact with them regarding this program.

Mr. Dwyer and Mr. Nickerson asked if this would be decreasing the current number of parking spaces.

Mr. Hayden said that the parking today is very informal and that he doubted that they could get 100 cars in. The new parking area would be striped for spaces and would clearly allow for 99 cars to park.

Mr. Mulholland asked about a sidewalk running along the area into Town.

Mr. Hayden said that they planned on doing this to provide a secondary access.

Mr. Nickerson asked if the cost of the building is included in this project.

Mr. Hayden said yes – they have anticipated that the parking project would run around \$350,000 and that the building would be \$150,000. He added that they would have outdoor showers available and that they would use salt resistant vegetation in the area.

Mr. Salerno asked when they would be doing this project.

Mr. Hayden said that they would do it during the off-season. They are looking towards after Labor Day 2006 for a start date and to finish by May of 2007. The area is sandy and they anticipate excellent infiltration.

Mr. Nickerson noted for the record that the CAM should read: **Fall of 2006** rather than Spring of 2006.

Mr. Nickerson asked about the surface area and the flow into the catch basin.

Mr. Hayden said that it will sheet flow in nicely and that the amount could be calculated.

Mr. Mulholland noted that if they have a dumpster there that they would need to have it in an enclosed area.

Ms. Carabelas asked about the re-paving of Baptist Street and if it is included in this project.

Mr. Hayden said that they hope to do an overlay on Baptist Street.

Mr. Nickerson asked if there were any further comments regarding the CAM.

Hearing none, he thanked Mr. Hayden for his presentation.

****MOTION (2)**

Ms. Carabelas moved to approve the Application of the Town of East Lyme for a Coastal Site Plan review to replace a public restroom facility and reconfigure, resurface the existing parking area at the Hole in the Wall parking area. The reasons for this approval are that the application is consistent with all applicable goals and conditions of the CAM Act and the applicant has taken all reasonable measures to mitigate any adverse impacts of the proposed activity on both coastal resources and future water dependent uses.

Ms. Byrnes seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

4. Approval of Minutes for the Regular Meeting of January 5, 2006 and Minutes of the Regular Meeting of February 2, 2006.

Mr. Nickerson called for any changes or corrections to the January 5, 2006 Regular Meeting Minutes of the Zoning Commission.

Ms. Byrnes asked that on the first page that she be listed as ABSENT as she was not at that meeting.

****MOTION (3)**

Mr. Peck moved to approve the January 5, 2006 Regular Meeting Minutes of the Zoning Commission as amended.

Ms. Carabelas seconded the motion.

Vote: 5 – 0 – 1. Motion passed.

Abstained: Ms. Byrnes

Mr. Nickerson called for any changes or corrections to the February 2, 2006 Regular Meeting Minutes of the Zoning Commission.

Mr. Dwyer asked that he be listed as PRESENT as he was present for this meeting.

Ms. Carabelas asked that she be listed as the Secretary rather than the Acting Secretary and that her name in all instances where it appears incorrectly on all pages, be changed to read: Rosanna Carabelas.

****MOTION (4)**

Ms. Carabelas moved to approve the February 2, 2006 Regular Meeting Minutes of the Zoning Commission as amended.

Ms. Byrnes seconded the motion.

Vote: 5 – 0 – 1. Motion passed.

Abstained: Mr. Salerno

Old Business

1. Stormwater

This is a work in progress.

2. Aquifer Protection

This is a work in progress.

3. Subcommittee – Niantic Village – CB Zones (Mark Nickerson & Marc Salerno)

This is being worked on.

4. Outdoor Dining

Mr. Nickerson asked Mr. Peck if he would like to go over the Proposed Zoning Amendment on Outdoor Dining with them. (Attached at end of Minutes)

Mr. Peck read from the Proposed Amendment Draft on Outdoor Dining.

Ms. Carabelas asked about #5 regarding the restaurant operator providing adequate facilities for refuse disposal.

Mr. Mulholland said that they would have to follow guidelines and that this would have to be presented on the site plan with the application.

Ms. Bymes questioned #6 which states that outdoor dining areas shall close at 10 PM. She noted that she finds that to be too early, especially during the summer months when it does not get dark until at least 9 PM and many people do not go out to dine until a later hour.

After much discussion the Commission decided to change this to read that the Zoning Commission may designate closing times as each application would be handled separately based upon what they are presenting.

Mr. Mulholland noted that this is under a special permit status and that they could devise some type of language to suit this.

Mr. Dwyer commented that those that are already operating in this manner are grandfathered and that he could not envision a large number of applications for this.

Mr. Nickerson suggested issuing different types of permits.

Mr. Salerno suggested renewable special permits so that they could see how things go as there are a number of variables that could present issues.

Mr. Nickerson and Mr. Mulholland suggested that they could state that if there are any complaints that the special permit would not be renewed.

Ms. Carabelas cautioned that it would have to be a substantial complaint and not something where someone was out to get someone.

Mr. Mulholland said that the complainant should have to appear before the Commission.

Mr. Salerno said that he thinks that they should grant permits that allow this to be tried for a period of one year and see how it goes.

After further discussion it was the consensus of the Commission that the special permits would be issued for a period of one year and would be reviewed and/or renewed after that year.

Item #8 addressed parking and Mr. Mulholland explained that this is an overlay zone and that they are trying to encourage growth and traffic in this area. This traffic is temporary/seasonal and they may not be maxing out the parking in that area. He added that not every downtown business has parking and that there would be no way that they would allow any parking areas to be deleted for any of this dining.

Mr. Nickerson asked about permanent structures and if awnings and poles are considered in this way. Mr. Mulholland said that if they go that route then they should look at setbacks.

Mr. Peck commented that he prefers to leave this looser and that they designate specifically when they see the special permit application and the site plan, as not everything would apply to everyone.

Mr. Mulholland said that he would work up a new Special Permit Application that would cover all the bases and one where they could check off areas as necessary. The Commission agreed that this was a good idea.

Item #10 regarding outdoor entertainment and public address systems/speakers generated much discussion due to how sound travels in the area. It was agreed that it would be annoying to have to hear public address announcements for dining seats until the wee hours of the evening.

Mr. Mulholland said that they have discussed this in the past and that there is no ordinance regarding noise and this creates problems with enforcement. He said that he would work on updating this from what they have just cited as changes that they would like to see and schedule it for Public Hearing.

Mr. Peck said that he would like to see it for further discussion prior to the Public Hearing. He added that Mr. Mitchell and the Niantic Main Street Director wanted to look it over also and that he would like to run it by them before it goes to Public Hearing.

Mr. Nickerson asked that it come back before the Commission with the changes and then they would decide when to schedule it for Public Hearing.

New Business

1. Application of Attorney Theodore A. Harris, agent for Vespera Investments, for an affordable housing development to be known as 38 Hope Street, located at 38 Hope Street, Niantic, Connecticut. The property is further identified as East Lyme Assessor's Map 11.2, Lot 122.

Mr. Nickerson asked Mr. Mulholland to schedule this for Public Hearing.

2. Application of Virgil K. Horton, Jr. for a text amendment to add a new Section 20,27 to section 20 of the East Lyme Zoning Regulations.

Mr. Nickerson asked Mr. Mulholland to schedule this for Public Hearing.

3. Application of Landmark Development Group, LLC for an Affordable Housing Development to be known as "River View Heights V (A Residential Community)" and (a) approval of a new section of the East Lyme Zoning Regulations entitled "Special Use Affordable District" (AHD); (b) re-zoning the land of Jarvis of Cheshire, LLC and Sergeants Head Realty Corporation.

Mr. Nickerson asked Mr. Mulholland to schedule this for Public Hearing.

4. Any other business on the floor, if any, by the majority vote of the Commission.
There was none.

5. Zoning Official

Mr. Mulholland reported that he would be sending out a schedule soon with the Public Hearings and the special meetings, as they will be exceptionally busy.

6. Comments from Ex-Officio

Mr. Nickerson apologized to Ms. Hardy for not noticing her during the discussion on outdoor dining.

Ms. Hardy said that regarding the outdoor dining/patio amendment that the issue of outdoor speakers and music is something that the Board of Selectmen has grappled with many times in considering a noise ordinance. The issue is that they must have an audiometer in order to enforce a noise ordinance. They do not have this equipment and the cost of it is very expensive. The fact that noise travels creates problems with defining what is excessive. Without a Board of Selectmen noise ordinance to assist them, enforcement of this becomes difficult at best.

Mr. Nickerson said that they would take this under advisement.

Ms. Carabelas commented that from where she lives in Town that she can hear the music and noise from Sunset Ribs across the Bay.

7. Comments from Chairman

Mr. Nickerson said that they would be very busy and would have extra meetings scheduled.

8. Adjournment

****MOTION (5)**

Ms. Byrnes moved to adjourn this Regular Meeting of the East Lyme Zoning Commission at 9:55 PM.

Mr. Salerno seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary (Pro-Tem)

Proposed Zoning Amendment / Outdoor Dining

- * Add to Sections 1.48 Restaurant, Fast Food and 1.49 Restaurant, Standard at the end of Paragraph, see Section 20.27.
- * Add new section 20.27 Restaurant Outdoor Dining in CB Zones to Section 20 Accessory use.

A. Outdoor dining ^{shall} ~~may be permitted~~ subject to a Special Permit.

A standard or fast food restaurant, may, as an accessory use, provide outdoor dining subject to the following standard:

1. Applicant shall submit a site plan to the Zoning Official for administrative review.
2. The area subject to such dining may not exceed six hundred square feet (600sqft.) ^{it shall} and be located on a deck, patio, or grass area immediately adjacent to the restaurant.
3. Outdoor dining shall be used in conjunction with, and shall be under the same management and exclusive control of the restaurant located on the same property.
4. Outdoor dining shall be designed as an integral element of the restaurant ~~where alcoholic beverages are permitted~~, and the outdoor dining area shall be architecturally separated from public spaces by a wall, fence, or plantings of significant size. *(State requires this anyway) where alcoholic beverages are permitted.*
5. The restaurant operator shall provide adequate facilities for refuse disposal.
6. Outdoor dining areas shall close at 10:00 p.m. (including clean up operations.) *Zoning Comm. may designate closing times.*
7. Any outdoor lighting shall be of low intensity.
8. The area devoted to outdoor dining shall not be included in the calculation for parking pursuant to Section 22, nor included in the calculation for lot coverage pursuant to Section 9.3.4.
9. Notwithstanding Section 9.3.3 Setbacks, outdoor dining areas may reduce the setback requirements to zero.(0).
10. Outdoor entertainment, public address systems and speakers may be permitted *by the Commission* subject to a Special Permit ~~in accordance with Section 25. This special permit may be in conjunction with the outdoor dining spec. permit.~~
11. Advertising or promotional signage shall not be permitted on umbrellas in outdoor dining areas.

Attachment - Zoning Meeting # 17
February 16, 06
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No temporary enclosures or structures — w/o prior approval
Spec. Permit shall be for 1 year — at which pt. it will be reviewed / renewed — subject to a new spec. permit