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**EAST LYME ZONING COMMISSION
REGULAR MEETING
Thursday, JANUARY 18th, 2007
MINUTES**

Esther B. Williams

EAST LYME TOWN CLERK

The East Lyme Zoning Commission held a Regular Meeting on January 18, 2007 at Town Hall, 108 Pennsylvania Avenue, Niantic, CT.

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

ALSO PRESENT: William Dwyer, Alternate
Bob Bulmer, Alternate
William Mulholland, Zoning Official
Rose Ann Hardy, Ex-Officio, Board of Selectmen

ABSENT: Ed Gada

PANEL: Mark Nickerson, Chairman, Rosanna Carabelas,
Secretary, Marc Salerno, Pamela Byrnes, Norm Peck,
Joe Barry, Alternate

1. Call to Order

Chairman Nickerson called this Regular Meeting of the Zoning Commission to order at 7:58 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.

Joe Kwasniewski, 67 Walnut Hill Road said that he had two things to say – the first – he asked what happened to the sidewalk between Flanders and Niantic. He recalled to them that it had passed some four years ago and that it still was not completed. The second thing that he wished to discuss was the wildlife place behind where he lives – he asked that they let it be as it is. He said that he did find out that it is a subdivision that is planned for that area and that subdivisions are handled by Planning. He has gone to Planning and discussed this issue and said that he would continue to do so as he wants the wildlife area left as it is. The animals did not choose to be there but since they were placed there, he asked that they be left alone to stay there.

Regular Meeting

1. Request of Dick Karsmarski of Ford Plaza Inc. of 218 Flanders Road for a site plan modification to install lighting on the northerly lot.

Mr. Nickerson said that this has been postponed to the February 1, 2007 meeting of the Commission.

2. East Lyme Zoning Commission proposal to amend Section 11 "LI Light Industrial Districts"

Mr. Nickerson called for discussion on this as they had just closed the public hearing.

Mr. Salerno asked Mr. Mulholland about Section 11.2.9 regarding the on-site retail services as an accessory use and if it would be workable to have it this way.

Mr. Mulholland said that he thought that he could work with it as a part of the regulations.

Mr. Peck said that the thought that went into this amendment was that it would have to be an accessory use.

Mr. Nickerson noted that a retail window showroom would most likely not belong there as the windows would not be manufactured there.

Ms. Carabelas and Ms. Byrnes noted that a window showroom usually does not stock windows but takes orders and has them shipped to the purchaser at their home address.

Mr. Mulholland gave an example of a business that sold flooring tiles where they warehoused the bulk and then opened a showroom. The square footage that was allocated to each of the areas – warehouse and retail would reflect what the predominant business use was and it could not be the retail end.

****MOTION (1)**

Ms. Byrnes moved to approve the East Lyme Zoning Commission proposal to amend Section 11 LI – Light Industrial Districts and Section 24 – Site Plan Review Zoning Regulations as presented.

Mr. Salerno seconded the motion.

Ms. Byrnes said that before they voted on this that she wanted to thank the subcommittee for doing the 'awesome' job that they did on these amendments. She noted that it was the issue of the 'regional shopping center' that brought this to their attention as they did not want the Light Industrial areas to be usurped by shopping centers.

Mr. Barry said that he is concerned with the preservation of Light Industrial space and asked how Affordable Housing fits in this area.

Mr. Mulholland explained that it was a defacto zone change and that while it was never a permitted use, by State Statute Affordable Housing trumps the local zoning regulations.

Mr. Nickerson commended the subcommittee for their hard work and called for a vote.

Vote: 6 – 0 – 0. Motion passed.

Mr. Mulholland said that this decision would be published on Thursday January 25, 2007 and the changes would take effect on Friday January 26, 2007.

3. Approval of Minutes – Public Hearing I and Regular Meeting of December 7, 2006

Mr. Nickerson called for discussion on, or corrections to the Public Hearing I and Regular Meeting Minutes of December 7, 2006.

Mr. Peck asked that in the Regular Meeting Minutes on Page five (5) under Item 3. - that the spelling on Wynward be corrected to read Windward.

****MOTION (2)**

Mr. Salerno moved to approve the December 7, 2006 Public Hearing I and Regular Meeting Minutes of the Zoning Commission as amended.

Ms. Byrnes seconded the motion.

Vote: 5 – 0 – 1. Motion passed.

Abstained: Ms. Carabelas

4. Zoning Commission 2007/2008 Budget

Mr. Mulholland went over the Commission budget noting that he would be given a raise and indicating the increases that had been arrived at in his discussion with Mr. Funke on the various items.

Ms. Byrnes said that as a Commission that they seem to constantly be facing staffing issues be it for a regular recording secretary for the Commission or enforcement issues that Mr. Mulholland might need help with. She asked if they needed more help with this.

Mr. Mulholland said that this is a very active Commission and that it sometimes is more busy than normal but that it usually settles down at other times and affords the time to 'catch up' on the events that they are discussing.

Mr. Nickerson asked Mr. Mulholland if he was comfortable with the situation and still found it workable for now.

Mr. Mulholland said that he thought that it was workable for now and that they have administrative staff to help and that it seems to be working out.

****MOTION (3)**

Ms. Byrnes moved to accept the FY 2007-2008 Zoning Commission budget of \$78,350 as presented.

Ms. Carabelas seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Old Business

1. Stormwater

Mr. Nickerson said that Bruce Morton will come to speak to them on Stormwater at their meeting on February 1, 2007. He said that they would encourage the other land use commissions to come to hear the presentation and may allow some questions. Time would be tight as they would be holding this from 6:30 PM to 7:20 PM just prior to their public hearing and regular meeting of the Commission already scheduled for that evening.

2. Subcommittee – Niantic Village – CB Zones (Mark Nickerson, Marc Salerno & Norm Peck)

Mr. Mulholland presented the Commission with research materials that he had received for them to thumb through regarding patterns and designs. He also said that he has spoken with some people regarding doing a pattern book.

Mr. Nickerson said that they were thinking on the lines of doing a pattern book and that they had asked Mr. Frey if they could use some of the items from his pattern book and they were told yes and also told that had they brought this up earlier that he would have helped them to be able to develop their own pattern book. He said that as a Commission that they are aiming for late June for a public hearing on this for final full architectural rendering.

3. By-Laws Subcommittee (Mark Nickerson & Pamela Byrnes)

Mr. Nickerson said that the draft of these changes is with the Town Attorney for his review. They are not pushing him to get them back to them as he would like to have a meeting with all of the regular members present to review them.

New Business

1. Application of Theodore A. Harris, Esq., for a special permit for a fast food restaurant at property identified in the application as 15 and 19 Chesterfield Road.

Mr. Nickerson asked Mr. Mulholland to schedule this for public hearing.

2. Application of Jason Gabriele for a special permit to establish and operate a Karate School at 324 Flanders Road.

Mr. Nickerson asked Mr. Mulholland to schedule this for public hearing and also asked where this was on Flanders Road.

Mr. Mulholland said that this is the old Brooks Pharmacy and that the area would be split with the Shack.

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

Mr. Mulholland said that there is also an application for the School of Irish Dance at Liberty Way.

Mr. Nickerson asked if this would fall under the new or old regulations for Light Industrial.

Mr. Mulholland said that it is indoor recreation and would be fine under the new regulations.

4. Zoning Official

Mr. Mulholland reported that he expected that they would be getting busy again in late spring. He also noted to the Commission that they are not involved in the subdivision on Walnut Hill Road.

Ms. Byrnes said that she would like to comment in conjunction with the referrals that they send to Planning. She noted that Planning never sends anything to them for their comments or concerns.

Mr. Mulholland explained that it is required that Zoning sends a referral to Planning for review for consistency or inconsistency with the Plan of Conservation and Development. It is not required for Planning to send any referrals to Zoning for comment.

5. Comments from Ex-Officio

Ms. Hardy reported that the Board of Selectmen is in the process of setting up budget reviews and that they do not have Zoning on their list for review. She said that the Recording Secretary fees are set by the Board of Selectmen and that they recently raised them and created a layer system so that people who have worked for a number of years would be recognized a bit more for their efforts. They are working on more incentives. She also said that every Board and Commission has to have a copy of their Bylaws filed with the Town Clerk and that it appears that some do not. She asked that they be sure to file their revised Bylaws with the Town Clerk. She additionally reported that at the Board of Selectmen meeting the previous evening that a petition signed by 63 Town residents for the Walnut Hill area subdivision requested that an independent environmental study be done. She said that the Board of Selectmen cannot mandate that it be done and is sending a letter to Planning and Conservation asking them to look it over. She noted that part of that property fell under Zoning at one time as they gave authorization for it.

Mr. Mulholland said that it was a special permit that was given and that it ceased to be many years ago and that the land has returned to what it was and there are no zoning violations so they have no jurisdiction over it currently.

Ms. Hardy said that the concern was that the abandoned wildlife was not removed. It was the North American Wildlife Assoc. that rehabilitated injured wildlife and when the owner went to jail and then left the area the animals were abandoned there.

Ms. Hardy also reported that the Tax Collector, Ruth Ames is retiring and that last evening the Board of Selectmen appointed John McCulloch from the Finance Department as the interim Tax Collector until whoever runs for the November election. A retirement party for Ruth will be held on January 28, 2007. The Public Safety building has been narrowed to two sites – the land adjacent to the High School and the other land is currently in possession of the DEP and located across from the correctional facility. They have been offered about five acres there. The Board of Selectmen have not made a final vote on which property although she said that she thinks that they are leaning towards the DEP property. They are also trying to acquire 20 acres of DEP property on Roxbury Road for open space and ball fields. The approximate cost for the Public Safety building is \$14M at the High School site and \$13.6M at the DEP site.

Mr. Nickerson said that he wanted to commend Ms. Hardy for asking the right questions at the presentation on the Public Safety Buildings.

Ms. Hardy said that there will be more than one public hearing on this and also a referendum on the site and building and cost.

6. Comments from Zoning Commission liaison to Planning Commission

No one was present to comment.

7. Comments from Chairman

Mr. Nickerson asked the members if they would like to go live on TV with their meetings.

Ms. Carabelas said that she thinks that it might be more of a question of the Town having access to seeing the meetings.

Mr. Nickerson said that his concern is that all land use is litigious to begin with and with some of the larger applications, other issues are created.

Mr. Peck said that he has not heard any requests or anything from anyone on this topic.

TOWN OF EAST LYME ZONING COMMISSION
PROPOSED ZONING REGULATION AMENDMENT

Approved 11/18/07
by Zoning
Commission

SECTION 11

LI LIGHT INDUSTRIAL DISTRICTS

Text language printed with a line through it will be deleted from the existing regulations.

Proposed new language is printed here underlined and bold.

General Description and Purpose - A district suitable for heavy commercial and light manufacturing, oriented essentially to major transportation facilities. The purpose of this district is to provide areas for industrial and commercial uses in an open setting that will not have objectionable influences on adjacent residential and commercial districts.

11.1 PERMITTED USES - The following uses of buildings and/or land and no others are permitted subject to site plan approval in accordance with Section 24.

11.1.1 Light Industrial or manufacturing uses which are not dangerous by reason of fire or explosion, nor injurious or detrimental to the neighborhood by reason of dust, odor, fumes, wastes, smoke, glare, noise, vibration or other noxious or objectionable feature as measured at the nearest property line.

11.1.2 Trucking terminal

11.1.3 Printing or publishing

11.1.4 Warehouse and wholesale storage; self storage warehouses

11.1.5 Commercial nurseries, greenhouses and garden centers

11.1.6 Office complex

11.1.7 All related accessory uses customarily incidental to the above permitted uses.

(ALSO SEE SECTION 20 - - GENERAL REGULATIONS)

11.2 SPECIAL PERMIT USES - The following uses may be permitted when granted a Special Permit by the Zoning Commission subject to the Special Permit Requirements of Section 25.

11.2.1 Deli, coffee shop or cafeteria ~~Standard restaurant, fast food restaurant, drive-in restaurant~~

11.2.2 ~~Regional shopping center~~

Changes Approved as changed by Zoning Commission
at PH - Reg. Mtg. 11/18/07

- 11.2.2 Private training facilities, trade and technical schools and facilities of higher learning
- 11.2.3 ~~Research—laboratory~~ Research, design and development facilities
- 11.2.4 ~~Commercial indoor recreation~~ Health spas and gymnasiums
- 11.2.5 Hotels *Sports facilities and other indoor recreation*
- 11.2.6 Contractor or trade service facilities
- 11.2.6 — Drive-in theatre
- 11.2.7 Convalescent homes
- 11.2.8 ~~11.2.8~~ — Motor Vehicle and heavy equipment Repairers Station
- 11.2.9 Office and retail sales of industrial services, manufactured items and/or processed items that are produced/provided on site wherein such retail services are an accessory use and take place in the same structure.

(ALSO SEE SECTION 20 - - GENERAL REGULATIONS)

11.3 DIMENSIONAL REQUIREMENTS

- 11.3.1 LOT SIZE - Within the LI Light Industrial District no lot shall be less than 40,000 square feet in area.
- 11.3.2 FRONTAGE - Each lot shall have not less than 150 feet frontage.
- 11.3.3 SETBACK - No building or structure shall be placed less than 25 feet from the street line or 20 feet from other lines. The 25 feet to be used for lawn, trees and sidewalks only.
- 11.3.4 COVERAGE - The total area covered by all buildings and structures on a lot shall not exceed 40 percent of the lot area.
- 11.3.5 OFF-STREET PARKING AND LOADING SPACE - Off-street parking and loading space shall be provided as required in Section 22 of these regulations.
- 11.3.6 HEIGHT - No building or structure shall exceed 40 feet in height.
- 11.3.7 BUFFER STRIP - A suitable landscaped buffer strip not less than 50 feet wide shall be provided along the property line where any LI Industrial District abuts any non-industrial district within the Town or any adjoining town.

24.6 STANDARDS - The following general standards shall apply to all uses subject to approval of a site plan.

- A. SURFACING AND DRAINAGE - Driveways to and from all buildings, outside storage, sales and display areas will be properly graded and paved. The flow of storm water from the site onto the street will be minimized to reduce peak flow volume and sediment loads to predevelopment levels. When deemed necessary by the Commission or Zoning Enforcement Officer due to such factors as emergency vehicle access requirements or the anticipated level of on-site traffic, the commission or the Zoning Enforcement Officer may require private driveways and/or parking areas to be constructed to Town road standards, as contained in the East Lyme Subdivision Regulations, for: width, geometry and cross-section; base construction and surfacing; sidewalks; lighting; street signs; and drainage.
- B. DRIVEWAYS - Driveway entrances and/or exits will be the minimum number necessary to provide efficient and safe access to the site. Combined entrances/exits will be no less than 24 feet in width. One-way entrances or exits will be no less than 16 feet in width.
- C. SIDEWALKS - Sidewalks shall be constructed to Town standards along the entire street frontage. This requirement may be waived by the Commission upon a finding that sidewalks at the proposed location are not necessary or desirable for pedestrian safety and circulation. Where required, sidewalks will be located within the road right-of-way, one foot off the front lot line. If insufficient right-of-way exists to accommodate a frontage sidewalk, the property owner will deed property to the town or State of Connecticut, as appropriate, to increase the width of the right-of-way. When deemed necessary for pedestrian safety, internal sidewalks may be required; internal sidewalks will connect to frontage sidewalks.
- D. SITE CONDITION - Provisions will be made for maintaining an uncluttered site so that equipment or refuse will not be stored or located on sidewalks, pedestrian ways, driveways, or parking areas, except when required for refuse pick up.
- E. LANDSCAPING AND BUFFERS - Landscaped areas will be provided on each lot requiring a site plan review.
 - (1) NATURAL FEATURES - Existing trees, vegetation, unique site features and significant resources such as wetlands and watercourses will be retained and protected to the maximum extent practicable. Existing healthy trees and other vegetation of proper type, size and location will be fully credited against the requirements of this section.
 - (2) FRONT LANDSCAPING - At a minimum each lot will be provided with a landscaped strip 6 feet or more in width along the street line and shall be in harmony with existing landscaping on adjacent properties.

- (3) **BUFFER STRIP** - A landscaped buffer strip will be required along all lot boundaries abutting any other lot. The minimum width of buffer strips will be as follows:
 Commercial or multi-family District abutting a single-family residential district: 25 feet
 Industrial District abutting a commercial district: 25 feet
 Industrial District abutting a residential District: 50 feet
 Special Use District abutting a residential use or district: 50 feet
 Commercial uses within a Commercial district: 6 feet
 All others: 10 feet
- The buffer area will contain evergreen planting sufficient to shield abutting properties from headlight glare and visual intrusion and to reduce noise. At a minimum, the planting will consist of one row of trees 6 feet in height planted at intervals of 10 feet on center. An earthen berm, wall, or architectural fence may be substituted for any portion of the required planting with the approval of the Zoning Commission.
- Where appropriate, the commission may eliminate the side or rear buffer strip requirement ~~to allow traffic flow on or between adjacent properties.~~
- (4) **PARKING AREA LANDSCAPING** - All off-street parking areas of 30 or more spaces will include a minimum of 15 square feet of interior landscaping for each parking space, located within the paved portion of the parking area. Landscaping will be contained in curbed islands, located to aid in the safe and efficient channelization of both pedestrian and vehicular traffic and to separate the major access ways through the parking area from the parking aisles. Each separate landscaped area will contain a minimum of 100 square feet, will have a minimum dimension of 6 feet, will be planted with grass, ground cover, and/or shrubs, and will include at least one deciduous shade tree of not less than 2 inch caliper, at least 6 feet in height at time of planting
- (5) **SCREENING** - All outside storage areas, loading bays, machinery and equipment installations, and disposal containers will be fully screened from view from any street by a building, fence, wall, shrubbery, or embankment not less than 6 feet in height.

F. **MAINTENANCE AND REPLACEMENT** - All structures and areas contained within an approved Site Plan will be maintained. Replacement of dead trees or shrubs is required within the next planting season.

24.7 EXCEPTIONS – If any of the requirements of Section 24.6 cannot be met because of previously existing physical conditions, the Zoning Commission may authorize appropriate modification consistent with the objectives of this regulation.

24.8 BONDING – Bonding may be required at the decision of the Zoning Enforcement Officer and/or Zoning Commission.

24.9 AS-BUILT SURVEY – If a Class A-2 boundary survey was required as part of site plan submission, a Class A-2 as built survey will be required, prior to issuance of a certificate of occupancy, to verify accuracy of construction, the

Zoning Enforcement Officer may require an as-build survey for any development subject to site plan approval, if the Officer has reason to believe that the development may not have been constructed according to the approved plan.

Mr. Nickerson said that another issue they might want to take up is a review of their regulations on signs, especially with the elections coming up again. Other issues he asked if they wanted to look into were regulating the number of SU-E units, entertaining some regulations that require the Town to come before them with a site plan, planting plan etc. for things that they want to do i.e. Town Government buildings.

Mr. Mulholland said that he would look into this and report back to them on what he finds.

Ms. Carabelas said that she was concerned about adult stores wanting to locate in Town and asked if they could institute some regulations on them.

Mr. Mulholland said that they could not zone them out however they could regulate them.

Ms. Carabelas volunteered to be on that subcommittee.

8. Adjournment

****MOTION (4)**

Mr. Peck moved to adjourn this Regular Meeting of the East Lyme Zoning Commission at 9:10 PM.

Mr. Salerno seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary