

FILED IN EAST LYME
Oct 31, 2005 AT *8:40* M

**EAST LYME ZONING COMMISSION
PUBLIC HEARING II
Thursday, OCTOBER 20th, 2005
MINUTES**

L. Blain, etc
EAST LYME TOWN CLERK

The East Lyme Zoning Commission held the Application of Niantic Main Street to amend the East Lyme Zoning Regulations to permit outdoor dining/patios and to modify Section 25.5 by eliminating the restriction permitting apartments (Mixed Use) only over retail and office uses in CB Zones for Public Hearing on October 20, 2005 at Town Hall, 108 Pennsylvania Avenue, Niantic, CT. Chairman Nickerson opened the continued Public Hearing and called it to order. (Continuation)

PRESENT: Mark Nickerson, Chairman, Rosana Carabelas, Secretary,
Norm Peck, Ed Gada, William Dwyer, Alternate, Shawn
McLaughlin

ALSO PRESENT: William Mulholland, Zoning Official

ABSENT: Pamela Byrnes, William Henderson, Marc Salerno (Left at
7:50 PM)

PANEL: Mark Nickerson, Chairman, Rosana Carabelas,
Secretary, Ed Gada, William Dwyer, Alternate, Shawn
McLaughlin, Norman Peck

Public Hearing II

1. Application of Niantic Main Street to amend the East Lyme Zoning Regulations to permit outdoor dining/patios and to modify Section 25.5 by eliminating the restriction permitting apartments (Mixed Use) only over retail and office uses in CB Zones

Mr. Nickerson stated for the record that Mr. Norman Peck Rejoined the panel.

Mr. Nickerson asked Mrs. Carabelas to read the following into the record:

- Memo to Mr. Marc Nickerson dated July 6, 2005 from Jane Bredeson in favor of the application. She feels that welcoming outdoor dining on attractive patios would promote a "pedestrian friendly Main St". It would actively encourage dining and help to add to the ambiance of the Niantic Main St. She feels that with the proper restrictions, it could allow for development opportunities on Main St and keep with the goal of restoring the historic downtown.
- Memo from Gene Lohrs, Chairman, Southeastern Regional Council of Governments, Regional Planning Commission, dated July 22, 2005 to Rosana Carabelas. Based on a review of the plan submitted, they do not feel that the proposed text amendments would have any adverse inter-municipal impact.
- Memo from the Greg Ellis, Secretary, Town of East Lyme Planning Commission to Mr. Marc Nickerson, Chairman, East Lyme Zoning Commission, dated August 23, 2005. RE: Referral 8-3A, Section 25.5 amendment. At a regular meeting on August 16, 2005 the Commission found that the proposed regulation change would be consistent with the plan to attract tourists to the town of East Lyme and allowing the additional housing would help to meet the regional need for different types of housing at affordable costs.
- Memo from Mr. William Mulholland, Town of East Lyme Zoning Official dated October 20, 2005 RE: Application of Niantic Main Street to Amend Zoning Regulations. The proposal, as written, will add standards for outdoor dining in CB Commercial Zones. Briefly, all applications for outdoor dining will require issuance of a Special Permit by the Zoning Commission, subject to the standards found in Section 25 "Special Permits" and the proposed standards of the text amendment. The proposal addresses allowable patio area, management control of the space, alcoholic beverage and bar service, refuse, hours of operation, lighting, parking, lot coverage, setbacks, and outdoor

entertainment. Included within this request is also an amendment to eliminate the restriction in Section 25.5, limiting the residential units in mixed-use buildings over retail and office use in CA & CB Commercial Zones.

Mr. Nickerson asked for Barbara Richardson Crouch to give her presentation.

Barbara Richardson Crouch, Executive Director of Niantic Main Street commission has Shappero and Associates do a market study of downtown. There were two things that were evident of the study. There is a need for more restaurants, and for those restaurants to be able to supplement their income during the summer months through outdoor dining. Also, there's a need for housing in the area. Current regulations do allow outdoor dining, however they make it virtually impossible for a restaurant that does not have its own parking lot to be able to do this. Because the downtown area is an overlay district, this has prevented most of the restaurant from being able to do this. One of the issues that some people have concerns over is the "0" lot line. Even though downtown is zoned for commercial use, there is still some residential use in the area. They have received phone called from residents who are concerned about having people consuming alcohol next to their property. The other issue that people have concerns over is the ability to handle the overflow of parking. It allows 600 square feet to the service area. This may or may not be an issue depending on the location of the restaurant. Because of this, one of the conditional uses of outdoor dining that they would like the Commission to consider is the proximity of the restaurant to residential areas and the ability of the area to handle the overflow of parking in the area without infringing on the private parking in the area. The third issue that they are aware of relates to the fire and safety codes. They do not want to allow the residential use of a space over a restaurant in a situation where there could be a health and safety issue.

Mr. Mulholland said that the Building Code and Health Code will take care of the fire and safety issues.

Mr. Nickerson asked if the restaurant at the Morton House have outdoor dining.

Mr. Mulholland explained that the restaurant at the Morton House made a trade off of interior dining space for the outdoor dining area in order to still meet the parking requirements.

Mr. Mulholland explained that this is an attempt to clarify the current outdoor dining regulations. The proposal with enable the Zoning Commission to disallow the outdoor dining regulations,

Mrs. Carabelas asked if anyone wishing to have outdoor dining will still have to come to the Zoning Commission for a special permit.

Mr. Mulholland said that they will still need to get a special permit and that one of the concerns that exists is over outdoor entertainment. He highly recommends that the Zoning Commission retains the requirement for an application to be filed for outdoor entertainment.

Mr. Nickerson called for comments from the public in favor of this application –

Mr. Nickerson called for comments from the public opposed to this application –

Frank Grundman, Attorney on behalf of Mitchell Trust, 22 Pennsylvania Avenue, Niantic CT requested that the Zoning Commission extend this Public Hearing once more in order to give him the opportunity to go over some of his concerns over the application with Barbara Richardson Crouch in the interest of Mitchell Trust in making these regulations something that will be acceptable to all of the businesses in Niantic. There are adverse affects that this change would have on other businesses. He thinks that some of the wording in the proposal could be changed to better protect these businesses. He is concerned that the notice does not adequately put people on notice that this regulation may make several of the businesses in the town nonconforming.

Exhibit A – Letter from Frank Grundman

Mr. Nickerson asked which businesses would be nonconforming and in what why?

Mr. Grundman said that Burks Tavern would be nonconforming because it's over 600 square feet and asked for an opportunity to get together with Barbara to go over the concerns.

Mr. Mulholland said that he believes that they need to close out the application tonight and that if the applicant wishes to reapply that would be their prerogative.

Mr. Grundman asked Barbara is she would be willing to reapply if the commission closed the hearing tonight. He also encouraged the Zoning Commission not to have anyone on the panel who has an interest in Niantic Main St. He believes he know of at least one person who is a Director on the Niantic Main Street Board and that and alternate should sit for hearings such as this.

Mr. Nickerson said that they will take that under advisement.

George Mitchell of 48 Attawan Rd, Niantic CT said that there are other issues that would make a business non-conforming, such as an outdoor bar, or closing at 10pm. He is concerned that this regulation would open this door for businesses to use there patio very much like an outdoor bar, which is a valuable thing to a bar. Another minor issue he has is the umbrellas with no signage. Are they going to make the restaurants that currently have dining remove the umbrellas that have signage on them. He feels that they should not accommodate one person at the expense of another.

Mr. Nickerson called for any more comments from the public; For, Against, Neutral?

Mr. Nickerson asked if there were any more questions.

Joe Barry of 111 South Edgewood Rd. Is this the process of a public hearing? He has seen several things entered into the record without being read into the record. Is this the process?

Mr. Nickerson said yes, this is the process.

Mr. Mulholland explained that it is not time effective to read every item that the commission receives into the record. The information is always available to the public, but reading it into the record would take several more hours than is available. The public can come in and view the records at any time.

Mr. Nickerson called for a motion to close this public hearing.

**** Motion (2)**

Mr. Peck motioned to close the Public Hearing for the Application of Niantic Main Street to amend the Zoning Change to permit outdoor dining/patios and to modify Section 25.5 by eliminating the restriction permitting apartments (Mixed use) only over retail and office uses in CB Zones.

The Motion was seconded by Ms. Carabelas.

Motion Passed. 6-0-0

Mr. Nickerson asked for the record if anyone on the commission that sits on the Niantic Main Street Board of Directors.

The panel responded into the negative.

Respectfully submitted,

Beth Williams,
Recording Secretary (Pro-Tem)