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**EAST LYME ZONING COMMISSION  
PUBLIC HEARING  
JANUARY 9, 2003  
MINUTES**

The East Lyme Zoning Commission held a PUBLIC HEARING on Thursday JANUARY 9, 2003 at the East Lyme Town Hall, 108 Pennsylvania Ave., Niantic, CT.

Mr. Mark Nickerson, Chairman, opened the Public Hearing, at 7:30 PM

PRESENT: Mark Nickerson, Shawn McLaughlin, Norman Peck, Athena Cone,  
Alternate Marc Salerno, Alternate William Dwyer.

Absent: Ed Gada, David Chamberlain, and Alternate Robert Bulmer; William Mulholland, Zoning  
Official; Rose Ann Hardy, Ex-Officio

PANEL: Mr. Nickerson, Mrs. Cone, Mr. Peck, Mr. McLaughlin and Alternates Mr. Dwyer and Mr.  
Salerno.

**PUBLIC HEARING I**

**Continuation of the application of John Bialowans for a Special Permit to excavate gravel from property identified in the application as 80 Quail Crest Rd., East Lyme, CT on East Lyme Tax Assessor's Map No. 41, Lot #1**

Mr. Nickerson opened the Public Hearing and noted no testimony has been taken at previous Public Hearings. Mrs. Cone read into the record:

1. Memo from William Mulholland, Zoning Official to the Zoning Commission, dated January 8, 2003.
2. Legal Notice dated May 1993: Conditions: 1. Posting \$2500 bond; 2. Maintenance of fence and water system as previously installed; 3. One year permit; 4. Days of operation, Monday through Friday; 5. Hours of operation: 8am to 4pm; 6. No fuel storage tanks to be utilized in an aquifer zone.

Mr. Nickerson invited Mr. McNamara, representing Mr. Bialowans, to address the Commission.

Mr. McNamara, 94 Pennsylvania Ave., Niantic, CT, indicated stated that the excavation of gravel from this site has been an ongoing project since the later 1980's. He stated that there is about 3,000 cubic yards of material remaining and that this is the culmination of the project. He stated that Mr. Mulholland stated some concerns, the applicant also has concerns. He stated a six-month permit would be in order, as it would allow for excavation of the gravel and restoration of the site. It would also, if granted, cease about June when the neighborhood school children would be at home for the summer. He indicated that prior permit hours of operation were 8am to 4pm and suggested 9am to 3am, again with the school hours in mind. He suggested limiting the permit to Mr. Bialowans' one vehicle, tri-axle, 15 cy truck. He noted that the project is not an everyday operation and would require approximately a total of 30 active days. The six-month permit would allow time to complete the project with 8-10 trips on a single day. He then invited questions from the Commission.

In response to Mr. Nickerson question regarding the neighborhood configuration, Mr. McNamara noted the site was on a cul-de-sac in a residential subdivision.

Mr. Dwyer inquired as to the total acreage of the site. He added he was not in favor of Saturday, as a day of activity due to activity in the neighborhood. Mr. Bialowans stated that the active site was approximately 0.5 acres of a total site of 8-10 acres.

Mr. Peck noted that Mr. Mulholland suggested a "large cash site restoration bond" and inquired if Mr. Nickerson knew the dollar amount intended. Mr. Nickerson stated that he did not have that conversation with Mr. Mulholland. Mr. McNamara added that the bond amount has not been indicated to either Mr. Bialowans or himself.

Mr. Peck inquired if Mr. Mulholland had indicated if he was satisfied with prior restoration. Mr. Bialowans indicated that Mr. Mulholland had not indicated so to him at any time.

Mrs. Cone inquired as to the water system. Mr. Bialowans stated the system at the entrance to the site is still in place as requested in the prior permit.

Mr. Peck suggested discussion the amount of bond with Mr. Mulholland prior to any decision in this case. Mr. Nickerson stated the Commission has 65 days to make its decision.

Mr. Dwyer suggested a \$5000 bond and vote tonight on granting the permit.

Mr. Nickerson opened the hearing to public comment in favor of the application.

Joe Kwasniewski, 67 Walnut Hill Rd., E. Lyme inquired as to the location of the site. Mr. McNamara described the street and Mr. Kwasniewski stated he was satisfied with the response.

Mr. Nickerson opened the hearing to those who wished to speak in opposition to the application. There being none and no further questions from the Commission, he entertained a motion to close the public hearing at 7:59 pm.

**MOTION (1):** Mr. Salerno moved to close Public Hearing I: Continuation of the application of John Bialowans for a Special Permit to excavate gravel from property identified in the application as 80 Quail Crest Rd., East Lyme, CT on East Lyme Tax Assessor's Map No. 41, Lot #1

Mrs. Cone seconded the motion.

Vote in favor: (6-0), Unanimous.

## **PUBLIC HEARING II**

### **Application of Mitchell Trust, LLC for a Special Permit and Coastal Area Management Site Review to expand the existing movie theater complex at 277 Main Street (rear), Niantic, CT, property further identified as Tax Assessor's Map 12.1, lots 104, 105 and 106.**

Mr. Nickerson opened the Public Hearing at 8:00 pm.

Mrs. Cone read into the record:

1. Waiver request from Mitchell Trust, LLC; a. Sidewalks; b. Front landscaping; c. Buffer strip; d. Parking area landscaping. Request to correct record to include lot 95, Map 12.1.
2. Legal Ad posted in The Day.
3. Memo from William Mulholland, Zoning Official to the Zoning Commission, dated January 9, 2003.

Mr. Nickerson invited George Mitchell to address the Commission.

George Mitchell, manager of Mitchell Trust, LLC, stated he proposed to expand the Niantic Cinema with an additional 217 seat theater and consists of lots 104, 105, 106 and 95. He presented a drawing of the site and proposed cinema. He indicated an additional 47 parking spaces (44 spaces required) were proposed and the building would be 36 x 90 feet and 23-feet in height and would include lavatory facilities. He indicated its location behind the existing building. Mr. Mitchell referenced the Charette Report, which recommended expanding the theater. He introduced his architect, William Upjohn, who could respond to Commission questions.

Mrs. Cone inquired as to the distance from the proposed building to the first parking space. Mr. Mitchell indicated the distance to be about 20-feet. He indicated the current landscaping on the drawing. Additional landscaping would take away parking area. He indicated the 40-foot driveway.

Mrs. Cone indicated that although Mitchell Trust had purchased one of the lots from her family's property, it was not her's and she does not have a conflict. Mr. Nickerson added that he had discussed a possible conflict with Mrs. Cone prior to the meeting and was satisfied that there was none.

Mr. Nickerson stated concern regarding through traffic and Mr. Mitchell indicated that the driveway was 2-way traffic and the parking area will be marked to meet the requirements. He added that an adjacent property owner has agreed to share parking of about 20 spaces and has oral agreements for parking across the street, and municipal parking is also available.

Mr. Nickerson noted that the application also has a CAM Report to review. Mr. Mitchell noted the barriers between the site and the water including the riprap, railroad tracks, chainlink fence, commercial property across the street and Main St.

Mr. Nickerson opened the hearing to those wishing to speak in favor of the application.

Joe Kwasniewski, 67 Walnut Hill Rd., E. Lyme inquired as to the use of the term "complex" in the legal ad. Mr. Mitchell stated that there will be 5 theaters at the site and thus would be called a multiplex.

Randy White, 41 West Main St. stated he supported the application as the cinema is a good business for Niantic and is clean and well kept business.

Mr. Nickerson opened the meeting to those wishing to speak in opposition to the application. There being none, he entertained a motion to close the public hearing.

**MOTION (2):** Mr. Salerno moved to close the Public Hearing II: Application of Mitchell Trust, LLC for a Special Permit and Coastal Area Management Site Review to expand the existing movie theater complex at 277 Main Street (rear), Niantic, CT, property further identified as Tax Assessor's Map 12.1, lots 104, 105 and 106.  
Mrs. Cone seconded the motion.  
Vote in favor: (6-0), Unanimous.

Respectfully submitted,



Anita M. Bennett  
Recording Secretary  
21 January 2003  
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