

June 16 20 03 at 12:05 AM
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Esther B. Williams
EAST LYME TOWN CLERK

**EAST LYME ZONING COMMISSION
PUBLIC HEARING
JUNE 5, 2003
MINUTES**

The East Lyme Zoning Commission held a PUBLIC HEARING on Thursday JUNE 5, 2003 at the East Lyme Town Hall, 108 Pennsylvania Ave., Niantic, CT.

PRESENT: Mark Nickerson, Norman Peck, Shawn McLaughlin, and Robert Bulmer,
Alternates Marc Salerno, Andrew Manter and William Dwyer.

Absent: Mr. Gada, Mr. Chamberlain

Also present: William Mulholland, Zoning Official

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

PUBLIC HEARING I

East Lyme Zoning Commission proposal to amend the Zoning Regulations by adding new Sections 24.5.2-C and 25.4.1.1 to provide Architectural Design Review.

Mr. Nickerson opened the Public Hearing at 7:34 PM. He seated Mr. Dwyer and Mr. Salerno.

Mr. Bulmer noted the legal ad had been dually published on May 23, 2003 and June 2, 2003 and then read into the record:

1. Memorandum from the Planning Commission Chairman Gregg Ross to the Zoning Commission dated May 21, 2003.
2. Proposed Amendment Section 25.4.1.1.

Mr. Nickerson opened the hearing to Public Comment.

Norm LaFleur, 10 Latimer Dr. stated that the Zoning Commission must be involved with access to the site, and the problems of traffic flow.

Mr. Nickerson noted that the Commission at this time is dealing with an amendment to the Regulations, not a specific site plan.

Rocco Tricarico, 17 Rose Lane stated his support.

There were no further public comment either in favor or opposed.

MOTION (1): Mr. Salerno moved to close Public Hearing I East Lyme Zoning Commission proposal to amend the Zoning Regulations by adding new Sections 24.5.2-C and 25.4.1.1 to provide for Architectural Design
Seconded by Mr. Chamberlain.
Vote in favor: (6-0), Unanimous

PUBLIC HEARING II

East Lyme Zoning Commission proposal to amend Section 12A Special Use Elderly Housing (SU-E) District Regulations.

Mr. Nickerson opened the Public Hearing II at 7:53 PM.

Mr. Bulmer noted that the legal notice was dually published on May 23, 2003 and June 2, 2003 then read into the record:

1. Letter from Planning Commission to the Zoning Commission dated May 21, 2003.
2. Southeastern Connecticut Council of Governments letter to the Zoning Commission dated April 25, 2003.
3. Letter from 1st Selectman Wayne Fraser to the Zoning Commission.

Mr. Peck requested that the changes to the Section be read into the record.

Mr. Nickerson noted the changes: Section 12A.2.1 from “no lot shall be less than 20 acres” to “no lot shall be less than 10 acres”. Deleted “except that a lot used for a nonprofit elderly housing may be less than 20 acres, but not less than 10 acres in area. Section 12A.2.2 Frontage: “Each lot and/or land area shall have not less than 50 feet frontage changed from a requirement of 500 feet frontage”. Section 12A.2.3 Setbacks – add – “The Zoning Commission may waive the 100 feet from the property and require a 50 foot buffer along all SU-E District zone lines”. Section 12A.3.2(c) add “Copies of covenants, condominium association documents and other deed restrictions shall accompany the Special Permit application and shall be recorded in the land records...”

Mr. Nickerson opened the hearing for Public Comment.

Ralph Whiting, 40 Roxbury Rd. stated that he was in favor of all the changes.

Mr. Peck summarized the change to the setback requirements for the public. The change will allow the Commission to waive the 100 feet property line setback, but will require a 50 foot landscaped buffer along the zone line.

Mr. Mulholland added that with respect to changing the frontage requirement, through experience, it has been learned that Elderly Housing developments are essentially residential in nature. A backlot with sufficient acreage may have 50 feet frontage and it may be appropriate to develop the backlot for Elderly housing. If 500 feet frontage is required, this type of parcel could be used for Elderly Housing in an SU-E District.

Judith Williams, 22 Willow Lane, inquired as to the definition of SU-E. Mr. Mulholland stated that an SU-E Zone is adult residential community zone. If there was a zone change to SU-E, the only thing that could be built would be residential elderly housing.

Lynn Krinzman, 25 Willow Lane inquired as to the make up of a buffer. Mr. Mulholland responded that plantings and trees may be required in the area if there is not sufficient vegetation or existing vegetation may be permitted if appropriate. The purpose is to shield adjacent properties.

Rocco Tricarico, 17 Rose Lane stated his concern regarding the change in buffer for SU-E in the Gateway Planned Development District.

Mr. Mulholland indicated that there is no plan for SU-E in the GPDD District. He indicated that there has been some speculation to have Elderly Housing near the GPDD, but not in it. If that were the case, there would be a required zone change before the Commission and a public hearing for Special Permit.

Mr. Bulmer pointed out that the Commission is dealing with three separate items this evening, but the two that seem to be confusing are the SU-E and GPDD. He provided a brief background on the addition of the SU-E to the Zoning Regulations. He also stated that there is before the Commission this evening a proposed amendment to the GPDD Zoning Regulations. He stated that the GPDD issue would be discussed later.

Susan Kraynak, One River Rd. inquired what the reduction in parcel size from 20 to 10 acres does with respect to the number or size of buildings allowed.

Mr. Peck stated that the 10 acres is the minimum size of the parcel required. Mr. Mulholland indicated that the Zoning Regulations include a density requirement and does not change in this proposal.

John Bialowans, Walnut Hill Rd. inquired if the changes also apply to residential zones also.

Mr. Mulholland stated that this proposed amendment applies only to the SU-E District. It does not apply to subdivisions. SU-E Districts require municipal water and/or sewer.

Stephan Slavtcheff, 33 Upper Walnut Hill Rd. inquired if a developer was planning to build elderly housing in the Walnut Hill area, would the town run water and sewer mains to that area.

Mr. Mulholland stated that there is a proposal to come before the Commission in several weeks, which Mr. Slavtcheff is referring to and that there will be a public hearing on that item. He cautioned the Commission not to discuss a specific case until the public hearing. He invited Mr. Slavtcheff to attend that public hearing.

There being no further public comment or the Commission, Mr. Nickerson invited a motion to close the public hearing.

MOTION (2): Mr. Bulmer moved to close Public Hearing II East Lyme Zoning Commission proposal to amend the Zoning Regulations Section 12A Special Use Elderly. Mr. Salerno seconded the motion.
Vote in favor: (6-0), Unanimous.

PUBLIC HEARING III

East Lyme Zoning Commission proposal to amend Section 11A Gateway Planned Development District Regulations.

Mr. Nickerson opened Public Hearing III at 8:25 PM.

Mr. Bulmer noted the legal notice had been dually advertised and then read into the record:

1. Memorandum from the Planning Commission to the Zoning Commission dated May 21, 2003.
2. Letter from 1st Selectman Wayne Fraser to the Zoning Commission dated June 5, 2003.
3. Letter from the Southeastern CT Council of Governments, Regional Planning Commission to the Zoning Commission dated April 25, 2003.
4. Letter to the Zoning Commission from Carol Marelli, 74 Ancient Highway, E. Lyme, dated June 5, 2003.
- 5.

Mr. Nickerson stated that what is before the Commission tonight is a proposed Zoning Regulation amendment of Section 11A Gateway Planned Development District (GPDD) and that there is no specific proposal before the Commission.

Mr. Mulholland noted the proposed changes, i.e. 11A.2.4. He read into the record proposed Section 11A.6.7.

Mr. Peck stated that if 11A.2.4 read only "Retail complex", even a 3,000 sf retail space would have to go through a Special Permit process and that, in his opinion, was a mistake. He noted under Section 11A.1.9 Permitted Use: "Retail complex totaling under 20,000 square feet."

Mr. Mulholland concurred that "under 20,000sf" is a Permitted Use subject to the criteria and a Special Permit Use would be over 20,000sf.

Mr. Peck also stated that in Section 11A.4.7 the Commission should add "retail over 20,000 sf", Section 11A.2.4. All retail then is included in the 30% cumulative area.

Mr. Nickerson reiterated: 11A.2.4 will read "Retail Complex 20,000 square feet and over". Therefore, stricken from Section 11A.2.4 "No one store over 20,000 square feet". Add to Section 11A.4.7, Section "11A.2.4"

There being no further comments from the Commission, Mr. Nickerson opened the hearing to public comment in favor of the proposal.

Mr. Nickerson stated that the existing regulations limited to 20,000sf any retail space. With this proposed amendment a 20,000sf retail building would be permitted under Special Permit Use and would be included in the 30% of the entire acreage of the GPDD District under Section 11A.4.7.

Peter Brouwer, 54 Rope Ferry Rd., Waterford stated he was part owner of property in the GPDD. The property has been for sale for 15 years and there have been a number of developers who have inquired about the property, but they become discouraged. Now the town has an opportunity to develop this property and increase the tax base. He stated he supports the amendment.

Bill Schwartz, 5 Pierce Ave., Bridgeport (PO Box 1575, Fairfield, CT business address). He stated he is involved with developers and investors interested in the retail component in the GPDD. He stated that in order to go forward with site plan and other permits, the elimination of "No retail store over 20,000 sf". is necessary. He indicated that a potential user he is working with has indicated that they are interested in the site and there has been corporate approval. He stated that if this tenant (a 136,000 sf user), along with village retail and senior housing, the town will benefit by approximately \$5-6 million in improved 74 interchange and service road (Exit 74 at Route 161 to Exit 73 eventually) and \$3.2 million in tax revenue, plus jobs. He also indicated that he has under option 167 acres of the total District.

Mr. Nickerson opened the hearing to those wishing to speak in opposition to the Regulation amendment.

Bart Gullong, 26 Jeremy Dr., East Lyme noted the increase in taxes last year and this year. He stated that he understands that senior citizens on fixed incomes in the community will be taxed out of the community and the community has to respond to that need. He stated that with a large anchor retail unit, you don't lease the balance to "mom and pop" village retail, but rather one sells space to the highest bidder, which is most likely a national chain. This then puts village retail out of business. He stated that this proposal opens the GPDD to a major shopping center serviced at night by semi-trucks, which creates more noise in the area than I-95 already does. The reality is, he stated, that in the next 10 years, Route 95 will be expanded with longer off/on ramps that meet today's requirements. He recommended the Commission make no changes to the Regulations, but rather wait until a developer presents a specific proposal which town can review and at that time the Commission may entertain changes to the regulations that work with that specific proposal.

Mr. Mulholland indicated that a proposed regulation amendment is before the Commission and that there is no specific site plan submitted to the Commission.

Andrew Krinzman, 25 Willow Dr. stated that by raising the limit on the size of the building, the town is opening itself up to "large box" store. He stated that the initial GPDD public hearing presented a village style, boulevard development. This change would open the area up to WalMart or a similar large box store. He recommended not changing the regulations.

Karen Hubbs, 26 Willow Dr., stated she is vehemently against the change in the regulation and concurred with the two prior speakers.

Paul Althouse, 21 Jeremy Dr. stated the Flanders Rd. traffic, especially in the summer, is heavy. Now, with the new Stop & Shop to be built, plus the development of GPDD with large retail, vehicular traffic on Route 161 will be much more difficult. The town had a small community character and it will slowly disappear and once lost, it cannot be recovered.

Rocco Tricarico, 17 Rose Lane stated that Mr. Fraser is on record at the original GPDD Public Hearing several years ago as stating this GPDD would help preserve the quality of life and demonstrated the community was not trying to attract the "large box" retail store. Mr. Tricarico stated that now, Mr. Fraser is coming forward and advocating "large box" retail stores. He stated that, as adopted, the GPDD purposes cannot be accomplished by changing the regulation and building a "large box" store in this district.

David Fryburg, 14 Alexander Dr. stated he concurred with prior speakers. He inquired as to the volume change of traffic and support that "large box" store would generate and what would it impose upon the community. He advocated placing the onus on the developer to show how they would help the community adapt and propose changes to the regulation to accommodate the developer's plan. The Town could accept or reject specific regulations and accompanying

regulations. He cautioned the Commission to be careful of what regulation amendments they approve to GPDD regulations, because this change will have a significant impact on the town depending on the choices the Commission makes.

Norm LaFleur, Sr., Latimer Brook, raised the issue of traffic and pollution as a result of concentrated parking areas. Public safety has to be a consideration

Richard Wills, 19 Jeremy Dr. noted that the initial passage of the GPDD was 2-3 years ago, which is a relatively short time, and recommended allowing more time to pass to see if the area can be developed as initially intended.

Rocco Tricarico, 17 Rose Lane stated his concern that “things are happening” and there has not been full disclosure.

Mr. Nickerson stated that any proposed site plan review would take place during a public hearing for that purpose. He added that retail is limited to 30% of the GPDD.

Terese Wills, 19 Jeremy Dr. asked for a show of hands of those present who are opposed to changes to the GPDD regulations. (Majority of those present).

Gigi Began, 22 Jeremy Dr. inquired if the Commission would be making a decision on this amendment this evening and if the public comment influenced the Commission. She stated she did not want this size building in her back yard or the increased traffic on the streets. She stated she is opposed to the amendment. She stated that the Commission, by changing the amendment in this manner, is changing its philosophy and those opposed to the amendment do not want the Commission to do that.

Mr. Nickerson stated that the Commission is aware of most of the issues raised by the public, but invites the public’s input. He noted that the property in the GPDD someday would be developed.

Judith Williams, 22 Willow Lane requested an explanation of this process. She inquired how this change to a “large box” store would benefit her and her neighbors.

Mr. Nickerson stated that this change would facilitate the increase in the tax base and the installation of the infrastructure, i.e. tree lined boulevard, etc., service road, 74 interchange. He added that at this hearing the Commission is taking public testimony and comment. Once the hearing is closed (within 35 days), the Commission has 65 days to make a decision. He added that it is the responsibility of the Commission to consider what is best for the entire town as well as those in the neighborhood.

Udel Fracot, 22 Rose Lane suggested taking more time to find a developer who could conform to the present regulations.

Patricial Modzelewski, 38 Jeremy Dr. stated that East Lyme is primarily a residential community and that is stated in the Plan of Development. By approving this amendment, the Commission is losing sight of that characteristic of the town and what was originally intended when the GPDD was approved.

Jerry Robinson, 14 Bittersweet Dr. concurred with prior speakers. He stated he supports maintaining the initial intent of the GPDD, i.e. village structure.

Mr. Peck stated that initially when the GPDD Regulations were written, he was opposed to a significant amount of retail. In order to do the Gateway project, and get the high tech, research development, etc. that was listed in the purpose of the GPDD, the town needs to have a road installed for access, and a new interchange. He added that the Commission would have to approve a site plan through the Special Permit process, which is stringent and extensive and public. The Commission will review landscaping, road design, plantings, etc. required in the Regulation and the public would have the opportunity to comment on the proposed project. It is felt that if the road is not built, nothing can be built in the District. Without the road, there will be no research and development company, office space, small village retail, high tech, etc. He added that currently this GPDD property has no access and a road has to be built from Route 161.

Paul Runard, 2 Bittersweet Dr. concurred with prior speakers. He stated he does not want a "large box" retail store in GPDD.

Rocco Tricarico, 17 Rose Lane noted that now that the State of CT has decided not to pay for the intersection, East Lyme will have to pay for it. The road and development will negatively impact the neighborhood's quality of life.

Mr. Nickerson stated that the State would pay for the I-95 intersection, but not the boulevard access from Route 161. The boulevard access to the GPDD would have to be paid for by the developer, not the State or the Town.

Mr. Mulholland stated that a boulevard would be built should the property be developed. He stated that the property some day will be developed since it is commercial property and the owners have a right to develop it within the criteria of the existing Zoning Regulations. He also stated that the Commission has the opportunity to continue the Public Hearing and gather more information and that the Commission has 65 days to make a decision.

Udel Fracot, 22 Rose Lane stated that the only people to speak in favor of the proposed amendment at this hearing are those with monetary interests.

Rocco Tricarico, 17 Rose Lane added that neither of those who spoke in favor of the amendment were residents of East Lyme.

Mr. Bouwer, 54 Rope Ferry Rd., Waterford stated that he supported the proposal and has lived in East Lyme most of his life and was a Selectman in East Lyme. He added that in the last 15 years he has had 4-5 people interested in purchasing and developing the property. He stated that East Lyme needs a tax base.

MOTION (3): Mr. Bulmer moved to close Public Hearing III East Lyme Zoning Commission proposal to amend the Zoning Regulations Section 11A Gateway Planned Development District.

Mr. McLaughlin seconded the motion.

Vote in favor: (6-0), Unanimous

Respectfully submitted,



Anita M. Bennett
Recording Secretary
16 June 2003