

FILED IN EAST LYME P
Mar 9, 2004 AT 1:00 M

**EAST LYME ZONING COMMISSION
PUBLIC HEARING II
Thursday, MARCH 4th, 2004
MINUTES**

L.A. Blais, Jr.
EAST LYME TOWN CLERK

The East Lyme Zoning Commission held the Herb Chambers Companies, LLC Public Hearing for a Special Permit to construct and operate an Auto Sales Agency and a Special Permit to erect a second freestanding sign in accordance with Section 18.1.8.5 of the Zoning Regulations on March 4, 2004 at Town Hall, 108 Pennsylvania Avenue, Niantic, CT. Chairman Nickerson opened the continued Public Hearing and called it to order at 10:28 PM immediately following the previously scheduled public hearing.

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

ALSO PRESENT: William Mulholland, Zoning Official
Attorney Theodore Harris, Applicant
Mark Regent, Architect - Regent Associates
Pat Gorman, Rodney Morrison - Land Resource Consultants
Bruce Morton - Aqua Solutions
Marc Salerno, Alternate
Rose Ann Hardy, Ex-Officio, Board of Selectmen

ABSENT: Shawn McLaughlin

PANEL: Mark Nickerson, Chairman, Ed Gada, Secretary,
Norm Peck, Rosanna Carabelas, Pamela Byrnes,
William Dwyer, Alternate

Public Hearing II

- 1. Application of The Herb Chambers Companies, LLC for a Special Permit to construct and operate an Auto Sales agency at 51 Boston Post Road, East Lyme, CT. Property further identified as Lot 61, East Lyme Tax Assessor Map 36.0 – and**
- 2. Application of The Herb Chambers Companies, LLC for a Special Permit to erect a second freestanding sign in accordance with Section 18.1.8.5 of the Zoning Regulations, at 51 Boston Post Road, East Lyme, CT. Property further identified as Lot 61, East Lyme Tax Assessor Map 36.0**

Mr. Nickerson noted the following Exhibit for the record:

Exhibit 1 – Notice of the Legal Ad that had run on 1/23/04 and 2/2/04 in the New London Day and a picture of the signs that had been posted at the property site.

Mr. Gada, Secretary read into the record:

- ◆ Letter dated 3/4/04 to EL Zoning Commission from Wm. Mulholland ZO – Re: Saturn Auto Dealership, 51 Boston Post Road, East Lyme, CT Special Permit and CAM – finding that the application conforms to all the technical aspects of the zoning regulations however there are some unresolved lighting and drainage issues.

Mr. Mulholland noted that they might have resolved the lighting issue since the letter was written.

Mr. Nickerson called upon Attorney Harris as the applicants' representative for his presentation. Attorney Theodore Harris, 351 Main Street, Niantic said that they would be doing several things at the same time tonight. They will weave the second freestanding sign into the presentation and also the CAM review. The site is located in a CA zone and is isolated from general commercial areas due to I95 and suffers some

access constraints. They will improve the site and change the character of it. It has had a 1950's style motel that was torn down and various restaurants on it. He has several individuals here this evening that will speak. They are the architect, site design engineers and drainage engineers. Bruce Morton on drainage will discuss that aspect as it enters the cove at the end of the Niantic River. He introduced Mark Regent, Architect.

Mark Regent, Architect with Regent Associates Architects of Worcester, MA said that they are the architects for the Herb Chambers Cos. While showing a replica plan of the building he explained that the site is a two-level site with a drive up ramp. The lower level is almost entirely underground and accessible from the back. It houses the service technician's facilities, mechanics area and storage. The main level has a new vehicle delivery center where new owners can leave from. The rooftop will have screened areas for the roof top equipment and louvered screens. The stucco material on the outside of the building is EIFS synthetic and white in color. The exposed part of the building is 25' tall.

Mr. Nickerson asked if the back of this building is also white and if you would see it coming from Waterford. Mr. Regent said yes, part of it would be seen. He then introduced Pat Gorman.

Pat Gorman, Land Resource Consultants, Site Topography and Landscaping.

Mr. Gorman said that this is approximately a 3.5-acre site with elevations of 46 and 17. They were able to position the building with the first floor within the existing grade. The steepest drive grade is 7.5%, which is gentle. There will be a modular block retaining wall 13' tall with a wood guardrail on top. The site will have over 6000 sq. ft. of landscaping. They have been working with John DeCosta from DOT regarding 15' of landscaping in the DOT right-of-way. Mr. DeCosta has no problem with the additional landscaping in the ROW and wants the Saturn Dealership to take care of it and not the DOT. They have some trees that are in excess of 60' tall that will be maintained as they are located SE of the cemetery. They are working with the cemetery who is their neighbor and who is excited to have them in hopes that the vandalism to the cemetery will be curbed. The existing 85' tall sign when looked at from across the cove – one can barely see the top of the sign. He said that he had pictures of this for them to see. The existing canopy of trees will totally screen the building from the south.

Mr. Dwyer asked what does it look like from the street.

Mr. Gorman said that you will see the landscaping, display area, wall and maybe the top part of the 25' building.

Mr. Mulholland added that land use spent considerable hours on this application and did not want the retaining wall to be concrete. Given the difficulty of the site and the topography, this is the design that works.

Ms. Carabelas said that tractor-trailers would be delivering cars and asked how wide the entrance was.

Mr. Gorman said that it is 30' wide – good for the tractor-trailers and for fire trucks.

Mr. Gada asked to see the pictures taken from across the cove.

Mr. Gorman presented the pictures for the record.

Mr. Nickerson entered the following Exhibits into the record:

Exhibit 2 – Site Plans/Maps – Saturn of New London, 12 sheets

Exhibit 3 – Current pictures of the Saturn building sign as seen from across the cove

Mr. Peck asked if DOT has a problem with the trees along Rte. 1.

Mr. Gorman said no, they are okay with the landscaping as long as they do not have to maintain it.

Mr. Peck asked what the plan is for the Rte. 1 landscaping.

Mr. Mulholland directed him to the landscape plan in the set of plans in front of him.

Mr. Peck asked if any of the evergreens would be a problem in the site line.

Mr. Gorman said no, they were put off to the side for the neighbors and so that they would not obstruct the site line of the autos driving in and out.

Mr. Mulholland commented that this is a compromise of design and safety for the applicant's business.

Mr. Gorman introduced Rodney Morrison.

Rodney Morrison, Professional Engineer from Land Resource Consultants said that he would discuss the drainage and stormwater layout of the site. He said they are bounded by a drive to the existing cemetery and it is 50' beyond that to the cove. A vast majority of water from the site will sheet flow to the cove. There is a drainage conduit line on site owned by the DOT that is not functioning and is silted to the top that they are not going to try to open. There is a basin in I-95 that takes water with an outlet to the Latimer Brook area which is again plugged and that also will not be opened. Instead they will create a collection system and treatment system. They received a review letter from the DEP noting that the Latimer Brook watershed is a

fisherman's area that they want to protect so they have created a plan to infiltrate stormwater via an expansive level spreader releasing to the cove above the high tide water line. The soil in the area is very well draining soil and will handle the system well. He introduced Bruce Morton to explain the treatment system.

Bruce Morton of Aqua Solutions, Marlborough, CT said that they specialize in quality water treatment and stormwater management. He presented the following Exhibits for the record:

Exhibit 4 - Maintenance Schedule

Exhibit 5 – Water Quality Treatment

He said that the DEP wants to protect the sea run brown trout at Latimer Brook and is concerned with petrochemicals getting into the Brook and cove. They have therefore devised an extensive groundwater recharge system that has pre-treatment that is self-contained. The service bay areas will be pumped out and the car wash will have removal of total suspended solids through a recycling process that is economical and saves water. From the stormwater standpoint the Maintenance Schedule is the most important. Keeping accurate pumping records is also important. For the stormwater there are blocks collecting drainage and recharging it back into the ground. The water quality unit has an oil/grease trap separator that is the front end of the system. Good housekeeping of the site will also pick up a lot that would normally go into the system. Mr. Gada asked how often the system has to be pumped inside at the lifts where the mechanical work is done.

Mr. Morton said that they haven't established a load on it yet, it depends upon the use. It is pumped to a hauler truck that comes to get it.

Mr. Gada asked if in the car wash or lift areas in the mechanic bay if any of this goes out to the cove area.

Mr. Morton and Mr. Gorman said no, it is hauled away and is self-contained. Some of what is hauled away is recycled. The car wash recycles the water.

Mr. Mulholland asked them to explain how the level spreader interacts with the tidal wetlands.

Mr. Morton and Mr. Gorman said that they were staying away from that area. An elevation of 4.5 is at the edge of the riprap and they will have an extra 5' of stone, which brings them to the top of the slope there. There is enough vegetation there to handle it.

Mr. Morton said that the vegetation is bittersweet, multiflora rose and Phragmites that are invasive plants and that it was suggested to him that they cut it all down and re-seed it with good species that take the beating of saltwater sprays.

Ms. Carabelas said that she has heard this and is not sure that it is true but has to ask if the restaurant that was there before did not make it due to the inability to get water to that area.

Mr. Mulholland said that those are issues for George Calkins to address although he believed that the last restaurant closed due to poor management.

Attorney Harris said that this design is predicated on city water and that it would come from Waterford and they intend to do that. The septic system that exists there is very large and they intend to use it as it is more than they need and George Calkins has already looked at it.

Attorney Harris said that he would describe the outdoor lighting design.

Obviously, the outdoors is their display so lighting is important. They have proposed to use high tech lighting that is 24' high and specifically designed for car dealers. It is directional with internally rotating shields that directs light into the site. The applicant is also mindful of the location of this site and the average lumens here is 33 as compared to the average city lumens of 83. The area of maximum concern is along Boston Post Road as there are some residences across the street. He passed out pictures of the lights to the Commission members indicating that they would have a flat lens system. The flat lens reduces the reflections and brilliance of the light itself.

Ms. Byrnes asked if there were houses across the cemetery driveway.

Attorney Harris and Mr. Mulholland said that they were shaded by the hill and won't see anything, as there is a severe drop of 16'.

Mr. Mulholland asked if they were using the same standard along the cove area.

Attorney Harris said no due to the grade of the land, the buffer of trees and being far from the property line.

Mr. Peck asked if there would be flat lighting along Rte. 1 and if it would just be a row of lights.

Attorney Harris said yes and added that this lighting is not on all of the time. They will operate Monday through Thursday (to start) until 9 PM. Then, the lighting goes to 50% (security mode). Other days they typically close at 6 PM.

Mr. Mulholland asked if they could be individually controlled.

Attorney Harris said no, there would be two modes so that they have security mode.

Mr. Regent said that they are all controlled from the same place and that it is a digital timer based control and reacts to the light outside and changes with the seasons. The only lighting on the building itself is under the entrance canopy.

Attorney Harris said that he would very briefly go through the CAM review. There are no coastal resources on site. The cove is nearby but not on site. They are required to and feel that they have employed and exhibited best management practices with respect to the stormwater. So, because there are no coastal resources on the site they feel that they are consistent with the coastal resources principals, as they do not implicate them.

Attorney Harris said that he had two other things left to cover - the waivers and the request for a second freestanding sign. First the waivers. He passed out a sheet explaining the three requested waivers. (Attached at end of Minutes) The first was for sidewalks. The second for the front landscaping along Route I and I-95. The third for a buffer at the property line.

Attorney Harris said that he would now cover the last item. They are requesting a second freestanding Saturn sign that is required for the Saturn dealership. He showed them copies of this sign. This site does not have visibility no matter how you look at it. He presented them with two pictures taken from the southbound side showing that you do not see the site until you are alongside of it and the signage is right at the top of the trees. This is in an isolated area for commercial use, by itself on one side of the highway. This is a hardship and the regulations do allow for a second sign if it is based upon a hardship and a special permit and a maximum height of 30', which is what they are proposing.

Mr. Nickerson asked if it is going to advertise Saturn or Foxwoods.

Attorney Harris said that it would be Saturn but not Foxwoods or a casino. They heard the neighbors the last time that complained that once people saw the Foxwoods on the sign that they turned off the highway and ended up in the neighbors' private driveways looking for the casino. However, they need the ability to direct people to their Saturn site and they may not need all of the 85' tall sign for their advertising.

Mr. Mulholland informed the Commission that this is a legal off-premise advertising sign that they approved a few years ago and that it is one of two in the community.

Mr. Nickerson recalled that they had done that to help the potential new property owners offset the cost of developing that property.

Attorney Harris said that it is a difficult site to see and that the sign is critical to the success of this business.

Mr. Nickerson said that it's a hardship property and he agrees and that is why the sign is there but he is not in favor of casino advertising.

Mr. Mulholland asked if there have been any discussions with DOT on removing any of those trees.

Attorney Harris said that he does not know as he has not had any conversations with them although it is really not those trees that are blocking anything.

Ms. Carabelas asked that they point out exactly where the sign would go.

Mr. Gorman pointed out the existing and proposed signs on the building map.

Mr. Mulholland asked how many feet there is between the existing sign and the proposed sign.

Mr. Gorman said approximately 110' to 120'.

Ms. Carabelas said thanks, as she needed to know that they are not right on top of each other and they aren't.

Attorney Harris summed that the site needs help and that he believes there is a hardship that exists with this general area and a need for this sign.

Mr. Nickerson asked if the Commission members had any other questions, hearing none –

Mr. Nickerson called for anyone from the public who wished to speak in favor of this application –

David Houseman, 162 Chesterfield Road, East Lyme said that he thinks that this is a great asset to the Town and that he can't wait for it to go in there as they have been looking at an eyesore. Also, the lighting should be fine.

Bill Henderson, 19 Stoneywood Drive, East Lyme said that the traffic pattern that exists in that area is a high accident area with people taking their eyes off of the road and crossing over. He thinks that the State has to be more pro-active in that area in dealing with the problem and he wants the Town to contact the State about this because adding to the problem won't solve it.

Susan Kraynak, 1 River Road, East Lyme said that she is a neighbor to this and with the leaves off the trees she can see it from her driveway. She agrees with the traffic nightmare and added that they just finished redoing that whole area. She said that she gathers that the lighting is going to be low enough not to affect the night sky.

Attorney Harris said that was a qualitative appreciation and that yes, it tends to stay on the site and does not glow in the sky. She might see some refracted light from car tops or when it is foggy out.

Ms. Kraynak said that where the second sign will be was not clear to her.

Mr. Gorman pointed it out to her on the plan.

Mr. Nickerson said that in looking from her property that the building would be blocking it.

Ms. Kraynak said that they would only be open four nights and closing at 9 PM so they would not be getting deliveries at that time anyway. She asked where they were going to get water.

Attorney Harris said that they have an agreement with Waterford to get it from them and the intent is to do so.

Ms. Kraynak asked about sewage.

Attorney Harris said that there is an existing on site septic system from the restaurant that has far more capacity than necessary and they intend to utilize it.

Ms. Kraynak said that while she does not feel that sidewalks are appropriate there, the people who walk their dogs or themselves there would surprise them.

Maureen White, 41 West Main Street, Niantic said that her husband and herself own the Book Barn. She definitely welcomes the Saturn dealership, as it is a welcome asset to the area. But, she vehemently opposes having additional advertising on that 85' sign. They are not allowed to have an 85' sign advertising the Book Barn.

Rose Ann Hardy, Ex-Officio asked how close does this come to the historic cemetery and if there is a buffer maintained there.

Mr. Gorman said that the cemetery has an existing stone wall in place and that they owned a sliver of land outside of the stone wall. Mrs. Murphy presented to the Cemetery Committee that they transfer that sliver of land to the dealership and the committee agreed and that sliver of land has been transferred to them.

Ms. Hardy asked if pavement would go right up to there.

Mr. Gorman said no it would be 10'-20' away and there would be grass and evergreens.

Mr. Nickerson said to Ms. Hardy that the cemetery has indicated that they are very happy that Saturn is coming. They are hoping that this will cut down on the vandalism in that area.

Randy White, 41 West Main Street, Niantic said that he is smart enough to agree with his wife. Off-site advertising on the sign would be bad to have. He has no problem with Saturn advertising or with the second Saturn sign.

Attorney Harris noted that he feels that the hearing can be closed this evening and that the drainage can be worked out with Mr. Giannattasio. Mr. Giannattasio could give a report prior to their decision at the next meeting.

Mr. Mulholland said that he thinks that they can close it with the condition that staff reports back in two weeks on the drainage. Given the complexity of it they would be working with Mr. Giannattasio anyway. Staff has spent a great deal of time on this already and the drainage is the only issue left.

Ms. Hardy said that there were large numbers of the public here tonight and that she feels that to take comments for a public hearing at 20 minutes to midnight is not fair as a lot of people left early. She feels that the public should be able to speak even though she does not feel there is opposition to this application. She would like them to keep the public hearing open.

Attorney Harris said that were it not for the drainage they would be closing it in any event.

Mr. Nickerson commented that they did have a posted public hearing for this evening for this. He suggested that they close it and move on but asked the consensus of the Commission members.

The consensus of the Commission members was to close the hearing and have only staff provide a report on the drainage issue at their next meeting.

Mr. Nickerson called for a motion to close both Public Hearing Items Nos. 2 and 3 of the Herb Chambers Companies, LLC.

****MOTION (1)**

Ms. Carabelas moved to close Public Hearing Item Nos. 2 and 3 of the Herb Chambers Companies, LLC.

Mr. Gada seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Mr. Nickerson closed both of the Public Hearings of the Herb Chambers Companies, LLC at 11:54 PM.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary

REQUESTED WAIVERS

(1) Section 24.7 allows the requirements of Section 24.6 to be waived by the Commission based upon existing physical conditions

(2) Specific Waiver Requests:

(A) ✓ Section 24.6C sidewalks - may be waived when not needed for pedestrian safety or circulation.

Request for waiver is based upon location of property at I-95 interchange with no existing sidewalks in area; no anticipated pedestrian traffic; street frontage on I-95 where sidewalks are inappropriate

(B) Section 24.6 E (2) Front landscaping along Route 1 and I-95

Route 1: Substantial land area from paved portion of Route 1 and property line allows landscaping to be added within this area making additional front landscaping unnecessary.

I-95: There is approximately 40 feet of existing grass/trees between the property line and I-95 paved area. Additional landscaping is not necessary

Doing this on State Property + makes sense for this

(C) Section 24.6 E (3) Buffer at Property Line

Property Line:

Waiver requested at southeasterly property line: There is an existing wooded slope averaging approximately 30' in width in this area, which serves the buffer purpose; in addition, the Applicant proposes additional landscaping at the limits of clearing this area.

Harris  *have minor change - berm is a buffer device under our reg. feels is also justified -*

*Zoning Commission Attachment
Saturn - Herb Chambers Public Hearing II 3/4/04*