

EAST LYME PLANNING COMMISSION REGULAR MEETING

Regular Meeting, February 8, 2022. 7:00 PM

ZOOM Meeting (remote)

CHAIRMAN: Michelle Williams

VICE CHAIRMAN: Kirk Scott

SECRETARY: Rich Gordon

PLANNING DIRECTOR: Gary Goeschel II

RECORDING SECRETARY: Sue Spang

CALL TO ORDER 7:02

I. ROLL CALL

Present: Michelle Williams, Kirk Scott, Nichole Davison, Richard Gordon, Jason Deeble, Brian Bohmbach, Alt., Timothy LaDucer, Alt., Olivia Fairchild, Alt.

Absent: Thomas Fitting

FILED

Also, Present: G. Goeschel, Mark Zamarka

B. Bohmbach was seated for T. Fitting

February 11, 2022 AT 3 AM/PM

Brian Bohmbach ATC
EAST LYME TOWN CLERK

II. CALL FOR ADDITIONS TO THE AGENDA-none

III. CALL FOR PUBLIC DELEGATIONS-none

(XI.A) Roles and Responsibilities of Local Land use Officials and Planning Commission Powers, Duties, and Procedures: Presentation and Discussion with Attorney Mark Zamarka, Esq. of Waller Smith and Palmer, PC

M. Zamarka informed the members that Planning Commissions and the powers granted to the Commission are created by state statute. The Commission has the responsibility for the POCD, review of subdivisions and re-subdivisions, approving maps and plans for the establishment or relocation of highway and building lines, and reviewing proposed zoning regulations. Attorney Zamarka defined a subdivision and re-subdivision. He walked the members through the timeline for review of applications. The date of submission of an application starts at the next regularly scheduled meeting. He stated that if the timeline is not adhered to and the Commission has not made a decision within the statutory time frame then the application is considered approved.

A public hearing is not required for a subdivision but is required for a re-subdivision. The public hearing will usually take information/exhibits from the applicant and then hear from the public. The Commission can ask questions of the applicant at this time. The process is not governed by rules of evidence and are lenient. The public hearing should be fundamentally fair and given procedural due process. Members should recuse themselves if they have a predetermination or bias or a personal or financial conflict of interest.

Once the public hearing is closed the only information the Commission can consider is what was presented at the public hearing. The Commission can discuss the application after the public hearing is closed. It is important the reason for the decision is stated on the record as any decision can be appealed. The Commission can make one of three possible decisions:

- Approve the application

- Approve the application with modifications
- Deny the application

The Commission is also subject to FOIA requests. According to FOIA, they must allow public access to meetings and public records which include emails, text, and any communication regarding business before the Commission. The exception is an Executive Session which for the purpose of the Planning Commission would most likely be to discuss pending litigation.

IV. REPORTS

A. Communications-none

B. Zoning Representative-an updated schedule will be sent out

C. Ex-Officio-no report

D. Planning Director: Gary Goeschel

The RFP was sent out and he would like the members who have volunteered for the affordable housing subcommittee to adopt a schedule for meetings. The first meeting will be on February 10, 2022, where a chairman will be elected, and future dates will be determined.

E. Subcommittees

- Plan of Conservation and Development

M. Williams said there will be an upcoming workshop for stakeholders.

F. Chairman-no report

V. APPROVAL OF THE MINUTES

A. Minutes of Regular Meeting of January 25, 2022

MOTION: (Scott/Deeble) to approve the minutes of January 25, 2022, as amended.

EASTLYME PLANNING COMMISSION SPECIAL REGULAR MEETING

G. Goeschel informed the members that the Zoning Commission has scheduled a Public Hearing for the amendment on February March 3, 2022.

Vote: APPROVED. In favor-Williams, Scott, Deeble, Bohmbach, Gordon. Opposed-none. Abstaining-Davison.

VI. PUBLIC HEARINGS-none

VII. SUBDIVISIONS/RE-SUBDIVISIONS-(PENDING)-None

VIII. ZONING REFERRALS [Connecticut General Statue (CGS) 8-3a]

A. Request of AMG PUBII, LLC, for a text amendment to the East Lyme Zoning Regulations Section 20.26 to amend the distance between drive-thru facilities within the CA District.

G. Goeschel reviewed his memo concerning the text amendment. He is concerned the text amendment does not require a traffic study and he suggested it require a special permit. He also suggested the Commission keep

the curb cuts in mind.

There was discussion on the I 95 non access line and the lack of a map showing the extent of that line and impact.

The members discussed whether the amendment was consistent or inconsistent with the POCD.

The question of community character, air quality and the possibility of the applicant utilizing ZBA as a remedy in place of a text amendment.

MOTION: (Williams/Deeble) Move to find the Zoning Referral, Request of AMG PUBII, LLC, for a text amendment to the East Lyme Zoning Regulations Section 20.26 to amend the distance between drive-thru facilities within the CA District to be INCONSISTENT with the POCD as the proposed regulation amendment does not allow for the consideration of a traffic impact or require a study, we do not have accurate mapping of the 1000 ft I 95 non access line and there is no evaluation for the potential air quality impacts that the additional vehicular idling could contribute to and as an aside there is a mechanism whereby the applicant can apply for a variance to ZBA. Vote: APPROVED unanimously

IX. MUNICIPAL REFERRALS [Connecticut General Statues (CGS)8-24]-none

X. OLD BUSINESS

A. Affordable Housing Plan Update 2022-previously discussed

XI. NEW BUSINESS

A. Roles and Responsibilities of Local Land use Officials and Planning Commission Powers, Duties, and Procedures: Presentation and Discussion with Attorney Mark Zamarka, Esq. of Waller Smith and Palmer, PC-previously discussed

B. Review of Commission By-Laws

The Commission suggested gender neutral changes to the By-Laws.

MOTION: (Gordon/Davison) to approve the By-Laws as amended. APPROVED unanimously.

C. Review of Subdivision Regulation revisions-no discussion

XII. ADJOURNMENT:

MOTION: (Scott/Davison) to adjourn at 8:20. Vote: APPROVED Unanimously.

Respectfully Submitted,
Sue Spang,
Recording Secretary

2022 Meeting dates: March 8, April 12, May 10, June 14, July 12, August 9, September 13, October 11, November 15 & December 13.

Liaison Schedule: Feb.17-Davison, March 3-Bohmbach, March 17-Fairchild, April 7-Fitting, April 21-Gordon, May 5-LaDucer, May 19-Scott, June 2-Williams, June 16-Bohmbach, July 7-Davison, August 4-LaDucer, September 1-Fairchild, September 15-Fitting, October 6, Gordon, October 20-Deeble, November 3-Scott, November 17-Williams, December 1-Bohmbach

Town of

P.O. Drawer 519

Department of Planning &
Inland Wetlands Agency

Gary A. Goeschel II, Director of Planning /
Inland Wetlands Agent



East Lyme

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MEMORANDUM

To: East Lyme Planning Commission

From: Gary A. Goeschel II, Director of Planning/ Inland Wetlands Agent

Date: October 27, 2020

Re: **CGS 8-3a Zoning Referral: Petition of AMG PUB II, LLC**, for a text amendment to the East Lyme Zoning Regulations, Section 20.26 to amend the distance between drive-thru facilities within the CA District

The proposed application proposes to amend the distance between drive-thru facilities within the CA Zoning District. More specifically, it proposes to eliminate Section 20.26 L, the requirement that "No restaurant or food service establishment with a drive-thru facility shall be built or established upon a lot or premises within a radius of 1000-feet of any part of any other building, lot, or premises used for such purpose" and replace that language with the following:

- K. No restaurant or food service establishment with a drive-through facility shall be built or established upon a lot or premises as follows:
- i. *Within a radius of 1000-feet of any part of any other building, lot or premises, when the proposed location is within 1000-feet of the Interstate I-95 Non-access line."*
 - ii. *No driveway serving a Drive-Thru facility shall be closer than 250-feet from another Drive-Thru Facility as measured between the centerline of the nearest driveways serving the Drive-Thru Facilities when outside of the 000-foot radius of the Interstate I-95 Non-access line; and*
 - iii. *Existing premises used for such purpose prior to this regulation shall not be deemed non-conforming when located within 100-feet of the Interstate I-95 Non-access line or within 250-feet of another existing Drive-Thru facility.*

Upon review of the above referenced Zoning Referral with the 2020 Plan of Conservation and Development, as amended, I offer the following comments:

Section 8.2, Recommendation 9, indicates the Town should adopt controls over the number of curb cuts for access to commercial developments as the abundance of vehicular access

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points to Commercial Properties within the CA Zone has been documented to be a major contributor to traffic congestion. Additionally uncontrolled turning movements associated with these access points are a safety concern. In addition, Section 14.5 of the 2020 POCD also recommends limiting the number of curb cuts onto major thoroughfares such as RT 1, RT 161, and RT 156, and encourage shared access points between adjoining properties as well as shared parking between uses.

The 2020 OCD does not specifically discuss drive-thru facilities and their impact on traffic circulation through Town. This may be that drive-thru facilities do not typically cause traffic circulation issues within the public right-of-way but, they tend to significantly impact the traffic circulation through the parking lot in which the facility is located. However, that isn't to say a poorly designed drive-through would not have a traffic cue spilling out into a public right-of-way such as RT 161. As such, I would recommend the Zoning Commission consult a professional Traffic Engineer or the Institute of Transportation Engineers to assess the potential impact of the proposed regulation change on the current state of traffic circulation through the CA Zoning District. In addition, I would recommend requiring any restaurant or food services establishment proposing a drive-thru facility provide a traffic study prepared by a Transportation Engineer licensed in the State of Connecticut, demonstrate the impact of the facility on the local area traffic, require no more than a minimal impact on local area traffic circulation, and demonstrate that the facility will not adversely impact the parking lot traffic circulation of the commercial development.

Therefore, I offer the following resolution:

BE IT RESOLVED:

Pursuant to Section 8-3A of the Connecticut General Statutes, the Planning Commission of the Town of East Lyme, exercising its authority and having reviewed the proposal for a Zone Change, referenced above, **FINDS** the aforesaid proposal **CONSITENT/INCONSISTENT** with the 20202 Plan of Conservation and Development as amended, and offer the following comments and or recommendations:

- 1.
- 2.
- 3.
- 4.
- 5.