

**East Lyme Zoning Commission  
PUBLIC HEARINGS  
July 13, 2000**

FILED IN EAST LYME TOWN  
CLERK'S OFFICE

**MINUTES**

*July 21* 20 *00* at *3:40* <sup>AM</sup><sub>(PM)</sub>  
*Esther B. Williams*

The East Lyme Zoning Commission held a Public Hearing and Regular Meeting on ~~July 13, 2000~~ at the Town Hall, 108 Pennsylvania Ave., Niantic, CT. Mr. William Weber chaired the meeting. Mr. Weber called the meeting to order at 7:35 PM.

**PRESENT:** Chairman William Weber, Norman Peck, Ed Gada and Alternate Mark Nickerson. Athena Cone and Shawn McLaughlin,

**Absent:** David Chamberlain, Robert Bulmer and Donna Orefice.

**Also present:** William Mulholland, Zoning Officer and Rose Ann Hardy, Ex-officio.

**I. PUBLIC HEARING I**

**Continuation of the Public Hearing on the application of Thomas J. Londregan, agent for Peter Andrade, for a Special Permit to operate a fast food restaurant (Dunkin Donuts) at 255 Main St., Niantic, CT, Tax Map 12.1, Lot 107.**

Commission panel: Mr. Weber, Mr. Gada, Mr. Peck and Mr. Nickerson. Sitting out are Mrs. Cone and Mr. McLaughlin.

Mr. Weber called the Public Hearing to order. Mr. Nickerson will serve as secretary. He noted the publication of the Legal Ad in the New London Day. (Exhibit 1)

Mr. Nickerson read into the record:

1. A letter from Thomas J. Londregan, agent for Mr. Andrade, to William Mulholland, Zoning Officer dated 5/4/00. (Exhibit 2)
2. A letter dated 7/13/00 from the Zoning Official to the Zoning Commission. (Exhibit 3)
3. A letter from the Department of Transportation to Thomas J. Londregan. (Exhibit 4)
4. A letter dated 6/9/00 from Jeanne Davies, Director of Planning to the Zoning Commission. (Exhibit 5). Photos attached.
5. A letter dated 6/14/00 from Town Engineer Michael Giannattasio to William Mulholland, Zoning Official. (Exhibit 6)

Mr. Weber opened the floor to the applicant. Thomas J. Londregan, representing Peter Andrade the applicant, indicated that Mr. Andrade is the owner of Dunkin Donuts on Rte. 161, 211 Flanders Rd., Niantic. The owner of the property, also known as the Friendly's site, is Mitchell

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Trust, LLC. Mr. Londregan presented a sketch (Exhibit 7) of the existing site with the exception of some additional parking places in the back. The proposed use is for a Dunkin Donut franchise operation. The applicant proposes no changes to the building footprint, structure, topography, or drainage. The grading and pavement existing will remain with no changes. If Dunkin Donuts were a standard restaurant a Special Permit would not be needed and no public hearing would be required. Mr. Londregan stated that Dunkin Donuts, according to Mr. Mulholland, Zoning Official, is considered a fast-food restaurant. In the CB Commercial Zone a standard restaurant and bakery are permitted uses. Mr. Londregan stated the Dunkin Donuts is a bakery – they bake and sell their product - in his and Mr. Andrade's opinion. He indicated that the applicant does not waive his right to claim he is not a fast food, but a bakery.

Mr. Londregan stated that the applicant is requesting two separate Special Use Permits.

1. For a fast food restaurant.
2. Accessory use of a drive-through.

The applicant is also requesting a waiver of the 6 ft. buffer requirement (for previously existing physical condition) and a waiver for the A-2 Survey.

Mr. Londregan presented site plans (6/00)-(Exhibit 8) and introduced Al Mancino, Engineer, Mancino Associate Architects, 83 So. Rose St., E. Providence, RI. Mr. Londregan stated that the site plan by Mr. Mancino is the existing building, parking, topography, drainage, and landscaping. He noted that the only change is in the use – from the standard restaurant (Friendly's) to fast-food restaurant (Dunkin Donuts).

Mr. Londregan then presented site plan (4/25/00)- (Exhibit 9) showing the proposed drive-through. He pointed out the 20-foot right-of-way (2-way traffic) on the west side of the structure, which runs from Main St. to Hope St. and is owned by Mitchell Trust, LLC and Mr. Dousis, the 12-foot ROW north of the property. With the existing parking, cars must back out of their parking slot into the 20-foot, 2-way traffic ROW. With the proposed drive-through, this condition will be improved. Vehicles will drive forward into the ROW one at a time and onto Main Street, i.e., one entrance into the 20-foot ROW.

Mr. Londregan addressed the points made by Jeanne Davies, Director of Planning.

1. Traffic generation from adjacent uses. Mr. Londregan stated that adjacent uses are existing and the subject structure is existing, not an addition.
2. Loading arcas and trailers on adjacent sites. Again the adjacent uses are existing and not associated with Dunkin Donuts operation and out of their control.
3. Elimination of three parking spaces on the street – this is a suggestion only and made to improve the street site line. He added that the applicant does not have control over street parking. All parking is on the east side of the building and not in conflict with travel lanes.
4. Dunkin Donuts in Niantic will not be a magnet for new traffic, but will service traffic that already exists.
5. Elimination of on-site parking spaces in violation of parking overlay zone. Vehicles will be stacked in the drive-through lane. Section 22.6 of the Zoning Regulations states that a new use associated with existing properties and buildings is exempt from parking requirements provided the lot coverage is not increased, the footprint of the

building is the same. The Section does not state "provided there is no reduction of on-site parking on any existing site." Mr. Londregan argued that the parking eliminated is being, in fact, included in the up to 8-car stacking of the drive-through lane, reducing the need for parking spaces.

Mr. Londregan then addressed some of the comments made by Town Engineer Michael Giannattasio. He noted that the proposal does not have new construction or major addition, but rather the applicant is working with the existing conditions. There will be no changes to drainage.

Mr. Londregan then summarized his presentation.

1. Special permit for fast food restaurant with no changes to the building or site.
2. Accessory use for a drive-through
3. Drive-through is an improvement to the site
4. Consistent with the Plan of Development and fits in the Niantic area

Mr. Peck requested clarification of 2-way traffic lanes on-site. Mr. Londregan stated that the east side could be made one-way, however the west side ROW is two-way traffic going through to Hope St.

Mr. Mulholland noted that the loading dock to the grocery store are behind the building and across a 12-foot ROW. He requested Mr. Londregan comment on any interaction between trailers and the drive-through traffic, and if a problem is foreseen.

Mr. Londregan stated that the rear ROW is permanently open, no permanent blocking, and which Dunkin Donuts have been given rights to. He invited Mr. Mitchell, landlord, to comment.

George Mitchell, Mitchell Trust, LLC, stated that the ROW was established for customer to the IGA to access an ice vending machine that at one time was in that location. It was not to serve any other purpose for the market. It is now an access to Smith Pharmacy's 4 parking spaces behind the store.

Mr. Weber noted that there were no photos attached to the letter from Director of Planning Jeanne Davies.

Mr. Mulholland requested Mr. Mancino address the standard stacking requirements. He asked if design criteria was based on a particular time of day for maximum use and impact.

Mr. Mancino stated that for a new building drive-through stacking would accommodate 12 vehicles. This existing building will accommodate 8 vehicles. He added that Dunkin Donuts busiest time for drive-through is during the early morning hours. Mr. Londregan stated the maximum sales are between the hours are generally 5 AM-11 AM. He added that downtown Niantic activity with cinema and restaurants focuses more on lunch and dinner hours.

Mr. Gada inquired regarding the plans for the utility pole between stacking position 2 and 3. Mr. Mancino stated that the utility pole is located within one of the planters on the west side.

Mr. Nickerson inquired as to the maximum number of employees expected at any one time. Mr. Andrade stated he anticipates 4-5 employee maximum based on the anticipated business.

George Mitchell, landlord, stated there is a parking lot between the Niantic Cinema, Burkes Tavern and the Market which during the day employees are encouraged to use.

Following the applicant's presentation and Commission questions and comments, Mr. Weber opened the floor to those wishing to speak in favor of the application.

Sarah Resnick, 12 S. Washington Ave. stated that she was in support of the application. She stated that Niantic has empty stores and she and others would like to see these stores occupied. She also stated that the Dunkin Donuts would pay Town taxes. She also stated that the residents of the Assisted Living Facility under construction can walk to this operation. She stated she did not believe the existing businesses would be negatively effected.

Elizabeth Anhalt, 9 Cove Drive stated her support for the application.

There being no other speakers in favor of the application, Mr. Weber opened the floor to those wishing to speak in opposition to the application.

Michele Masse, owner of Bayside Coffee Co., 281 Main Street, Niantic submitted citizens petition (Exhibit 10) opposing the application. She also stated that the drive-through would add to the traffic on Main St. She noted that many of the vehicles going into and out of the drive-through would be large sport utility vehicles (SUV).

Cricket Murphy, 102 Old Black Point Rd, Niantic, also addressed the traffic on Main St. and in the 20-foot and 12-foot ROW and the added safety concerns. She indicated that at the Dunkin Donuts on Flanders Rd., with an acre of land, there are fender-bender accidents. She questioned what impact the drive-through and Main St. traffic would have on accident statistics. She also stated that the Town has encouraged independent entrepreneurs to establish in Niantic.

Vic Vicari, 3 Center St. opposed the application. He added that there is an existing Dunkin Donuts several miles away on Rte. 161 and Niantic does not need one. He also commented on the fender-benders on Rte. 161. He added that with the expansion of Camp Rowland, more traffic can be expected in Niantic.

Mary Ann Mastrandrea, 10 Prospect St., Niantic noted that there are large trucks unloading at the Market. She stated her opposition.

Robert Carter, 7 Pennsylvania Ave. inquired as to the hours of operation of the proposed Dunkin Donuts, in particular if it will be open 24-hours. He commented on the noise factor of the 24-hour Mobil station just down the street from his home.

Annette Alatalo, 13 Louise Drive noted that there are three stores in Niantic already selling the same product which are owned my community minded individuals. She stated she frequents all

three establishments and wishes to see them continue to succeed. She commented on the increased traffic in Niantic when there is an accident on I-95.

Dennis Foley, 23 Maplewood Dr., E. Lyme indicated that his vision of Niantic is a small beach community. With the coming Boardwalk, additional pedestrian traffic can be anticipated in Niantic. A fast food drive-through is not conducive for a high pedestrian traffic area. He also commented on the siphoning of business from the existing coffee shop/bakeries of Main St. He also stated his concern regarding additional traffic on Main St.

Joanne Brown, 24 Lakeview Heights opposed the application because of additional traffic on Main St.

George McPherson, 419 Boston Post Rd., E. Lyme stated his opposition to the drive-through lane.

Richard Havens, 74 Hope St., Niantic, stated his opposition. He cited the safety of vehicular and pedestrian traffic in the surrounding areas with vehicles moving in and out of the drive-through.

George Mitchell, landlord, 41 Attawan Rd., Niantic commented on the Towns desire to increase business in the Niantic Village. The Town spent \$30,000 on the Charette to find more ways to make downtown more attractive and draw more people. In essence, what the Town wants is more traffic, i.e. more people frequenting the Niantic shops, and Dunkin Donuts will help achieve that goal.

Dave Higgins, 31 West End Ave. opposed the application. He noted that there is already a Dunkin Donuts two miles from this site.

Mrs. Coburn, 29 West End Ave. stated her opposition to the application. She inquired what part of the Dunkin Donut business is from the drive-through and portion from walk-in.

Maureen Higgins inquired the percent of taxable and non-taxable sales at the Flanders Rd. Dunkin Donuts. Mr. Weber indicated that information was no relevant to this hearing or application.

Rich Mastrandrea, 10 Prospect St., stated his concern that there are only 1-2 car lengths from the pick-up window to Main Street and he objects to the drive-through.

There being no further comments by the public, Mr. Weber again opened the meeting for Commission members questions and comments.

Rose Ann Hardy, ex-officio, stated that once the Public Hearing is closed the public has no additional opportunity for comment. The Commission has 65 days from the close of the Public Hearing to make its decision.

Mrs. Hardy requested clarification on the situation of someone in the stacking line who wishes to get out of the line. She also commented on the number of people who, early in the morning, walk through Niantic and if pedestrian markers are planned for the site.

Mr. Londregan stated that the stacking #1-4 can exit the line, but 5-8 cannot get out of line at that point.

There being no further speakers, Mr. Weber closed the Public Hearing at 9:50 PM

Mr. Peck noted that he will not be able to attend the Aug. 3<sup>rd</sup>, 2000 meeting and requested a Special Meeting be called, if possible, to deliberate, and vote on this application.

## **II PUBLIC HEARING II**

### **East Lyme Zoning Commission proposal to amend Section 28 (Amendments to Regulations and Zoning District Maps) of the Zoning Regulations**

Commission panel: Mr. Weber, Mr. Gada, Mr. Peck and Mr. Nickerson. Sitting out are Mrs. Cone and Mr. McLaughlin.

Mr. Weber called the Public Hearing II to order and noted publication of the Legal Ad. He then read into the record:

1. A letter dated June 30, 2000 from the Southeastern Connecticut Council of Governments.
2. A letter from the Planning Commission to the Zoning Commission dated 6/20/00
3. A letter from William Mulholland, Zoning Official to the Zoning Commission dated 7/15/00
4. Proposed amendment, Section 28-Amendments to Regulations and Zoning District Map

Mr. Mulholland stated that the amendment adds a referral to the Water & Sewer Commission comment as to whether there is water and sewer available. Additionally, the amendment adds the requirement that the applicant notify adjacent property owners (within 500 feet) of the area subject to the zone change request.

Carol Marelli, 74 Ancient Highway inquired as to the reasons why if the rezoning request is initiated by the Commission, unlike an applicant, it is not required to notify adjacent property owners. She stated that in her opinion the Zoning Commission should be held to the same regulations as the applicant.

Mr. Mulholland indicated that the Zoning Commission is legally required to have legal notices published twice in the newspaper, and post notice in the Town Clerk's Office. Additionally, it places the onus on the applicant. The cost of notifying individual property owners, thus falls to the applicant.

There being no further speakers, Mr. Weber closed the Public Hearing.

### III. PUBLIC HEARING III

#### East Lyme Zoning Commission proposal to amend the Zoning Regulations by adding Section 20.26 (Restaurant/Drive-throughs)

Commission panel: Mr. Weber, Mr. Gada, Mr. Peck and Mr. Nickerson. Sitting out are Mrs. Cone and Mr. McLaughlin.

Mr. Weber read into the record:

1. A letter from Keith Neilson, 5 Village Dr., East Lyme, CT to Zoning Commission Chairman William Weber.
2. A letter dated June 30, 2000 from the Southeastern Connecticut Council of Governments.
3. A letter from the Planning Commission to the Zoning Commission dated 6/20/00.
4. A letter from William Mulholland, Zoning Official to the Zoning Commission.
5. Proposed amendment.

Mr. Peck noted the typographical error in the first line. "of" should be "or".

Mr. Weber opened the floor to Commission members for questions and comments.

Hearing none, he then opened the floor to those wishing to speak in favor of the amendment.

George Mitchell, Attawan Ave. inquired why amendment applies only to restaurants or food service establishments and not banks, drug stores, post offices and other establishments which may use drive-through lanes. He stated that the effect on traffic would be the same with these kinds of establishments.

Ron Kelly, 238-248 Flanders Rd. agreed with Mr. Mitchell and stated that the amendment is discriminatory in that other establishments use drive-through lanes besides restaurants and food service. He also questioned the choice of 1000-feet. He noted Rte. 161 is 4-lanes from Industrial Park Rd. to Flanders Four Corners is a different environment than Niantic. He suggested that the Town identify this region as a 'travel zone' where people are exiting I-95. In that area there are 400 hotel rooms. He stated that the hotels, which do not have restaurants, need to have restaurants, especially fast food, and gas stations in that area for their clientele. He suggested the Commission consider not approving the amendment. He also recommended the Commission consider an Architectural Review Board.

Mr. Peck indicated that this amendment had been proposed 2-3 years ago and was defeated. Secondly, the Commission has a subcommittee working on a proposed Architectural Review Board. Mr. Peck stated that fast food restaurant revenue is dependent upon volume sold. The Commission in this amendment is attempting to prevent traffic tie-ups and problems by requiring the 1000-foot radius.

There being no further speakers, Mr. Weber closed the Public Hearing.

Respectfully submitted,



Anita M. Bennett  
Recording Secretary  
17 July 2000