

EAST LYME ZONING COMMISSION

PUBLIC HEARING

September 20, 2001

MINUTES

FILED IN EAST LYME TOWN
CLERK'S OFFICE

9/26, 01 at 11:15 AM/PM

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EAST LYME TOWN CLERK

The East Lyme Zoning Commission held a Public Hearing and Regular Meeting on Thursday, September 20, 2001 at the Town Hall, 108 Pennsylvania Ave., Niantic, CT. Mr. Bulmer called the meeting to order at 7:30 PM.

PRESENT: Chairman Robert Bulmer, Shawn McLaughlin, Ed Gada, Alternate William Dwyer, and Alternate Mark Nickerson.
Absent: Secretary Athena Cone, Norman Peck, David Chamberlain and Alternate Donna Orefice
Also present: William Mulholland, Zoning Officer; Rose Ann Hardy, ex-officio.

PUBLIC HEARING

Panel: Mr. Bulmer, Mr. McLaughlin, Mr. Gada, Mr. Dwyer and Mr. Nickerson

Application of Attorney David F. Sherwood, agent for Wendy's International, Inc. for a Special Permit to construct and operate a Wendy's Restaurant at 293 and 295 Flanders Road, East Lyme, CT

The following were read into the record:

1. Statement of Intent from the applicant.
2. Request for Waiver from the applicant to Zoning Official William Mulholland dated September 17, 2001.
3. Letter to Atty. David F. Sherwood from James McNally, Jr., CLA Engineers
4. Memo from William Sheer, Environmental Planner, Town of East Lyme to Zoning Commission dated September 6, 2001.
5. Letter from the Planning Commission Chairwoman Kathleen Jones dated September 20, 2001 to the Zoning Commission
6. Letter from Zoning Official William Mulholland to the Zoning Commission dated September 20, 2001.
7. Memo from Town Engineer Michael Giannattasio, PE to Zoning Official William Mulholland dated September 20, 2001.

Mr. Dwyer referenced the letter from Mr. McNally, CLA Engineers, and noted the sentence "no portion of the proposed restaurant, lot or premises is located within a 1,000-foot radius of any part of a building, lot or premises currently used for restaurant or fast food service establishment with a drive-thru facility." He indicated that he believed The Shack is within 1,000-feet and is a restaurant. Mr. Bulmer stated that the regulation in question refers to a fast food restaurant. Mr. Dwyer concurred, but pointed out that the letter is in error. Mr. Bulmer acknowledged that it should state "within 1,000-feet of a drive-thru".

Mr. Bulmer outlined the Public Hearing procedure whereby the applicant makes his presentation followed by comments in favor or, in opposition to and general by the public.

David F. Sherwood representing Wendy's International, Inc. addressed the hearing. He submitted a revised Statement of Intent and pointed out the revision that the loading space will be placed on the westerly side of the restaurant rather than the easterly side.

Mr. Sherwood submitted a photograph of the sign placed on the property per regulations (Exhibit #2), a copy of the text of the sign (Exhibit #1) and copy of a letter from Robert Russo, certified soil scientist (Exhibit #3).

Mr. Sherwood introduced Jim McNally, CLA Engineering, who reviewed the site plans. Mr. McNally stated that the intent of the last sentence of the letter Mr. Dwyer discussed was that there is no lot or premises currently used for a restaurant or food service establishment with a drive-thru window. Meaning, that those establishments, either, having a drive-thru window and that none are located within 1000-feet of the proposed Wendy's Restaurant.

Mr. Dwyer stated that in the East Lyme Zoning Regulations there is a distinction between "restaurant" and "fast food". Mr. Dwyer further stated that he understood the intent of the sentence.

Mr. McNally reviewed the general layout of the proposed development – Survey & Site Layout. Vehicles entering the site have two options immediately upon entering the parking area – either the drive-thru window parallel to the westerly face of the building or to come up into the parking area and use the restaurant area of the building. The drive-thru lane is able to accommodate 12 vehicles at one time from the pick-up window to the point of access to the lane. Vehicles leaving the area are able to exit the site via a left or right turn lane onto Route 161, Flanders Rd. People using the parking area have access to the building via a walkway system and access the building on the east or westside of the building. Both accesses are available for handicap access. Supplies are delivered to the building via the loading space provided in the drive-thru lane in the rear of the building. Supplies are delivered in off-hours so there is no conflict with the public's use of the building.

The plan provides for decorative fence systems and north and east retaining walls. The crosswalk areas are designated by a change in texture in a herringbone pattern with a brick color in keeping with the streetscape design. Mr. McNally pointed out the sidewalk system on the plan.

Mr. McNally then discussed the drainage and utility systems. The site is served by municipal water and sewer and will be used by the facility. Utilities are gas via propane tank located in close proximity to the dumpster area. The propane tank is protected with bollards and screened via upright junipers which will be reviewed during the Landscape presentation. The gas will route underground to the building. The site is located in an aquifer protection zone. The drainage system has been designed to meet the requirements for storage and treatment of stormwater. A sprinkler system is proposed to water the exterior landscaping. Lighting has zero spillage onto off-site areas but is adequate for safety purposes. Erosion and sediment control plan includes silt fencing along Route 161, provide antitracking pad and biannual cleaning of the stormwater treatment system.

Mr. Sherwood introduced David Sullivan, PE of Barkan & Mess who is a Senior Transportation Engineer and who conducted a traffic study. Mr. Sherwood noted that the traffic study is not required by the Zoning Regulation, however, at Mr. Mulholland's suggestion, the study was undertaken.

Mr. Sullivan reviewed the protocol involved in conducting a traffic study. Briefly the process consists of several steps.

1. Evaluate the existing traffic conditions
2. Evaluate the site plan, roadways geometry surrounding the site, sight lines.
3. Estimate the number of trips to be generated by the land use
4. Develop two future scenarios: a) traffic conditions if Wendy's was not to be built on the site and b) combined scenario, which reflects the traffic conditions with Wendy's on the location.

The site is north of Exit 74 interchange off Interstate 95 opposite The Shack and True Value. The study area was from Route 1 to I-95 ramp system north and southbound. Traffic volume was collected during peak hours on July 6, 7 and 8, 2001 with sunny weather. The traffic volume was 20-25% higher than for most of the year at that location. Two types of counts were conducted; automatic count and manual count of traffic north and south.

Mr. Sullivan indicated that in evaluating the access drive and location, he was in contact with the Dept. of Transportation, which approved the location of the driveway but recommended two-lane exit, left and right. The sight line study from the driveway indicated that 85% of the traffic was traveling between 41-42 mph. The requirements for that speed are 400-feet. The sight lines at the access drive are between 700-1000-feet of visibility. The Trip Generation Manual, which provides industry standards, indicates that for this type of land use would generate 50trips into and 50 trips out of the site on a Friday afternoon peak hour. On Saturday during the mid-day peak hour, 175 trips would be generated. Mr. Sullivan noted that not all of these trips would be new trips on Route 1 or I-95. In evaluating the site, Mr. Sullivan stated that he assumed all trips were new trips.

Computer analysis results in general indicated no change in any of the levels of service. That is, the signal light at Route 1 and at the northbound off-ramp of I-95 would operate the same with or without the Wendy's traffic added. The site driveway worse case would be on Saturday, when the traffic is the heaviest and the site traffic is heaviest, and the level of service is "E" (Level of Service "A" is excellent, Level of Service "F" is failure) primarily due to the difficulty in taking a left turn out of the driveway. Mr. Sullivan noted that this analysis was based on a single-lane exit. The site will have the two-lane exit as recommended by DOT, which will improve this condition.

Mr. Sullivan stated that an informational sign is being proposed at the exit area that if they area heading north on I-95, that it may be an easier path to take a right out of the site, proceed to Route 1 and enter I-95.

In conclusion, Mr. Sullivan stated that the level of service would not be impacted, the access being provided would be safe, efficient. Connecticut DOT has been provided a copy of the traffic study and have no additional comments particular to the site.

Mr. Dwyer inquired as to the number of parking spaces provided for handicap accessibility and employees. Mr. McNally indicated that there were 44 parking spaces, 3 of which are handicap accessible. The total number of parking spaces is based on total floor area and includes employees. He indicated that seating capacity in the restaurant is for 76 people. Mr. Mulholland indicated that 2 spaces are required, however, the Staff requested an additional space.

Mr. Nickerson and Mr. Bulmer stated his concern with the off-set of the driveway with that of True Value. Mr. Sullivan stated that the location of the lot precluded lining up the driveways. The off-set is acceptable to DOT and would not bring on any new safety conditions that would not exist if they were aligned.

Mr. McNally pointed out that a 24-ft wide connection to the adjacent property has been provided in the plan on the northerly property line for future access. He also indicated that the drive-thru lane was 16-feet wide to accommodate by-passing the window and vehicles in line.

Mr. Sherwood introduced Mary Villa, Norwich, CT, landscape architect, who reviewed the landscape plan. She indicated that the site would have generous lawn area with a 10-foot landscaped boarder between Flanders Rd. and paved area where trees and shrubs will be planted to screen parked cars and soften pavement. Trees and shrubs will be low-maintenance, hardy, and disease resistant and provide year-round attractive color, texture and screening. The area around the propane tank and dumpster area will be planted with 6-8 foot upright junipers that will ultimately form a solid screen. The rear sloping area above the retaining wall will be planted with daylilies, ornamental grasses and honeysuckle. Ground cover juniper will also be planted. The building will be surrounded with evergreens and shrubs.

Mr. Nickerson noted that a tree was proposed for the 24-foot interlocking area. The applicant agrees that it could be removed from the plan. Mr. Sherwood also stated that the landscape plan was completed concurrently with the meeting with Staff where the interlocking access was discussed.

Mr. Dwyer inquired regarding the sign. Mr. Mulholland stated that the sign application would be made to the Zoning Office and if criteria are met, Mr. Mulholland issues the permit. He added that this administrative practice has been in effect for over ten years and is not part of the regulations for the hearing.

The project architect stated that the proposed design was cape-style with a false mansard roof to conceal roof-top HVAC equipment, etc. He is currently in the process of color and material selection, however, the plan is for vinyl siding, pre-molded trim and architectural textured roof shingles. Currently proposed is a deep-recessed siding.

Mr. Sherwood added that with this building, Wendy's International, Inc. has abandoned their typical design. He added that there is only one other building of this design.

Mr. Gada inquired as to the hours. The applicant indicated that the restaurant would open at 10:30 AM and does not anticipate serving breakfast.

Mr. Nickerson inquired as to the requested sidewalk waiver. Mr. Mulholland pointed out the bridge abutment on the south side of the property and Staff felt for pedestrian safety it would be advisable to eliminate the sidewalk.

Mr. Nickerson noted that on the north side, the sidewalk ends abruptly at the property line leaving 6-10 feet to the adjacent parking lot. Mr. Mulholland stated that Wendy's is responsible to the property line. He added that the Town's sidewalk plan on Flanders Rd. is on the west side in front of True Value.

Mr. Nickerson stated his concern regarding the grading of the driveway, citing the bus getting stuck exiting Burger King. Mr. McNally stated that he has been working with Town Engineer Giannattasio regarding the slope of the driveway. The driveway will easily accommodate a vehicle without it bottoming out. There will not be a steep slope at the end of the driveway. In the first 10-feet of the driveway there is a 3% slope.

Mr. Nickerson expressed concern regarding the security of the propane tank, i.e. fencing. Mr. Mulholland stated that this would be the jurisdiction of the Fire Marshall.

Mr. Sherwood closed his presentation and Mr. Bulmer opened the hearing for public comment. There were no other speakers either in favor or opposed. Mr. Bulmer invited general comments from the public.

Roseann Hardy, ex-officio posed the following questions.

1. It could be anticipated that Wendy's would be a popular destination for students from the High School and stated concern for their safety in walking along Flanders Rd. and crossing the street to the Wendy's side. Mr. Mulholland stated that the Town does have a sidewalk plan going on into the future, however, Flanders Rd. is a State highway and the DOT has jurisdiction. He added that this was discussed during Staff meetings. Mr. Sherwood stated that Wendy's recognized that it would be more than likely high school students would be crossing over and they would be more than willing to cooperate in any way with respect to a crossing. Mr. McNally stated that it would be dangerous to place a crosswalk in Flanders Rd. and recommended the students cross at the Flanders-Route 1 intersection.
2. What methods are being used to reduce or eliminate exhaust odors. Mr. Sherwood indicated that Wendy's cooks at lower temperatures than other fast-food restaurants and thus does not produce the exhaust smells. There are exhaust fans however.
3. Is there any outdoor seating anticipated? Mr. Sherwood indicated that no outside seating is anticipated and this would minimize air-borne litter.
4. What is the anticipated construction time. Mr. Sherwood stated that if the Zoning Commission approves the application this evening, it is anticipated construction would be completed before the first of the year. Otherwise, construction would continue into 2002.
5. We are all concerned about security around the propane tank. How easily could the tank be accessed and tampered with? Mr. Sherwood indicated that the propane tank is locked and there are bollards around it to

prevent vehicles from hitting it. Mr. Mulholland added that this would fall under the jurisdiction of the Fire Marshall and Building Official, but he was not certain of the requirements or regulations. If none exist, it may be something for the Zoning Commission to consider.

6. What type of lighting is anticipated? Can the night-time lighting be kept to a minimum. Mr. McNally briefly reviewed the lighting plan. Light poles are 14-feet in height with a 1-2.5 foot base. Standard shoebox fixtures are proposed. He stated that Town Staff made a point regarding subtle lighting and no spillage onto adjoining properties and the plans reflect those concerns. There will be down-facing lights on the building.
7. Will the restaurant be open late at night? The Board of Selectmen have been considering whether or not a noise ordinance may be in order in the future. Mr. Sherwood stated that the restaurant hours are 10:30 AM – 11:00 PM; drive-thru will be open until 1:00 AM and he would not anticipate a noise problem.

Mr. Bulmer noted that other establishments handling propane gas have the tanks enclosed with chain link fencing. Mr. Sherwood stated that Wendy's has no problem enclosing the propane tank if the Commission wants. Mr. Bulmer recommended that Wendy's International abide by the decision of the Fire Marshall and Building Official with respect to the enclosure of the propane tank. Mr. Sherwood agreed.

There being no further speakers, Mr. Bulmer closed the Public Hearing at 9:13 PM

Respectfully submitted,



Anita M. Bennett
Recording Secretary
24 September 2001