

**EAST LYME ZONING COMMISSION
REGULAR MEETING
Thursday, NOVEMBER 5th, 2009
MINUTES**

The East Lyme Zoning Commission held a Regular Meeting on Thursday, November 5, 2009 at the East Lyme Town Hall, 108 Pennsylvania Ave., Niantic, CT.

PRESENT: Mark Nickerson, Chairman, Rosanna Carabelas, Secretary, Marc Salerno, Ed Gada, Norm Peck, Steve Carpenteri

ALSO PRESENT: Bobby Moisiadis, representing the applicant
Bob Bulmer, Alternate
William Dwyer, Alternate
William Mulholland, Zoning Official

ABSENT: No One

Call to Order

Chairman Nickerson called this Regular Meeting of the Zoning Commission to order at 7:54 PM after the previously scheduled Public Hearing.

Pledge of Allegiance

The Pledge was previously observed.

Public Delegations

Mr. Nickerson called for anyone from the public who wished to address the Commission on subject matters not on the Agenda.

There were no delegations.

Regular Meeting

1. Application of Tsiropoulos Holdings LLC for a Special Permit (Mixed-Use) to construct an apartment over an existing business at 167 Main Street, Niantic, CT.

Mr. Nickerson called for discussion on this application as they had just closed the Public Hearing.

Ms. Carabelas said that this seems to go along with downtown Niantic and works with the mixed use concept. She added that the landscaping always looks nice at this property.

Mr. Salerno said that he also thought that this goes along with their desire to have mixed use in the downtown district.

****MOTION (1)**

Ms. Carabelas moved to approve the Application of Tsiropoulos Holdings LLC for a Special Permit (Mixed-Use) to construct an apartment over an existing business at 167 Main Street, Niantic, CT with the addition of some windows where practical on the east elevation as discussed.

Mr. Carpenteri seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Mr. Nickerson said that this would publish on 11/12/09 and become effective on 11/13/09.

2. Application of Theodore A. Harris for GDS Capital Holdings LLC to amend the East Lyme Zoning Regulation Sections 9.2.3, 1.1 and 25.5 with regard to Mixed Use Development.

Mr. Nickerson asked Mr. Mulholland to explain the latest update.

(Ms. Carabelas said that while she had reviewed the record that she would not take part in discussion of this application as she was not at the last public hearing for it.)

Mr. Mulholland noted that in Item 2. that 'Parking shall not be considered a commercial use' was added; in Item #3 that 'The Commission may require all or portions of covered parking to be enclosed' was specified and that in Item #7 net floor area was added along with: 'Covered parking, whether or not enclosed, shall not be included in "net floor area".'

Mr. Salerno said that he is not comfortable with the 'net floor area' delineation.

Mr. Mulholland said that previously it had said 30,000 sq. ft. of 'gross floor area'.

After much discussion, the consensus of the Commission was to change Item #7 to read what it had previously read: 'No individual building shall exceed 30,000 sq. ft. of gross floor area.'

Mr. Peck said that he thought that they should define 'living space' as a regular area that people occupy, residential or commercial.

Mr. Mulholland said that habitable area is typically defined as living space.

After further discussion, the commissioners agreed to strike the line in Item #4 that cites living space from the discourse. Item #4 would read:

Building height: In order to encourage attractive roof line designs, except for the south side of Main Street, the Commission may approve a building height not to exceed 40'; provided however, no such building shall exceed three (3) stories. The Commission may consider the goal of this regulation in determining whether to grant such additional height.

Mr. Peck asked if something of this size is what they want downtown.

Mr. Mulholland recalled that at the Public Hearing that it was presented that the footprint may be much less and that they would need a considerable amount of property to do this. They also wanted mixed use with a pleasing façade.

Mr. Peck said that while there are some Main Street buildings that certainly could stand to come down, there are others that he would have to see come down and he would like to be able to filter this somehow.

Mr. Mulholland said that legally it would be challenged and that he did not think that they could do it without a historical district and they are not near that type of thing at this point in time. Also, it would have to be researched to see if they even have the type of 'stock' for a historical district. Right now they have an application before them and the applicant has paid to be heard and has presented information and they should act on it.

Mr. Nickerson said that they have worked on this and that they have done a good job with it and it seems that this will be a part of the future with respect to mixed use. He noted that the larger buildings have worked well in places such as Mystic and that they can be done in such a way that they work and enhance the downtown district.

Mr. Carpenteri noted that as a special permit, that the application has to come before them and that they could work with the applicant on certain items that they might want to see.

Mr. Salerno said that he would like to see the architectural standards for the downtown area before they act on this.

Mr. Peck concurred with Mr. Salerno and asked how close to having those standards they were and if this application could wait until then.

Mr. Mulholland said that they would not have them prior to the time running out on this application for them to make their decision.

Mr. Peck then noted that there are some architectural controls in place in Section 25.4.1.1 of the regulations under special permits. He said that there are also buildings downtown that are outdated and that they never will be an Essex or Mystic however; some of the conversions of the older buildings makes them look terrible with ramps sticking out all over to meet building codes so it may be inevitable for some of these to have to come down and be done over even though he still does not like to tear old buildings down.

Ms. Carabelas said that she would make a motion to deny this without prejudice and wait for the architectural standards.

****MOTION (2)**

Ms. Carabelas moved to deny without prejudice the Application of Theodore A. Harris for GDS Capital Holdings LLC to amend the East Lyme Zoning Regulation Sections 9.2.3, 1.1 and 25.5 with regard to Mixed Use Development.

No Second – Motion dies.

Mr. Peck asked Ms. Carabelas how she was making a motion when she had said at the outset that she would not be involving herself with this application.

Ms. Carabelas said that she had thought that this was new and that she was familiar with all of this.

Mr. Nickerson said that she wished to place herself back in the discussion that she could do so.

Mr. Nickerson asked if they would like to make another motion or wait (if possible) until their December 3, 2009 meeting to make their decision as they should have more information by that time.

The consensus of the Commissioners was to wait until the December 3, 2009 meeting of the Commission to make a decision if possible.

3. Proposed 2010 Zoning Commission Schedule

Mr. Nickerson asked that a second meeting be added to the month of March – March 18, 2010. He noted that if they did not need it, that they could cancel it but he would rather see it on the schedule than to have to add it later.

****MOTION (3)**

Mr. Salerno moved to approve the 2010 Zoning Commission Meeting Schedule as presented with the addition of the March 18, 2010 meeting date.

Mr. Carpenteri seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

4. Approval of Minutes – Public Hearings I, II & III & Regular Meeting Minutes of October 1, 2009

Mr. Nickerson called for discussion on, or corrections to the Commission's Public Hearing I, II & III and Regular Meeting Minutes of October 1, 2009.

****MOTION (4)**

Mr. Salerno moved to approve the October 1, 2009 Public Hearing I, II & III and Regular Meeting Minutes of the Commission as presented.

Mr. Carpenteri seconded the motion.

Vote: 4 – 0 – 2. Motion passed.

Abstained: Ms. Carabelas, Mr. Gada

Old Business

1. Stormwater

Mr. Nickerson asked that this officially be stricken from the agenda and not be placed on any future agendas.

2. Subcommittee – Niantic Village – CB Zones (Mark Nickerson, Marc Salerno)

Mr. Nickerson noted that this is in progress.

3. Subcommittee – Conservation Development by Design (Marc Salerno, Norm Peck & Rosanna Carabelas)

Mr. Nickerson said that this is in progress.

4. Subcommittee – Incentive Housing Zones (Ed Gada, Mark Nickerson, Rosanna Carabelas)

Mr. Nickerson reported that they have met and would like to have a study done of the specific areas that were cited in the study for incentive housing zones – The Gateway Housing area, the area behind UBS and the Midway Plaza and that the grant monies that they had for this project should be able to cover the further study. Various chunks of land downtown could be studied at a later time.

New Business

1. Application of Brian Cowee for a Special Permit for an Indoor Recreation facility at 267-283 Main Street (aka 17 Hope Street), Niantic, CT, property further identified in the application as East Lyme Assessor's Map 12.1, Lot 103.

Mr. Nickerson asked Mr. Mulholland to schedule this for Public Hearing.

2. Any business on the floor, if any, by the majority vote of the Commission.

There was none.

3. Zoning Official

Mr. Mulholland reported that he received the brief by the attorney on the Landmark III case (2005). Five Guys hopes to open by December 1, 2009 and the Main Street Grill which will occupy the Constantine's site is expected to open by the third week of December as they have found that it will take more time than was previously expected for the contractors to do their work. The grocery store has opened.

4. Comments from Ex-Officio

There were none.

5. Comments from Zoning Commission liaison to Planning Commission

There was no report.

6. Comments from Chairman

Mr. Nickerson said that he has two more meetings before he resigns and the inauguration is held.

7. Adjournment

Mr. Nickerson called for a motion to adjourn.

****MOTION (5)**

Mr. Salerno moved to adjourn this Regular Meeting of the East Lyme Zoning Commission at 9:27 PM.

Mr. Gada seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary