

MINUTES
PUBLIC HEARING
PLANNING AND ZONING COMMISSION
LISBON TOWN HALL
TUESDAY, MARCH 6, 2012
6:30 P.M.

The Planning and Zoning Commission held the following public hearings in the Lisbon Town Hall, 1 Newent Road, Lisbon, Connecticut beginning at 6:30 PM on Tuesday, March 6, 2012.

1. 6:30 P.M. – Application for a Special Permit for a Construction and Demolition Recycling Facility, located at 425 South Burnham Highway (Route 169) on a parcel of land owned by Philip C. Armetta, L.P., Map #2 Lot #11. Applicant, Lisbon Industrial Park, L.P.
2. 6:50 PM – An application by Tessa Bernstein, c/o McDonalds Corporation for a Special Permit to expand drive thru from one lane with two order points to two lanes (side by side) including associated pavement, landscaping and parking modifications. Property is located at 95 River Road (Route 12), as shown on Map #15 as Lot #31-A
3. 6:55 PM – An application by Alan J Micale, P.E., Ayoub Engineering, Inc, (Agent for McDonalds Corporation) for a Zoning Permit to make modifications to the existing restaurant with a drive-thru. Modification to include upgrading existing building façade, remodel interior of dining room/restroom areas insuring full ADA compliance, and install a new side-by-side ordering system, reconfigure existing parking, curbing and landscaped area resulting in full ADA compliant access. Property is located at 95 River Road (Route 12), as shown on Map #15 as Lot #31-A

MEMBERS PRESENT: Robert Adams, Ronald Giroux, Kim Sperry, Garry Ritacco, Sharon Gabiga,
John Dempsey, Lawrence Alice, Ryan Donaldson
Alternates: NONE

STAFF PRESENT: James D Rabbitt, AICP, Senior Planner-SCCOG, Lisbon Town Planner

The following Public Hearing was called to order by Chairman Robert Adams at 6:35 PM:

1. 6:30 P.M. – Application for a Special Permit for a Construction and Demolition Recycling Facility, located at 425 South Burnham Highway (Route 169) on a parcel of land owned by Philip C. Armetta, L.P., Map #2 Lot #11. Applicant, Lisbon Industrial Park, L.P.

Attorney Hugh Manke of Updike, Kelly & Spellacy, P.C., 265 Church St # 1001, New Haven, CT was there to represent the applicant, Lisbon Industrial Park, L.P. He stated that he had sent in two documents for consideration, one, a memo addressing traffic issues and two, a dust report. He summarized by saying that the statutes were clear in regard to the traffic issue. He stated that the report states there are no safety issues in regard to the roads. Peak hour is congestion, the plan of the conservation and development calls for a diversity of land use. He stated this type of development should be actively promoted for the tax base. The roads, he stated, can withstand the proposed use. He also stated that Mr. Vahid Karimi, director of Traffic, Engineering & Transportation Systems of Vanasse Hangen Brustlin, Inc, 54 Tuttle Place, Middletown, CT did a further break down of traffic on Burnham Highway, and identified three trucks per peak hour. He stated that the plan calls for this kind of work, that the roads are inter-municipal roads. He stated this information was all in the memo. He then stated that Adam Fox of HRP Associates would go through and answer some of the open-ended questions from the past.

MINUTES
PUBLIC HEARING
PLANNING AND ZONING COMMISSION
TUESDAY, MARCH 6, 2012
page 2 (Lisbon Industrial Park, LP, cont)

Adam Fox, of HRP Associates, Inc., 197 Scott Swamp Road, Farmington, CT, gave more information regarding dust and odor control during the site preparation phase. He stated stockpiles will be sprayed three or four times a day as needed by a water truck. With regard to the rock crusher, a dust suppression system will be utilized to mist the materials. Dust will be knocked off the truck tires before they leave the site. High-dust materials, such as gypsum board, will be hand picked. The site is to be swept on a periodic basis.

As for odor control, there will be no organic content. Mr. Fox stated that a request was sent directly to the D.E.E.P. with regard to endangered species. There was some concern that there might be a species of bush called the Alleghany Plum present on the site, but the inspector did not find anything of concern on the property. Plans for review by the fire marshal, Rick Hamel, and the results went into the site drawings. He then stated that he worked with Staff to address some of the comments made previously by the Commission, particularly about pre-construction processing conditions. The grade has been raised as comment was made that it was too deep. Before the second phase, the sub-grade will be brought up to within 2 feet of finished grade. The building will be more proportionally correct. Mr. Fox submitted a new rendering with the barn-like structure, detailing the green roof. With regard to plantings, the swale was moved back to create more of a screening effect.

J. Dempsey questioned if the change in depth. Staff J. Rabbitt stated the proposed depth of 136.5 feet is six feet below finished grade. It still lies in the pit, he stated, and from the road, it sits within a 60-70 foot cut.

Hugh Manke gave a summation. He stated that they have had five to six meetings with Staff, and he feels he now has a better plan. The building, he stated, moved towards the northwest and is in a better area. He stated this project would generate a 6-mil tax base. It will create six new jobs for sight prep work, more than thirty jobs for excavation, and more than twenty jobs when the plant is running. He stated this should be considered an asset to the town. He shared a Norwich Bulletin article, which stated that the South Eastern Connecticut Council of Governments indicates that in the last three years, 7800 jobs were lost in the region.

He reminded the Commission that they heard from Luke McCoy, the landscaper, and Shane Carpenter, the recycling equipment expert. Attorney Manke feels they comply with the 50 or 60 different regulations that apply to this application, and states it is an allowable US IP1 district. He then handed out a list of waivers they would need.

It was stated that they took the recycling project area as their boundary. They would need a waiver of the CL&P easement area.

Regulation (10.16) – Soil erosion sediment control – Staff J. Rabbitt stated Lisbon Landing is a model for them as far as site preparations. In terms of Excavation, they comply (10.4). As for wells, they are OK. No health code issues that need addressing, no traffic or environmental issues. There is a conservation area being created between the site and residential properties to the east. With regard to Section 5.3 they will need to grant a special permit 1) the size and intensity of use in relation to existing use 2) capacity of access roads 3) dust and odor compliance requirements - no putrescible (organic) material permitted. 4) no adverse impact on the neighborhood. Most are industrial properties. There are some several hundred to a thousand feet between them and the residential properties. Trucks will not be going through residential streets. They have established that they will be below state levels of acceptance for noise. 5) Town services – 80% of the traffic will go through Norwich, not Lisbon. There will be no unreasonable demand for town services.

MINUTES
PUBLIC HEARING
PLANNING AND ZONING COMMISSION
TUESDAY, MARCH 6, 2012
page 3 (Lisbon Industrial Park, LP, cont)

R. Giroux posed a few questions. He wanted to know if the jobs would be open to town of Lisbon residents first, and would there be an adverse affect on the neighborhood? He stated that he lives near the industrial park and has concern about the hours of operation. He thinks trucks stopping at the stop sign will make a lot of noise up to midnight, as the applicant had asked for two shifts. Can that be changed? In regard to the time line for construction – will it still be a two-year gravel operation? He has concerns about the truck traffic.

J. Dempsey questioned the traffic count. How much of the local roads will be used in two years? He stated the DOT report and the testimony from tonight was conflicting, sighting a 50% vs 10% difference. He stated the gravel from the site would be delivered locally – what will be the two year impact of that truck traffic?

K. Sperry stated that the DOT report's assessment was based on Monday through Friday, 9 a.m. through 5 p.m., not 6 a.m. to 5 p.m., and not on Saturday. How will the numbers jive?

Attorney Hugh Manke responded. He stated that in regard to jobs, Mr. Armetta has already contacted Lisbon folks and they will get the priority. As for the hours of operation, they would respect the judgment of the Commission, but also stated they must be allowed to run a viable business. In regard to the trucks, it was stated that not all trucks have brakes that cause a lot of noise.

K. Sperry stated that with regard to Jake brakes on trucks, penalties and accountability were not addressed by the applicant, as well as the right hand turn only for the truckers leaving the site.

Attorney Manke suggested that a procedural manual needed to be in place. Sam Cocopar of Copar Industries stated that a warning is given to the drivers only once. If it happens again, they are fired. He also stated that most trucks now have DEF – Diesel Exhaust Fluid – running through the exhaust system. He stated that even Jake brakes are much quieter on the newer trucks, and cited an example with the Hopkinton police making comment about how quiet his company's trucks are. He stated that each truck is an automatic – no high RPM in these trucks.

L. Alice made comment that materials coming off-site and going to Long Island would be taking the New London Ferry.

Attorney Manke stated that the project already is getting bigger for safety reasons, and now looks like it could be a minimum of three years for the construction phase. He stated that if the hours of operation were restricted it would push it to four years. He stated the Saturday hours were for recycling phase of the project. They think some of the small contractors would be utilizing those Saturday hours. In regard to the traffic analysis, he stated that the 50% increase over 10% figure is part of a distribution of traffic on Route 169 headed north.

J. Dempsey again stated that tonight's memo states that one truck per hour will travel up Route 169. One is volume and one is generated, and he now understands the difference.

Attorney Manke stated that after 5:45 p.m. and Saturdays were below peak times. He stated the reports show that the traffic is easily handled from this site. This traffic should be no surprise to anyone, he says.

J. Dempsey asked why any trucks would use Route 138? The answer was to go to Voluntown. Attorney Manke then stated that the gravity analysis was based on people with construction and demolition material.

MINUTES
PUBLIC HEARING
PLANNING AND ZONING COMMISSION
TUESDAY, MARCH 6, 2012
page 4 (Lisbon Industrial Park, LP, cont)

Chairman Robert Adams read a letter from the Board of Selectmen into the record, in favor of the application.

He then read into the record a letter dated March 5, 2012 from Michael Nelson, 38 Baltic Road in Norwich, with concerns for the application.

Chairman R. Adams asked for public comment in favor of and opposed to the application, to which there was none.

Staff J. Rabbitt reminded the Commission that the application was received in November and the hearing opened in December. The hearing must close tonight. The Commission may not receive any further testimony after the close of the hearing, from either the public or applicant, but that they may consult with Staff. He urged all to ask questions tonight for answers.

CLA Engineering addressed storm water plans with Staff J. Rabbitt, stating he (R. DeLuca) was comfortable with storm water plans. Staff stated that a final review had not been made at that time.

Attorney Hugh Manke requested waivers. Staff J. Rabbitt stated he would support waiver requests. Attorney Manke again stated that the applicant has suggested hours, but understands if Commission needs to modify those hours of operation. Staff suggests there be definitive hours of operation for both the construction phase and operational phase of the plant. He stated that the Commission is very familiar with large projects like this. He stated that all the topography in this area will need some manipulation. It is not flat. Any size will require a significant amount of material to move off site. It is the nature of this industrial zoned land. The result of that is truck traffic. There are things such as signs, directing all trucks to turn right. Any questions about the architectural rendering should be addressed tonight, he stated. The building will be visible from I 395. A weigh station will attempt to replicate the building on site and will not just be "model #103".

R. Giroux said that the applicant stated there would be no sub contractors – his reasoning is the trucks. Sam Cocopar said that MOST would be his trucks.

Staff J. Rabbitt stated that in the VHP report, analysis for traffic impact was based on a nine-hour period. He stated that 600,000-plus cubic yards of material need to leave this site. This will be a full-blown construction site. Even though percentages seem high, he stated, the roads can handle it – ten trucks per hour.

R. Giroux thanked the group and said they did a good job with the presentation.

Attorney H. Manke asked about signage. Staff J. Rabbitt stated he will do a final review, and reminded the commission that there was a difference between advertising signage vs. directional signs. Directional signs do not go towards allowable advertising signage.

Public Comment: A. Demuth, 298 Norwich Avenue, Taftville, asked the Commission if the town had any concern for the boat launches? Staff J. Rabbitt reminded the Commission that that the boat launch and bike paths were given to the town. Mr. Armetta said it was he who gave them to the town. Staff stated there was no plan to close either.

This Public Hearing was closed at 7:51 p.m.

MINUTES
PUBLIC HEARING
PLANNING AND ZONING COMMISSION
TUESDAY, MARCH 6, 2012
page 5 (McDonalds)

The following Public Hearing was called to order by Chairman Robert Adams at 7:53 PM:

2. 6:50 PM – An application by Tessa Bernstein, c/o McDonalds Corporation for a Special Permit to expand drive thru from one lane with two order points to two lanes (side by side) including associated pavement, landscaping and parking modifications. Property is located at 95 River Road (Route 12), as shown on Map #15 as Lot #31-A

Alan J. Micale, P.E., LEED AP of Ayoub Engineering, Inc., 414 Benefit Street, Pawtucket, RI, was there to represent the applicant. He submitted proof of abuttal notice.

Mr. Micale gave a brief overview of why the applicant would like to make the changes applied for. He stated that McDonalds research has found that the ordering part is the slow part of business, and that by changing the current on-lane drive through to a two auto, side-by-side system, it would add two cars to the volume and will make the ordering line more efficient. He also stated that with two menu boards ordering would be more efficient.

Chairman R. Adams questioned him about a space near the garbage area. He asked if trucks would still be delivering in the same way as they now do? Mr. Micale answered, "Yes". He stated that truckers will call ahead, that they do not want to be hampered by customers' cars and prefer to deliver at appropriate times. Chairman Adams then asked if there will be directional arrows, to which the answer was, "yes". He stated that this will be a better operation than what is there today.

G. Ritacco asked if there will be two people taking orders? Mr. Micale said, "yes", and that there are cameras and the employees will be watching for drive up customers. He then explained that McDonalds conducted a study on-site of seating and décor, for ADA compliance, and that they are making sure that everything on site that needs to be code compliant for ADA will be done. He stated there will be no change to the overall foot print itself. He stated that he met with Staff J. Rabbitt and talked about withdrawing the elevations from the last meeting. He stated that McDonalds told him what they would build, and that they said "no" to any of the changes suggested by the Commission. He submitted what McDonalds came up with – painted brick, remove the roof as it is, will build up with plank board. The Play Scape will remain. He admitted that this was a step back from what Staff wanted.

K. Sperry asked to see what the applicant had previously submitted.

Staff J. Rabbitt then read in for the record a letter dated March 6, 2012 re: Review of the Application.

He highlighted the difference between what McDonalds WANTS to build vs. what the town of Lisbon REQUIRES them to build. He stated the original submission with the application met the majority of the town's requirements. He reminded the commission that the renderings were in the file, and that those earlier renderings had to be released by McDonalds Corporate before they were brought before the Commission. He stated that the changes transpired over months and many meetings with Staff. Staff J. Rabbitt reminded the Commission that his authority comes from the Commission itself and the town's regulations.

Staff J. Rabbitt stated that the application was received December 1, 2011, and that with the hearings and extensions, the hearing would have to be closed tonight. He read to the Commission the sections of the town's

MINUTES
PUBLIC HEARING
PLANNING AND ZONING COMMISSION
TUESDAY, MARCH 6, 2012
page 6 (McDonalds, cont)

regulations that the applicant has not come into compliance with: Sections 13.3; 13.4; 13.8; 13.11; 11.5.3; 11; 12; 12.6.7; 10.13.

Staff stated that there were “stacking” issues in the existing facility, however it was originally constructed under a different code. Those regulations require a ten-car stack from the first order window. He stated that Mr. Micale only shows an eight-car stack. Staff stated that they must now meet the new code. He also stated that the 9th and 10th cars block three parking spaces. Regulation requires parking areas be separated from traffic. The regulations require 12-foot travel lanes, and states that these plans would create an issue with width. These plans do not comply with existing regulations.

Mr. Micale sat before the Commission to raise a few points. First of all, he stated that “Jamie (Rabbitt) is one of the most polite planners” he has ever worked with, and he appreciates all the effort he has put into the project. He is concerned that if they cannot have the architecture, then they can not have the drive through. He read a letter dated December 6, 2011 from Staff, stating that Staff is confident that “any issues will be addressed” by the applicant and Ayoub Engineering. He stated that what happened was that “eventually, it became a good idea for Lisbon, but a bad idea for McDonalds”. Mr. Micale stated he would like to be able to at least improve the ADA compliance and the drive through, and deal with the changes in architecture at a later time.

Staff J. Rabbitt stated that he has made numerous attempts and reached out to McDonalds, and even sent an alternate rendering to McDonalds, keeping architectural elements. In spite of this, McDonalds came back to say that they were going forward with their renderings. He also stated that there is an inherent conflict between town regulations, and corporations.

Staff J. Rabbitt then went on to say that the December 6th letter by Staff said he “was confident they would MEET the regulations” — that was a critical point. He stated he is advising the Commission of the code issues.

Chairman R. Adams asked for public comment, for which there was none.

This Public Hearing was closed at 8:35 p.m.

The following Public Hearing was called to order at 8:35 p.m.:

3. 6:55 PM – An application by Alan J Micale, P.E., Ayoub Engineering, Inc, (Agent for McDonalds Corporation) for a Zoning Permit to make modifications to the existing restaurant with a drive-thru. Modification to include upgrading existing building façade, remodel interior of dining room/restroom areas insuring full ADA compliance, and install a new side-by-side ordering system, reconfigure existing parking, curbing and landscaped area resulting in full ADA compliant access. Property is located at 95 River Road (Route 12), as shown on Map #15 as Lot #31-A

MINUTES
PUBLIC HEARING
PLANNING AND ZONING COMMISSION
TUESDAY, MARCH 6, 2012
page 7 (McDonalds, cont)

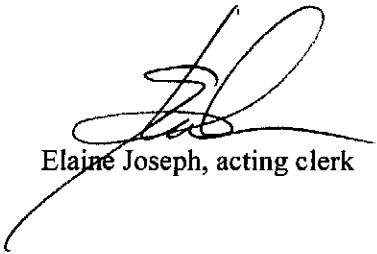
Chairman R. Adams stated the applicant wished to apply testimony from the previous public hearing to this public hearing.

Alan J. Micale, P.E., LEED AP of Ayoub Engineering, Inc., 414 Benefit Street, Pawtucket, RI, representative for the applicant, said he had something additional to say. He reminded the Commission that there were three letters submitted along with the application. One was dated October 27th, a site plan requirements waver request; another regarding the drive through stacking requirements, and the lane requirements, and he would like those to be added into the record for consideration tonight.

Mr. Micale again took a moment to say, "I honestly mean this, Staff (J. Rabbitt) was a tremendous help, and is a tremendous asset to this town". He stated that the town "is lucky".

Chairman R. Adams asked for public comment, to which there was none.

This Public Hearing was closed at 8:38 p.m.



Elaine Joseph, acting clerk

Approved: _____
Robert D. Adams, Chairman

RECEIVED FOR RECORD AT LISBON
CT ON 03/03/12 AT 11:39 am
ATTEST. LAURIE TIROCCHI, TOWN CLERK