

**CITY OF NORWALK
ZONING COMMISSION
August 16, 2017**

PRESENT: Nate Sumpter, Chair; Doug Stern; Louis Schulman; Mike Witherspoon; Galen Wells; Roderick Johnson (after roll call)

STAFF: Steve Kleppin; Mike Wrinn

OTHERS: Paxton Kinol; Atty Jackie Kaufman; Laurie Hall; Keith Beaver; Kwesi Brown; Craig Flaherty; Frances DiMeglio; Mike Jacabacci Stan Justlock; Mike Mushak; Ginger and Larry Katz; Rosario Constantine; William Dunne; Diane Lauricella

I. CALL TO ORDER

Mr. Sumpter called the meeting to order at 7:03 p.m. He then discussed the rules of the meeting.

II. ROLL CALL

Mr. Kleppin called the roll.

III. PUBLIC HEARINGS

- a. #4-17R – NWMFP Norwalk Town Ctr II/3 Q Property LLC – Proposed amendments to revise Design District Development Park (DDDP) criteria for developments in Central Business Design District Subarea B and
- b. #2-SPR/#14-17CAM – NWMFP Norwalk Town Ctr II/3 Q Property LLC – The Pinnacle @ Waypointe South Block - 467 West Av/17 Butler St/3 Quincy St – New 7 story, 519,820 square foot mixed use development with 330 dwelling units, 496 seat iPic movie theater (41,604 sf), 12,209 square feet restaurant, 14,046 square feet retail, 23,979 square feet fitness center and 942 space parking garage and
- c. #3-17SPR/#15-17CAM – 6 Butler Properties, LLC – 6 Butler Street – Demolish existing building at 6 Butler Street; Relocate historic building from 3 Quincy Street to 6 Butler Street; demolish a portion of the historic building and rehabilitate remaining portion of historic building for reuse as 7,680 square feet of office

Mr. Sumpter opened the public hearing by stating that all three items would be combined which was acceptable to the applicant. Mr. Kinol then began the presentation with a video which was basically a drive-through of Waypointe renderings. The Zoning Department had been shown the video earlier in the day. He explained that all of the restaurants and retail have to go through a review by the Redevelopment Agency. They had sent a link to staff so it could be shared with the commissioners. He then discussed the Waypointe plans as far back as April 2011 since some of the commissioners were not on the commission at that time.

Atty. Kaufman continued the presentation by introducing the project to the commissioners. She also provided the certificates of mailing evidencing notice of the public hearing to the abutting neighbors. She also showed the renderings of the project over the years as well as occupancy rates. She then described the south block application which would also be known as the Pinnacle. As she was discussing the gym facility that would be built in this project, there were questions about the gyms that were a part of the residential buildings, which both she and Mr. Kinol answered. She noted that all that the applicant had proposed is permitted under the zoning regulations. There was a discussion about the parking. Atty Kaufman discussed 6 Butler Street and what they commissioners were seeing on the renderings, particularly from the Stepping Stones Children's Museum. There was a discussion

about the iPic Theatre.

The architect, Laurie Hall, for the project continued the presentation with a thorough explanation of the 6 Butler St. project. There was a question about the materials being used for the projects. She also explained that the buildings were designed to look as if they had been built independently as well as showing the renderings to them. Mr. Kinol explained the townhouse styles on the ground floor of the residential buildings. Ms. Hall continued to explain the different styles of the buildings. There was a further discussion of the retail that would be located in this building. There was a concern that there was not enough local retail which would support the residents in the buildings. Mr. Kinol explained that there was a large hair salon, Salons by J.C., as well as an athletic store. He said there was a need for restaurants. He also said that retail struggles in this area. People would like to have more stores so that they can make more than one stop when they park. Mr. Kinol then discussed why some retailers did not sign leases. For others, he was not sure why the investors had not signed leases with them.

Keith Beaver, the landscape architect, explained that they plan for this part of the project was to continue the look of the streetscape of the other projects. He discussed the proposed landscape plan which included street trees and benches. He described the plantings around the rooftop pools.

Kwesi Brown, the traffic engineer for the project, continued the presentation. He discussed how the study was done, when it was done, as well as future projections and the levels of service. They have not received an official approval from the state; however, they are waiting for Zoning Commission before they will receive it. They have also not received approval from the city's Department of Public Works which they had expected to receive in writing.

Craig Flaherty, the engineer on the project, continued the presentation by explaining which city departments that he had worked with. He said that they had received many approvals from them as well as providing drainage, sewer and numerous other reports.

Atty. Kaufman discussed the application that had been filed with Redevelopment Agency which was filed on May 30. There was then a discussion as to when the 3rd party review would be started which was not expected for another 2 weeks. Atty Kaufman then explained the proposed text amendment. There was a discussion about the supermajority that would be necessary to pass this amendment, since the Planning Commission did not pass the referral. Mr. Kleppin explained that they had not liked the idea of another gym, hair salons and had wanted to see more retail. Mr. Kinol said that they would not be making money on retail in downtown. They bring the retail in for the residents. He said there were more people on the streets now then there had been in 2011.

At this point, the chair of the Planning Commission, Frances DiMeglio, spoke regarding the Planning Commission's denial of this application. She also explained that there were concerns about when would changes stop as well as believing that the city is saturated with fitness centers. She said that she did not have data about this but it had been part of their discussion.

Atty. Kaufman said that fitness centers were asking to be leased in the space so she did not think the neighborhood was saturated. She also addressed the remainder of Ms. DiMeglio's remarks.

Mr. Sumpter asked for members of the public to speak.

Mike Jacobacci from Stepping Stones Children's Museum by speaking in support of the project. He said that there had been numerous discussions with the applicant about the West Avenue corridor.

Stan Justlock, Canfield Ave., spoke in support of the project. He acknowledged that retail will be difficult in this area especially with the SoNo Collection being built. He believed that the applicant had done their own studies and would not take a risk on this project.

Mike Mushak, a former Zoning Commission, spoke in support of the application. He spoke how he supported the project when he was on the commission as well as now. He also noted that many

cities were adding bike lanes.

Atty. Kaufman continued with her final remarks. There was a discussion about the parking garage and lighting it. Mr. Kinol said that there have been some car thefts which are happening in other cities as well. They have caught some on the cameras. If they lock the garages the crimes do go down. A September hearing date would be set. She also said that renderings would be left with staff.

Mr. Witherspoon read the Planning Commission denial into the record. The hearing was held open until the September meeting.

d. #6-17R – Zoning Commission – Proposed amendments to permit medical marijuana dispensaries and medical marijuana producers in certain zones

Mr. Sumpter opened the public hearing. Mr. Kleppin began the presentation by giving a history of the proposed amendment which began in 2016 at the request of Corporation Counsel. Definitions were adopted in July 2016. Speakers were brought in; research was done as to the demand for medical marijuana. Zoning Department staff provided locations for the dispensaries, by zone. He noted that the Planning Commission had denied the proposed amendment application. They did recommend the B-1 zone for dispensaries and against production/growing facilities. Mr. Kleppin showed this on a map. At this point, the Zoning Commission would like to get comments from the public. Mr. Witherspoon read the Planning Commission denial as well as their recommendation into the record. He also read the comments from WestCog and Coastal Area Management.

Mr. Sumpter asked for members of the public to speak.

Ginger and Larry Katz spoke against the application because of their son's drug addiction and ultimate death from a drug overdose. He began with smoking marijuana. She and her husband founded a foundation to convince young people to remain drug free. She then discussed the statistics of substance abuse in this area. Mr. Katz read a report said that many states saw an increase in crime from medical marijuana dispensaries. He said that it was being abused. Mr. Schulman said that Connecticut's medical marijuana law was one of the strictest in the nation.

Rosario Constantine spoke against the application. She said there were huge profits in it because there was no price control. She said that Westport had just approved one and would be opening another.

William Dunne asked a few questions, one of which was why Norwalk should have a dispensary. Why should there be a growing facility in Norwalk? Mr. Stern noted that there had been inquiries from people who would like to open them. There was a discussion as to why there was a separate dispensary and not have it dispensed in a pharmacy. The commissioners noted that this was a question for the state that wrote the legislation. Mr. Dunne also expressed concerns about this effect on Norwalk property values.

Frances DiMeglio, chair of the Planning Commission, discussed the rationale for the Planning Commission's denial.

Diane Lauricella, 21 Blue Mountain Ridge Road, requested that the Zoning Commission approve what the Planning Commission suggested.

Stan Cheselock, Canfield Ave., spoke against the application. Hospitals could not dispense marijuana because it was against federal law. He wondered how this would help Norwalk. He did not think that some people would move to Norwalk.

Angela DiMecco, Compassionate Care Center owner, spoke in support. She said that her center has the most Norwalk patients. She also is working to fight the opiate epidemic. She has seen cancer patients survive with medical marijuana use. She explained how some people were able to get

off of other addictive drugs. She explained that Connecticut is highly regulated.

Mr. Sumpter closed the public hearing.

IV. REPORT OF PLAN REVIEW COMMITTEE

- a) #4-13SP Shelter Dev. LLC (ProCon) – 162 New Canaan Ave – Assisted living facility - Request for release of maintenance surety - Report & recommended action

***** MS. WELLS MOVED: BE IT RESOLVED** that the maintenance surety be approved to be released on application #4-13SP submitted by Shelter Dev. LLC (ProCon) for the location at 162 New Canaan Ave as all improvements have been completed and maintained; and

BE IT FURTHER RESOLVED that the effective date of this approval shall be August 25, 2017.

Mr. Johnson seconded.

Nate Sumpter; Lou Schulman; Doug Stern; Mike Witherspoon; Galen Wells; Roderick Johnson

No one opposed.

No one abstained.

- b) #19-17CAM – 195 Investment LLC – 195 Rowayton Avenue – Demolish and replace with new single family dwelling and add accessory building - Report & recommended action

***** MS. WELLS MOVED: BE IT RESOLVED** that Coastal Area Management application # 19-17 CAM, submitted by 195 Investment LLC, for a replacement single family dwelling at 195 Rowayton Avenue, as shown on a survey by William W. Seymour and Associates, P.C., Land Surveyors, Darien , CT entitled “Topographic & Zoning Location Survey Depicting Proposed Conditions Prepared For 195 Investments, LLC,” dated October 17, 2016, revised to July 18, 2017 and on plans by “Warrington Homes, Darien CT, entitled “Casey, 195 Rowayton Ave, Rowayton, CT’ be **APPROVED**, with the following conditions:

1. That all required soil sedimentation and erosion controls are in place prior to the start of any construction; and
2. That any additional soil sedimentation and erosion controls required by staff during construction be placed immediately; and
3. That all required final Flood Certifications and asbuilts be provided prior to issuance of any final zoning compliance; and
4. That the Five Mile River Commission comments become part of this approval; and
5. That a be restriction be filed on the Land Records to insure that the artist’s studio is not used as a second unit; and
6. That a DPW signoff on the drainage be submitted; and

BE IT FURTHER RESOLVED that the proposal complies with the applicable Coastal Resource and Use Policies; and

BE IT FURTHER RESOLVED that the effective date of this approval shall be August 25, 2017.

Mr. Witherspoon seconded.

Nate Sumpter; Lou Schulman; Doug Stern; Mike Witherspoon; Galen Wells; Roderick Johnson

No one opposed.

No one abstained.

c. #2-17SP/#12-17CAM – Web Construction – 34 Meadow Street – Contractor’s storage yard with rock crushing/ processing facility

***** MR. SCHULMAN MOVED: BE IT RESOLVED** that the applications #2-17 SP / #12-17CAM – WEB Construction, Inc. – 34 Meadow Street – Contractor’s storage yard with a rock crushing / processing facility proposed contractor's storage yard for the owner, WEB Construction Inc. for the property 34 Meadow Street, as shown on the site plans dated 4/20/2017 and revised 5 /19/17 by Landtech Engineering, LLC, Westport, CT and on the architectural plans by ADA Architects dated 4/17/2017 and revised 5 /12/17 be **APPROVED** subject to the following conditions:

1. That all required soil sedimentation and erosion controls are in place prior to the start of any construction; and
2. That any additional soil sedimentation and erosion controls be installed at the direction of the Staff; and
3. That a surety, in an amount to be determined by staff, be submitted to guarantee the installation of the required improvements; and
4. That the contractor’s yard will only have one (1) contractor operating at any one time; and
5. That all stockpile areas be kept under 20’ in height and be covered at all times in order to prevent any materials from migrating off site; and
6. That the proposed sprinkler system be maintained and kept in good working order; and
7. That the proposed sprinkler system be operated as indicated by the applicant; and
8. That all overhead doors, doors, and windows be closed when the rock crusher is in use; and
9. Prior to obtaining a building permit, the specifics to the HVAC / HEPA system inside of the building, be submitted to the Commission for review and approval; and
10. That a maintenance plan for the HVAC / HEPA system submitted; and
11. That the proposed HEPA system inside of the building be maintained and kept in good working order; and
12. That the proposed rock crushers sprinkler system be maintained and kept in good working order; and
13. That all plantings be maintained and replaced as needed; and
14. That there are no storage containers on site, and
15. That all signage, existing and proposed, comply with the zoning regulations; and
16. That an engineer’s certification of all site improvements, including site drainage, be submitted prior to a certificate of occupancy; and
17. That a stormwater system be maintained per the operations and maintenance plan submitted; and
18. That any graffiti on the site, now or in the future, be removed immediately; and
19. That any horn blowing, idling of trucks, and exhaust discharge be in compliance with Chapter 68 [§68-6 Prohibited Activities] - Noise Ordinance of the City Code of Norwalk; and
20. That any modification by any other agency which requires a substantial change to these plans be submitted to the Zoning Commission for review and approval; and
21. That any proposal to add a dumpster to the site will need an approval by the Zoning Commission; and

22. That the operating hours of the site be 7:00AM – 5:00PM Monday through Friday and Saturday from 8:00 AM to 2:00 PM; and
23. That permits required by the Connecticut Department of Energy and Environmental protection for work done in their jurisdiction be obtained; and

BE IT FURTHER RESOLVED that this proposal complies with all applicable coastal resource and use policies.

BE IT FURTHER RESOLVED that the effective date of this approval shall be August 25, 2017

Mr. Witherspoon seconded.

Nate Sumpter; Lou Schulman; Doug Stern; Mike Witherspoon; Galen Wells; Roderick Johnson

No one opposed.

No one abstained.

V. REPORT OF ZONING COMMITTEE

Action on Items III. a., b., c. and d.

Mr. Sumpter announced that since the public hearing was still open, Items III a. b., and c. would be sent back to the Zoning Committee.

- a) #6-17R – Zoning Commission – Proposed amendments to permit medical marijuana dispensaries and medical marijuana producers in certain zones

NOTE: Need 5 votes to approve & override Planning Commission’s recommendation to deny

***** MS. WELLS MOVED: BE IT RESOLVED** that the proposed amendment to the Building Zone Regulations as shown on a certain document entitled "**#6-17R** - Zoning Commission – Proposed amendments to permit licensed medical marijuana producer or dispensary facility as permitted by the State of Connecticut in certain business and industrial zones" and dated July 6, 2017 be **APPROVED**.

BE IT FURTHER RESOLVED that the reasons for this action are:

- a) To implement the Plan of Conservation and Development to “Encourage diversity in commerce and industry” (A.1.1.2, p. 10); and
- b) Medical Marijuana Dispensaries will be allowed within the Business #1 Zone ONLY; and

BE IT FURTHER RESOLVED that the effective date of this action be October 30, 2017.

Mr. Johnson seconded.

Before the commissioners voted on this item, they all stated their positions on the resolution. Ms. Wells said she would support the application if the dispensaries would be located in the B-1 zone as suggested by the Planning Commission. There was a discussion about the difference in using a Special Permit or Site Plan application. Mr. Stern said that he would approve the application because he believed that the state had set strict regulations. Mr. Schulman said that although he had mixed feelings about the use of medical marijuana because there were not many studies on their efficacy, due to the fact that it was an illegal substance, he would support the Planning Commission’s recommendation for dispensaries. However, he would not support growing facilities in Norwalk, when those regulations would be written. Mr. Witherspoon supported the approval of dispensaries in the B-1 Zone. He also didn’t think that patients should have to travel far for medical marijuana. He did not support growing facilities. Mr. Johnson agreed with Mr. Witherspoon and would like to have a more thorough discussion on growing facilities. Mr. Sumpter reminded them that they would revisit the growing facilities. There was also a discussion about the effective date of the resolution because the moratorium did not expire until October 27, 2017.

Nate Sumpter; Lou Schulman; Doug Stern; Mike Witherspoon; Galen Wells; Roderick Johnson
No one opposed.
No one abstained.

b. #X-17SPR - NWMFP Norwalk Town Ctr II/3 Q Property LLC et al - Modify Waypointe Design District Development Park (DDDP) and data accumulation plan to reduce DDDP acreage from 15.56 to 15.26 acres, to increase DDDP density from 814 units to 988 units and to increase sf of development on South Block from 345,632 sf to 519,820 sf and related changes - Report & recommended action

No action was taken on this item.

VI. APPROVAL OF MINUTES: July 19, 2017

**** MR. SCHULMAN MOVED** to approve the Zoning Commission minutes of the meeting on July 19, 2017.

Mr. Witherspoon seconded.
Nate Sumpter; Lou Schulman; Doug Stern; Mike Witherspoon; Galen Wells; Roderick Johnson
No one opposed.
No one abstained.

VII. COMMENTS OF DIRECTOR

Mr. Kleppin discussed the initial meeting with the consultant for the Plan of Conservation and Development. They were working on data gathering and outreach. It would ramp up further in the next 4-6 weeks.

VIII. COMMENTS OF COMMISSIONERS

Mr. Schulman asked for the status of the hiring of traffic consultants as well as an architect for architectural and planning services. Mr. Kleppin said that would also eventually send out an RFQ for an acoustical engineer. He explained that these consultants would help with the efficiency of the processing of a large application for a developer. It would also help with the dual reviews by Zoning and the Redevelopment Agency.

IX. ADJOURNMENT

Ms. Wells made a Motion to Adjourn
Mr. Witherspoon seconded.
Nate Sumpter; Lou Schulman; Doug Stern; Mike Witherspoon; Galen Wells; Roderick Johnson
No one opposed.
No one abstained.

The meeting was adjourned at 10:11 p.m.

Respectfully submitted,

Diana Palmentiero