

**CITY OF NORWALK
ZONING COMMISSION
November 1, 2018**

PRESENT: Nathan Sumpter, Chair; Louis Schulman; Richard Roina; Galen Wells; Kelly Straniti; and Rod Johnson

STAFF: Steve Kleppin; Mike Wrinn

OTHERS: Atty. Liz Suchy; James Murphy; Atty David Waters; James Brenehy; Gayle Mannion; Theresa Peterson; Atty Bill Hennessey; Rob Prior; Perry Chan;

I. CALL TO ORDER

Mr. Sumpter called the meeting to order at 7 p.m.

II. ROLL CALL

Mr. Kleppin called the roll. Mr. Sumpter then explained the rules of the public hearings.

III. PUBLIC HEARINGS

a. #5-18R – Zoning Commission – Proposed amendment to Section 118-1460 Violations and Penalties to allow the Commission to revoke any permit for noncompliance

Mr. Kleppin began with a brief overview of how this amendment came to be. He noted that both the Zoning Department and the Commission were looking for ways to compliance. There are other, lengthier processes but this was drafted by the City's Corporation Counsel. He also noted that several attorneys asked questions about the process. The aggrieved could go to either the Zoning Board of Appeals or through the citation process. This was a referral to the Planning Commission which made a modification to the proposed amendment.

Atty. Liz Suchy spoke as a member of the public in opposition. She thought this proposed amendment was flawed and vague and should be review further. She didn't think there were no standards or definitions which was also problematic. She believed there could be due process issues. She also stated that if the tenant of a building was in violation that the permit revocation should be theirs and not the landlord. The tenant then could be in violation of the tenant fit-up permit. She also noted that the city had other processes in place and could use other injunctive relief. She again said she believed that the revocation should be of the permit holder. She also noted that some of the complaints could be unfounded and that they wanted the use out of the neighborhood.

James Murphy, from LaJoie's Auto Body, said that he had agreed with Atty. Suchy. He also thought there was a lack of clarity in the proposed amendment.

Atty. David Waters, 100 Elmcroft Road, Stamford, CT, said that he understood that there were instances where violations were egregious. He noted that the first time a permit was revoked there would be challenges. He submitted for the record a list of questions for the City's Corporation Counsel. He understood that the staff had worked with Corporation Counsel, to draft this amendment. He discussed all of his questions on the record. He noted that the statues don't contemplate revocation. He also agreed with Atty. Suchy about the due process problems. He

gave some examples of instances where the permit would be revoked which could have adverse effects on others.

James Brenehy, 18 Dry Hill Road, read a statement into the record in opposition. He said that his business was in Norwalk for 35 years and employed many Norwalk residents.

Gayle Mannion, 12 Split Rock Road, spoke in support of the proposed amendment.

Theresa Peterson, Dock Road, spoke in support of the proposed amendment and said that Village Creek was generally in support of it as well. She thought that the Zoning Department and Commission had worked for years on this problem. She said that they were looking for compliance.

Mr. Schulman said that he had appreciated the input from everyone that had spoken. He believed that the Zoning Commission should hire an outside attorney to review the proposed amendment to re-draft. Mr. Wrinn said that the Corporation Counsel could take another look at it after reviewing the issues addressed at this public hearing.

Ms. Straniti and Ms. Wells did not think that an outside attorney should be hired. Mr. Roina thought that the proposed amendment was not as bad as it seemed. He also gave several other reasons why it was an appropriate proposed amendment. It would not revoke a permit for a whole shopping plaza as noted by one of the members of the public. He said he would be in favor of it but would be fine if the objections went back to the Law Department. Ms. Wells also agreed that she would vote in favor but that it could go back to the Law Department for further review. Mr. Johnson said that it should go back for a further review.

Mr. Schulman read the referral from the Planning Commission into the record.

Mr. Sumpter also said he agreed that this proposed amendment should be sent back to Corporation Counsel for further review. Mr. Kleppin said he would let them know when it would be back on the agenda. This public hearing would be continued.

IV. RECEIPT/REVIEW AND ACTION ON NEW APPLICATIONS

a. Action on Item III. a

This item was being continued.

b. #5-18SPR - SoNo Metro LLC & 24 Monroe St LLC – 20 & 24 Monroe St/5 & 11 Chestnut St - New 5-6 story, ±122,000 sf Transit oriented development w/5,800 GSF ground floor retail, 11,000 sf office and 122 multifamily dwelling units (16 units in existing historic bldg. and 106 units in new bldg.) – Report and recommended action

Mr. Roina said that he was recusing himself from this matter.

Mr. Kleppin began the presentation and said there were very minor changes from the peer review as well as from the Department of Public Works.

Atty. Suchy continued the presentation by stating that she had no other comments. The members of the commission said that they had no further questions and could vote on the resolution.

***** MS. STRANITI MOVED: BE IT RESOLVED** that that request of SoNo TOD LLC and Monroe St. LLC, Site Plan application, 5-18SPR, to construct a mixed use development containing 122 dwelling units, 5,800 sf of retail space and 11,000 sf of office space within a 5-6 story building, be **APPROVED**, subject to the following conditions:

1. That the draft deed restriction as shown on a certain document entitled "SONO TOD, LLC DRAFT Affordability Plan" dated October, 2018, and related documents showing three (3) studio, five (5) one bedroom and three (3) two-bedroom units, for a total of eleven (11) workforce housing units, shall run with the land in perpetuity and shall be submitted for Corporation Counsel review and then filed on the Norwalk Land Records prior to the issuance of a final Certificate of Zoning Compliance; and
2. That a lot consolidation survey be submitted for review by staff and then filed on the Norwalk Land Records prior to the issuance of a zoning permit; and
3. Per the Improvement Location Survey, prepared by William W. Seymour and Associates, P.C., dated 7/24/18, revised to 10/15/18, on file with the Planning and Zoning Department; and
4. Per engineering plans, SPL-1.0, SPL-2.0, SPL-3.0 - SPL-3.2, on file with the Planning and Zoning Department; and
5. Per photometric study prepared by Speclines dated 9/25/18, on file with the Planning and Zoning Department; and
6. Per landscape plans prepared by Eric Raines Landscape Architecture dated 10/4/18, revised to 10/16/18, on file with the Planning and Zoning Department; and
7. Per the architectural plans A1-Z0- A1-Z7, A2.01-A2.04, A3.01-A3.04, A5.01, A8.01, dated 7/12/18, prepared by Beinfield Architecture, on file with the Planning and Zoning Department; and
8. Per architectural renderings A0.60 - A0.62, open space/recreation area plan AO-70, workforce housing plan AO.71, F.A.R. plans AO.72 and pictorial material board AO.75 and,
9. That prior to the issuance of a zoning permit, that final sign-off from the Norwalk Redevelopment Agency be obtained, indicating that the proposed project is consistent with the design guidelines set forth in the South Norwalk TOD Redevelopment Plan; and
10. Prior to obtaining a Zoning Permit, the applicant shall submit a revised drainage plan to the Department of Public Works for approval that results in no increase in the volume of runoff; or a surety, in the amount to be determined by staff, be submitted for the installation of a drainage system that results in no increase in the volume of runoff; and
11. A sign be posted at the exit indicating "no left turn" exiting 11 Chestnut Street "between the hours of 8:30 -9:15 AM and 3:15-4:00PM"
12. That cutoff shields be installed on all lighting to prevent any stray light from being emitted off the property; and
13. That a mylar of the approved site plan (as revised by any conditions of approval) be filed on the Norwalk Land Records prior to the issuance of a zoning permit; and
14. That final CEAC signoffs shall be submitted prior to the start of construction; and
15. A surety in the amount to be determined by staff, to guarantee the installation and maintenance required erosion and sediment controls is submitted to this office, prior to the issuance of a Zoning Permit; and
16. That all soil and erosion controls shall be installed and maintained prior to the start of any construction or site work; that silt sacks be installed in all existing and proposed catch basins, and that additional controls be installed at the direction of the Commission's staff, as needed; and

17. A zoning permit and a building permit shall be obtained within one year of the effective date of this approval and prior to any work commencing on the site; and
18. That a Connecticut licensed engineer shall certify that all of the required improvements, including any required off-site improvements, were installed to City standards and that the development as constructed complies with all relevant Federal FEMA flood regulations and that such certification be submitted prior to the issuance of a Certificate of Zoning Compliance; and
19. That all proposed signage comply with the zoning regulations and that any graffiti on the site, now or in the future be immediately removed; and
20. That within six months of the issuance of the Certificate of Zoning Compliance a follow-up traffic study be submitted to the Commission; and
21. That the storm water maintenance plan be implemented to ensure the maintenance of onsite drainage systems; and
22. That any and all HVAC units shall be located in conformance with the applicable zoning setbacks; and
23. That the hours of garbage pick-up be no earlier than 7:00 a.m. and no later than 7:00 p.m. and that any deliveries be no earlier than 8:00 a.m. and no later than 6:00 p.m.; and
24. That any sidewalks to be replaced provide a minimum 5' clearance from any obstruction.

BE IT FURTHER RESOLVED that this application complies with Section 118-506B, SoNo Station Design District, and with the applicable sections of the Building Zone Regulations for the City of Norwalk.

BE IT FURTHER RESOLVED that the effective date of this action be November 16, 2018.

Mr. Schulman seconded.

Nathan Sumpter; Louis Schulman; Galen Wells; Kelly Straniti; and Rod Johnson voted in favor.

No one opposed.

Richard Roina abstained.

V. DISCUSSION/ACTION ON PENDING APPLICATIONS

a. #16-15SP – 300 (aka 170) Glover Avenue, LLC – 300 Glover Av Bldg. C – 250 unit Commercial Planned Residential Development – Request to modify Bldg. C to enlarge footprint, modify exterior façade, add 44 units (total of 294 units), increase to 30 workforce units, add 3 hotel units, add parking & recreation area and related changes and request for one year extension of approval time – Report & recommended action

Before Atty Waters began, Mr. Roina returned. Atty. Waters then continued the presentation by explaining that there was already a permit on this but that the applicant was applying for a modification which he explained. He also said he would be asking for an extension of time to pull other permits. He also noted that since there would be additional units there would be additional work force housing units. The total would be 30 workforce housing units and had provided their locations. There were also now going to be 3 hotel rooms in the building which is allowed in this zone. Additional parking would be provided as well.

There was a discussion about these rooms. They would not be available to the general public. There was also a discussion of some of the amenity areas. Mr. Sumpter asked about the ribbon cuttings for the building. There was then a discussion about when residents no longer meet

workforce housing requirements. He said that they can stay but that another unit will become a workforce housing unit. Atty Waters noted other details that were added which included windows and additional parking. He then discussed the extension request. There was then a further discussion about the parking spaces.

Mr. Schulman said he would be supportive of this as a minor change. The other commissioners agreed. Mr. Sumpter said he was pleased to see this project moving forward.

***** MR. SCHULMAN MOVED: BE IT RESOLVED** that the request to modify the approved plans and to grant one year extension of approval time for special permit application **#16-15SP - 150/166/170 Glover Avenue, LLC – 170 - 174 Glover Avenue Building C – 250 unit Commercial Planned Residential Development** and related site improvements to increase the unit count to 294 units, add 3 hotel units and related changes as shown on a certain set of plans entitled “Grist Mill Village Building C: Special Permit Approval” by Svigals + Partners Architects, Environmental Land Solutions, LLC and Tighe and Bond Engineers, dated December 9, 2015 as revised to October 9, 2018 and related site plans and drawings, be **approved**, subject to the following conditions:

1. That the original conditions of approval remain in effect; and
2. That CEAC sign-offs on the revised plans be submitted prior to the issuance of a zoning permit; and
3. That property taxes be kept current for the duration of the extension period; and
4. That the new approval deadline for obtaining permits will be **January 29, 2020**; and

BE IT FURTHER RESOLVED that the effective date of this action be November 9, 2018.

Mr. Johnson seconded.

Nathan Sumpter; Louis Schulman; Richard Roina; Galen Wells; Kelly Straniti; and Rod Johnson voted in favor.

No one opposed.

No one abstained.

b. #8-14SP/#20-14CAM – Head of the Harbor South, LLC – 6 Smith Street – New 4 story mixed use development with 60 multifamily dwelling units and 5,000 sf office in 2 buildings – Request for release of surety – Report & recommended action

Mr. Wrinn said that the staff had reviewed this and recommended release of the surety.

***** MR. SCHULMAN MOVED: BE IT RESOLVED** that the request for release of surety for special permit application #8-14SP and coastal site plan review application #20-14CAM – Head of the Harbor South, LLC – 6 Smith St – New 4 story mixed use development with 60 multifamily dwelling units and 5,000 sf office in 2 buildings as shown on a set of plans entitled "Head of the Harbor South 6 Smith Street Norwalk, Connecticut" by The Sullivan Architectural Group, Blades & Goven Landscape Architects and DiVesta Civil Engineering Associates, Inc. and other related plans dated November 11, 2014 as revised to January 7, 2015 and January 21, 2015 be **APPROVED**, subject to the following conditions:

1. That all the required improvements continue to be maintained in good condition; and

BE IT FURTHER RESOLVED that 15% of the required surety be retained as a maintenance surety to ensure that the site improvements are maintained for an additional year; and

BE IT FURTHER RESOLVED that the effective date of this action be November 9, 2018.

Mr. Johnson seconded.

Nathan Sumpter; Louis Schulman; Richard Roina; Galen Wells; Kelly Straniti; and Rod Johnson voted in favor.

No one opposed.

No one abstained.

c. #2-15SP – Westy Storage – 50 Keeler Ave – 40,000 sf addition to existing storage facility - Request for release of maintenance surety - Report & recommended action

Mr. Wrinn said that the staff had reviewed this and recommended release of the surety. There was a discussion about what the surety bond was held for.

***** MS. STRANITI MOVED: BE IT RESOLVED** that the request for release of surety for Special Permit application **#2-15SP**; Westy Self Storage/Norwalk Project LLC, 50 Keeler Avenue; for a 40,000 sq ft addition to an existing storage facility as shown on a certain set of plans entitled "Westy Self Storage, 50 Keeler Avenue, Norwalk, CT" by John M. Keegan, Architect and Landtech Civil & Structural Engineers, dated December 11, 2014 as revised to March 6, 2015, be **APPROVED**, subject to the following conditions:

1. That all the required improvements continue to be maintained in good condition; and

BE IT FURTHER RESOLVED that the effective date of this action be November 9, 2018.

Mr. Roina seconded.

Nathan Sumpter; Louis Schulman; Richard Roina; Galen Wells; Kelly Straniti; and Rod Johnson voted in favor.

No one opposed.

No one abstained.

d. #1-17SPR/#1-17CAM – Meadow Street Partners, LLC – 6 Meadow St & 30 Meadow St – Contractor's storage yard to store empty containers and refuse collection receptacles within 100 ft. of an existing solid waste transfer station – Request to modify approved plan to replace 8 ft. timber fence with 8' block wall on top of existing 6 ft. block wall and request for 4 month extension of approval time – Report & recommended action

Atty Hennessey began the presentation and introduced the team if the commissioners had questions, as well as the principals. He noted that a sound report had been submitted. He also explained that they were suggesting other landscape buffers than was presently there. He also noted that they were requesting an extension but not as long as they had originally requested. He then gave a brief overview of the application which had been approved. He noted that the storage containers are empty and brought to a job site when construction was being done. He gave a brief description of the property as well as noting that there had been violations on the property from the state. There was also a discussion about the length of the wall and whether a permit would be needed for a fence on the top of the wall. It was unclear which permit was needed. Then Atty Waters noted that the prior design was not safe and thus had to be modified.

Rob Pryor, Land Tech, continued the presentation by discussing the sound barrier along the property line. He noted that it had been requested by the Zoning Commission at the public hearing but the contractor would not warrant it because of the wind load. He then explained the changes and noted that there was a better buffer than previously. He then showed them an aerial view of the property and how it would be better for the Village Creek. The applicant had not spoken with the residents about this modification. There was a further description about the additional plantings that would benefit the visuals in the neighborhood.

Perry Chan, the acoustical engineer, continued the presentation by explaining how the current plan and then how it would change with the change in material. She also reviewed how the study was prepared and how it would affect the regulations including the decibels and the hours of operation. She then stated their conclusions which the commissioners then asked questions. She discussed the difference between the sound attenuation between the wooden barrier and the concrete barrier. She noted that they were the same.

There was then a discussion about the color of the wood on the fence as well as discussing this with Village Creek which the applicant would discuss with the Zoning Department staff. There would be additional plantings as well as a making it look like a fence.

There were no other comments from staff. Atty Hennessey said they were trying to get the plantings done but that they would also need the building permit in order to get started. Mr. Roina said that the wall should be built in accordance with the specifications of the sound expert. There was a discussion that the color would be of an earth tone as reviewed by staff.

***** MR. ROINA MOVED: BE IT RESOLVED** that the request to modify the approved plan AND for a 4 month extension of approval time for site plan review application #1-17SPR and coastal site plan review application #1-17CAM – Meadow Street Partners, LLC – 6 Meadow St & 30 Meadow St – Proposed contractor's storage yard to store empty containers and empty refuse collection receptacles within 100 feet of an existing solid waste transfer station as shown on a set of plans entitled, "Site Plan Review Application of Meadow Street Partners, LLC Norwalk CT." and dated June 5, 2017 as revised on plans submitted by Landtech received on October 12, 2018 et al be **APPROVED**; subject to the following conditions:

1. That original conditions of approval remain in effect; and
2. That the new approval deadline for obtaining permits will be March 25, 2019; and
3. That property taxes be kept current for the duration of the extension period; and
4. That the wall should be built in accordance with the specifications of the sound expert; and
5. That the wall be faced with an eight foot high wood fence on the exterior, to be properly maintained long term; and

BE IT FURTHER RESOLVED that the effective date of this action be November 9, 2018.

Mr. Johnson seconded.

Nathan Sumpter; Louis Schulman; Richard Roina; Galen Wells; Kelly Straniti; and Rod Johnson voted in favor.

No one opposed.

No one abstained.

e. #4-16SPR/#17-16CAM – Owner: LaJoie Auto Wrecking Co. Inc. & La Joie's Auto Parts, Inc.; Applicant: F&G Construction, Inc. – 46 Meadow St – Contractor's storage yard – Status report

Mr. Wrinn said that the piles are at the proper height and were covered as recommended. Mr. Sumpter asked that it be on the November 14, 2018 Zoning Commission agenda but Mr. Wrinn suggested that since it has been on the agenda for several meetings that they could vote on this tonight. It was decided that the public hearing should be closed on this matter which Mr. Sumpter did.

VI. APPROVAL OF MINUTES: October 17, 2018

**** MR. SCHULMAN MOVED to approve the October 17, 2018 Zoning Commission minutes.**

Mr. Roina seconded.

Nathan Sumpter; Louis Schulman; Richard Roina; Kelly Straniti; and Rod Johnson voted in favor.

No one opposed.

Galen Wells abstained.

VII. COMMENTS OF DIRECTOR

There were no comments from the Director.

VIII. COMMENTS OF COMMISSIONERS

There were no comments from the Zoning Commissioners.

IX. ADJOURNMENT

Mr. Roina made a Motion to Adjourn.

Mr. Johnson seconded.

Nathan Sumpter; Louis Schulman; Richard Roina; Galen Wells; Kelly Straniti; and Rod Johnson voted in favor.

No one opposed.

No one abstained.

The meeting was adjourned at 8:55 p.m.

Respectfully submitted,

Diana Palmentiero