

**CITY OF NORWALK
ZONING COMMISSION
March 7, 2019**

DRAFT NOT APPROVED BY THE COMMISSION

PRESENT: Nathan Sumpter, Chair; Michael Witherspoon; Roderick Johnson; Louis Schulman; Richard Roina; Nicholas Kantor

STAFF: Steve Kleppin; Mike Wrinn

OTHERS: Atty. Liz Suchy; Atty Adam Blank; Colin Grotheer; Jim Rotondo; Steve Cippolla; Robert Grzywacz, Atty. Malin; James Elkins; Henry Thomas; Jay Trautman; Michael John Alcott; Theresa Peterson

I. CALL TO ORDER

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

II. ROLL CALL

Mr. Kleppin called the roll.

III. REVIEW AND ACTION ON PENDING APPLICATIONS

b. #1-18SPR – Stone Realty Associates, LLC – 15 Oakwood Av – New building with 15,517 sf office, 3,768 sf R&D, 3 residential units and 102 space parking garage – Request for extension of approval time - Report and recommended action

Mr. Wrinn began the presentation by noting that this was the applicant's first request for an extension. He explained that construction had not begun and that staff had no issues with granting the request. There was a discussion about the status of the right of way issue. Mr. Wrinn said that it was a long process with the Connecticut Department of Transportation (DOT). Atty. Suchy continued the presentation by explaining that the applicant would be closing on property for the right of way within 60 days.

**** MR. SCHULMAN MOVED: BE IT RESOLVED** that the request for a one year extension of approval time for site plan application **#1-18SPR – Stone Realty Associates LLC – 15 Oakwood Avenue – Proposed 4 story, ±21,260 sf Innovation Center with 15,517 sf office, 3,768 sf research & development space, three (3) residential dwelling units with 59 new parking spaces required (subject to approval of associated parking waiver for 29 spaces) and related recreation area and site improvements as shown on a set of plans by McLennan Design, LLC and McChord Engineering dated February 16, 2018 as revised to March 7, 2018 be approved, subject to the following conditions:**

1. That property taxes be kept current for the duration of the extension period; and
2. That the original conditions of approval remain in effect; and
3. That the new approval deadline for obtaining permits will be **April 13, 2020**; and

BE IT FURTHER RESOLVED that the effective date of this action be **March 15, 2019**.

Mr. Roina seconded.

**Nathan Sumpter; Michael Witherspoon; Roderick Johnson; Louis Schulman; Richard Roina voted in favor.
No one opposed.
Nicholas Kantor abstained.**

c. #5-15SP – Special Properties II, LLC – 78 Cranbury Rd/440 Newtown Ave (White Barn) – 15 unit conservation development - Request for extension of approval time - Report and recommended action

Mr. Wrinn began the presentation by explaining that the applicant was working with the Norwalk Land Trust which needs to raise funds to purchase the property. He also said this was either the second or third extension. He also noted that there had been a court case which took a long time. Atty Suchy said she had nothing to add to Mr. Wrinn's presentation but that the applicant was working with the Norwalk Land Trust so that they could acquire funds for the property.

**** MR. JOHNSON MOVED: BE IT RESOLVED** RESOLVED that application #5-15 SP – Special Properties II, LLC at 78 Cranbury Road / 440 Newtown Avenue for a 15 unit residential conservation development submitted by Special Properties II, LLC, as shown on various plans by McChord Engineering Associates, Wilton CT, be granted a one year extension of the approval deadline to **April 6, 2020.**

**Mr. Witherspoon seconded.
Nathan Sumpter; Michael Witherspoon; Roderick Johnson; Louis Schulman; Richard Roina; Nicholas Kantor voted in favor.
No one opposed.
No one abstained.**

d. #8-17CAM – Petrini Café & Grill – 64 Wall St – Seasonal outdoor rooftop bar - Request for extension of approval time - Report and recommended action

Mr. Wrinn noted that this was the applicant's second request for an extension. No one spoke on behalf of the applicant. There was concern about the Merchant's Bank across the street.

**** MR. ROINA MOVED: BE IT RESOLVED** RESOLVED by the Norwalk Zoning Commission that application # 8-17 CAM, submitted by Petrini Café and Grill LLC and Petrini Family Investments, LLC for a Seasonal Outdoor Rooftop Bar at 64 Wall Street be granted a ONE YEAR extension of the approval time, with all conditions of the original approval staying in place;

BE IT FURTHER RESOLVED that the new deadline for obtaining a building permit is **May 26, 2020.**

**Mr. Witherspoon seconded.
Nathan Sumpter; Michael Witherspoon; Roderick Johnson; Louis Schulman; Richard Roina; Nicholas Kantor voted in favor.
No one opposed.
No one abstained.**

e. #11-17SP/#29-17CAM - 230 East Avenue, LLC – 230 East Ave/3 Rowan St/Osborne Av – New 5-6 story, 276,408 sf mixed use development with 189 multifamily dwelling units (215,025 sf), 39,492 sf office, 4,260 sf gross (2,130 sf active) restaurant, 5,550 sf gross (4,163 sf active) retail and 15,939 sf Pooch Hotel (existing) in 4 separate buildings with 311 parking spaces

(207 spaces in below grade garage) - Request for extension of approval time - Report and recommended action

Mr. Wrinn said that the demolition had begun but that the building permit had not been obtained.

**** MR. SCHULMAN MOVED: BE IT RESOLVED** that the request for a one year extension of approval time for special permit application **#11-17SP** and coastal site plan review application **#29-17CAM –230 East Avenue, LLC – 230 East Ave/3 & 10 Rowan St - Special permit/CAM** for a new 6 story, 276,408 gross square foot mixed use, transit oriented development (TOD) with 189 multifamily residential dwelling units (211,513 sf), 39,492 square feet office, 4,260 sf gross (2,130 sf active) restaurant, 5,550 sf gross (4,163 sf active) retail and 15,939 square feet Pooch Hotel (existing) in two new buildings and two existing buildings in 4 separate buildings with 311 parking spaces including 207 spaces in a below grade parking garage in a Transit Oriented Development (TOD) area as shown on a set of plans entitled "230 East Avenue Norwalk, CT" by Beinfield Architecture, McChord Engineering, Eric Rains Landscape Architecture and other related plans dated December 14, 2017 as revised to March 1, 2018 be approved, subject to the following conditions:

1. That property taxes be kept current for the duration of the extension period; and
2. That the original conditions of approval remain in effect; and
3. That the new approval deadline for obtaining permits will be **April 13, 2020**; and

BE IT FURTHER RESOLVED that the effective date of this action be **March 15, 2019**.

Mr. Witherspoon seconded.

Nathan Sumpter; Michael Witherspoon; Roderick Johnson; Louis Schulman; Richard Roina; Nicholas Kantor voted in favor.

No one opposed.

No one abstained.

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

At this point, in the meeting, Mr. Sumpter began the public hearings with an explanation of the process.

IV. PUBLIC HEARINGS

a. #10-18SPR #19-18CAM - Clarke Capital LLC et al - 64 South Main St & 8, 10, 12 & 14 Elizabeth St – New mixed use development TOD with 19,400 sf retail & 40 units in five bldgs in the SoNo Station Design District

Atty Blank began the presentation with introductions of the project team. He noted that the application had been scheduled for the February 20 meeting which had been cancelled due to snow. Although not required, they had sent out new notices to the neighbors about the rescheduled public hearing. He also discussed the sign-offs that they had received. He then gave a brief overview of the application as well as history of the business. He also noted that because of its size, the project would require a public hearing, although it typically would not. He gave further details of the plans for the buildings. He then discussed the workforce housing units which included a 3 bedroom unit. He also noted that there would be no adverse impact on coastal resources. There was a discussion about marketing the 3 bedroom unit for rent. Atty Blank noted that there were priorities for people that were currently living there, as well as for City employees, etc. He then discussed where all of the workforce housing units are. There was also a discussion about some confusion in the regulations which Mr. Kleppin said they would be working on.

Colin Grotheer, the architect on the project, continued the presentation with a description of the site. He showed them various views of the site and indicated the materials that were to be used. He noted which buildings were going to be demolished and re-built. They would maintain the neighborhood feel. He also said that there were discussions about whether they would be taking down part of one of the buildings or whether to add to the building. They are working on the streetscapes as well. The sidewalks will be broad and safe for pedestrians. There was a discussion about the garbage facilities. Mr. Grotheer did not have the materials board with him but had provided it to the Redevelopment Agency. He also discussed the renovations to the exteriors of the houses that were not being demolished. The materials would be modern to achieve the historical look. Overgrown trees would be cut down and more maintained plantings would replace them.

Eric Rains, the landscape architect for the project, discussed the improvements on the sidewalk with connections from Main Street to Water Street. Some elements would be new trees, lighting, etc. The sidewalks would be a minimum of 5 ft. wide. He also discussed materials used for pavers which would be consistent with the materials used for the buildings themselves. There are pedestrian connections from the internal parking. There was a discussion about the street lighting which were required throughout South Norwalk which Atty Blank clarified what it would look like.

Jim Rotondo, the engineer on the project, continued the presentation with a discussion of the parking requirements on the site. He also explained where load-in for retail would be, as well as where the utilities would be located and how the storm water management system would work. He also explained the systems that would be in place before the construction begins.

Steve Cippolla, the traffic engineer, continued the presentation, with a discussion of how the traffic study was conducted. He discussed the accident data for the area from prior years police records. He then discussed their recommendations for future volumes. Mr. Schulman asked Mr. Cippolla asked if the data could be presented differently so that the audience would be able to understand it. There was a discussion about the bus line in the area.

Robert DeGrizwatz (sp?), the architect who completed the peer review, continued the presentation. He explained why the commissioners should review the project. He said that they work to make sure that the city's guidelines are being followed. He went over his summary. The project completes the neighborhood, in an historic district. He recommended conditions especially on Elizabeth Street.

No one spoke for or against the application. Atty Blank noted that it complied with the Zoning Commission's regulations as well as made suggestions about the regulations for the workforce housing units. Mr. Kleppin said that they could amend conditions. Mr. Sumpter closed the public hearing.

b. #14-18SP – Home Depot – 600 Connecticut Ave – Modification of seasonal outdoor storage and sales – Continue hearing from February 7, 2019

Mr. Sumpter opened the public hearing. Atty Malin, the attorney for the applicant, Home Depot, began the presentation by reminding the commissioners that the public hearing had been continued from a previous meeting. There had been concerns about the safety of customers due to the modifications that they would like to make to the site plan. There had been discussions about moving some of the bays and then assessed by the applicant's traffic engineer. He noted that these assessments led them to change the location which they believed would be safer. There would not be a diagonal crossing my pedestrians and they modified the plan to include handicapped parking spaces. He then went through the specifics of the plan which would include the sale of seasonal, larger merchandise but it will not be like the Garden Center. The area will be staffed by applicant's personnel as needed. The products would

be taken to the customers' vehicle from this area. He then explained what the different areas would look like. He explained the signage and thought that this was a safely run store. There was a discussion about the pickup lanes and whether it would get congested. Atty Malin explained it was done in other Home Depot stores as well. He also noted that there had not been any injuries at those store either. James Elkins, store manager of the Home Depot, spoke on the height of the pallets which he said would be 4 – 6 ft. tall. They did not stack anything high because there were concerns about them falling onto customers or staff. Mr. Wrinn noted that the area was going from static parking to an active use and that was the concern. There was also a discussion about excessive noise. Mr. Elkins noted that the extra storage was necessary during the spring months because of the high demand of products from the garden center. Otherwise, there would be many trucks coming in and out during the day to meet the demand. Mr. Schulman noted that this plan seemed slightly better than the original plan but did not know if went far enough. He thought there should be semi-permanent ways to keep the public safe. He also thought that the applicant should work with the Zoning Department staff again to work through the fencing and cone issues. Henry Thomas continued the presentation by explaining the fences further. He said that the barriers were heavier and could withstand small bumps, etc. Jay Trautman, an engineer on the projection, suggested plastic bollards on bases that would be more permanent than cones. There was a discussion about having a condition for the staff to continue working with the applicant on these issues so that they could vote on the resolution.

Michael John Alcott, 99 Keeler Avenue, explained that he lived behind the Home Depot. He noted that plants needed light and water to survive but that underneath the parking garage they would receive neither. He did suggest then that they should be on top of the garage. His concern was about the back of Home Depot along the fence area. He showed them pictures he took of the woods and the fence from his backyard. He then explained that the fence should have been completed when Home Depot opened, many years prior. There was a discussion about whether the applicant was in violation by storing materials where none should be stored.

At this point, Atty Mallin asked for a few minutes to confer with his client. He said that the store manager would extend the sound barrier fencing but did not think it would need to be 20 ft. They would extend the current fence to screen light out. Atty Mallin said they were not sure what could be placed in that area. The commissioners decided that this public hearing would be held open until the next meeting. The applicant would discuss the fence, barriers and the violation.

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

Mr. Sumpter opened the public hearing. Mr. Kleppin began the presentation with a brief overview of the application. He noted that the Planning Commission had the same comments as the first time that they had been asked to review the proposed regulations. There was a discussion about the use of the term, “gross violation” which the Planning Commission thought should be removed from the proposed amendment. The commissioners realized that this amendment could be challenged in a court of law.

Theresa Peterson, 32 Dock Road, spoke in favor of this amendment. She thought it would be good for the city to have a mechanism for chronic violators.

Mr. Kleppin noted that this amendment was not meant to stifle business, but rather, to give the Zoning Department staff another tool to address chronic violators. Mr. Roina said that he had reviewed previous appeals of the Zoning Commission's decision. As long as there are logical reasons for the decisions, they are generally upheld by the courts.

Mr. Sumpter closed the public hearing.

Action on Items IV. a. and c.

a. #10-18SPR #19-18CAM - Clarke Capital LLC et al - 64 South Main St & 8, 10, 12 & 14 Elizabeth St – New mixed use development TOD with 19,400 sf retail & 40 units in five bldgs in the SoNo Station Design District

Before Mr. Schulman moved the resolution, he noted that he had hoped this would be a denser project. Mr. Johnson thought it was a good project and would support it. Mr. Witherspoon and Mr. Sumpter said they would support the project. Mr. Kleppin made some suggested changes to the resolution.

BE IT RESOLVED that upon a motion by **Mr. Schulman** and second by **Mr. Johnson** that site plan application **#10-18SPR** and coastal site plan application **#19-18CAM** - Clarke Capital LLC et al - 64 South Main St/8, 10, 12 & 14 Elizabeth St for a new 2-5 story mixed use development with 19,400 square foot of ground floor retail and 40 multifamily dwelling units in five building as shown on site plan and architectural plans entitled "64 SOUTH MAIN STREET Norwalk, CT 06854" by Beinfield Architecture and landscape architecture plans prepared by Eric Rains Landscape Architecture and engineering and grading plans prepared by Godfrey Hoffman Associate Engineers be **APPROVED**, subject to the following conditions:

1. A zoning permit and a building permit shall be obtained within one year of the effective date or this approval and prior to any work commencing on the site; and
2. That the draft deed restriction as shown on a certain document entitled "DRAFT Affordability Plan" dated December 2018, as revised to February 11, 2019 and related documents showing one 1-bedroom, one two-bedroom and one three bedroom unit, for a total of 3 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
3. That the applicant has elected to pay a one-percent (1%) fee, based on the residential construction costs, shall be paid prior to the issuance of a zoning permit; and
4. 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
5. 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
6. 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 and sustainability requirements set forth in the South Norwalk TOD Redevelopment Plan; and
7. 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
8. That all final CEAC signoffs, including the Harbor Management Commission, shall be submitted, prior to the issuance of a Zoning Permit; and
9. That a surety in the amount of \$30,000, to guarantee the installation and maintenance of the required erosion and sediment controls is submitted to this office, prior to the issuance of a Zoning Permit; and
10. 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
11. Light level calculations be provided to confirm there is adequate lighting within the public realm; and
 12. That cutoff shields be installed on all lighting to prevent any stray light from being emitted off the property; and
 13. 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
 14. That the storm water maintenance plan be implemented to ensure the maintenance of onsite drainage systems; and
 15. That all proposed signage comply with the zoning regulations and design guidelines; and
 16. That within six months of the issuance of the Certificate of Zoning Compliance and the completion of any street improvements and public realm improvements proposed by the applicant (within the right of way, which will be completed after the road project is complete) a follow-up traffic study be submitted to the Commission; and
 17. That any and all HVAC units shall be located in conformance with the applicable zoning setbacks; and
 18. 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
 19. That any sidewalks to be replaced provide a minimum 5' clearance from any obstruction; and
 20. That the transformer adjacent to the curb-cut on Elizabeth Street be screened; and
 21. That any graffiti on the site, now or in the future, be immediately removed; and
 22. Tree species selected next to Building A not impinge on the building at mature growth; and
 23. Per Zoning Location and Topographic Survey, prepared by William W. Seymour & Associates, P.C. dated 1/21/18 on file with the Planning & Zoning Department; and
 24. Per Site Plan C-1.0, Grading Plan C-2.0, Average Grade Analysis Plan C-2.1, Stormwater Management & Utility Plan C-3.0, Erosion & Sedimentation & Control Plan C-4.0, Erosion & Sedimentation & Control Details & Notes C-4.1, Details C-5.0 & C-5.1, prepared by Godfrey Hoffman Associates, dated 2/11/19, on file with the Planning & Zoning Department; and
 25. Per photometric study PH1 & L-1, prepared by Specines, dated 1/21/19, on file with the Planning & Zoning Department; and
 26. Per Landscape Site Overview SPL-1.0 & SPL-2.0, Area Enlargement Site West SPL-2.1, Area Enlargement Building B-D SPL 2.2, Details City-Standard SPL-5.0, Details Site & Landscape SPL-5.1, Details Other SPL-5.2 & 5.3, dated 2/11/19, prepared by Eric Rains Landscape Architecture, LLC, on file with the Planning & Zoning Department; and
 27. Per the architectural plans Open Space/Recreation Area Plans A0.70, Workforce Housing Plans A0.71, F.A.R. Plans A0.72, Materials Reference Board A0.75, Basement & First Floor Plans A1.00, Second & Third Floor Plans A1.01, Fourth, Fifth & Roof Plans A1.02, Building A-West Elevation (South Main) A2.01, Building A-North Elevation (Elizabeth Street) A2.02, Building A-East Elevation A2.03, Building A-South Elevation A2.04, Building B Elevations A2.10, Building C Elevations A2.20, 12 Elizabeth Street A2.30, 14 Elizabeth Street A2.40, South Main & Elizabeth Street Elevations A2.50, Sections – Building A3.01, Sections – Building A3.02, Sections –

Building A3.03, Sections – Building A3.04, Detail Drawings A3.10, Detail Drawings 2 A3.11, dated February 11, 2019, prepared by Beinfield Architecture, on file with the Planning & Zoning Department; and

28. Per architectural renderings A0.60 and A0.61, by Beinfield Architecture and pictorial material board dated February 11, 2019 on file with the Planning & Zoning Department, and

29. All Department of Public Works conditions listed in their memo dated 3/6/19 are completed.

BE IT FURTHER RESOLVED that this application complies with Section 118-506 B, 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 March 15, 2019.

Nathan Sumpter; Michael Witherspoon; Roderick Johnson; Louis Schulman; Richard Roina; Nicholas Kantor voted in favor.

No one opposed.

No one abstained.

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

**** MR. ROINA MOVED: BE IT RESOLVED** that the proposed amendment to the Building Zone Regulations as shown on a certain document entitled “#5-18R – Zoning Commission – Proposed amendment to Section 118-1460 Violations and Penalties to allow the Commission to revoke any permit for noncompliance” be approved.

BE IT FURTHER RESOLVED that the reason for this action is to implement the Plan of Conservation & Development to:

1) “Rules and regulations are only as good as the enforcement provided.” (F. Regulations and Incentives)

2) "Provide stability in land use and zoning" (F.2.1.2, p. 42); and

3) "Establish and maintain and effective program of zoning enforcement" (F.6.1.1, p. 45); and

BE IT FURTHER RESOLVED that the effective date of this action be March 15, 2019.

Mr. Witherspoon seconded.

Nathan Sumpter; Michael Witherspoon; Roderick Johnson; Louis Schulman; Richard Roina; Nicholas Kantor voted in favor.

No one opposed.

No one abstained.

V. APPROVAL OF MINUTES: February 7, 2019; February 25 Special meeting and Feb 25 Joint meeting

**** MR. JOHNSON MOVED to approve the February 7, 2019 Zoning Commission minutes.**

Mr. Witherspoon seconded.

Nathan Sumpter; Michael Witherspoon; Roderick Johnson; Louis Schulman; Richard Roina; Nicholas Kantor voted in favor.

**No one opposed.
No one abstained.**

**** MR. WITHERSPOON MOVED to approve the February 25 Special Meeting minutes.
Mr. Schulman seconded.
Nathan Sumpter; Michael Witherspoon; Louis Schulman; Richard Roina; Nicholas Kantor
voted in favor.
No one opposed.
Roderick Johnson abstained.**

**** MR. WITHERSPOON MOVED to approve the February 25 Joint Special Meeting minutes.
Mr. Roina seconded.
Nathan Sumpter; Michael Witherspoon; Louis Schulman; Richard Roina; Nicholas Kantor
voted in favor.
No one opposed.
Roderick Johnson abstained.**

VI. COMMENTS OF DIRECTOR

Mr. Kleppin noted that the East Avenue Transit Oriented Development Study (TOD) had begun and Ms. Wells was representing the Zoning Commission on this committee. He mentioned that the kick-off meeting would be on March 23.

VII. COMMENTS OF COMMISSIONERS

Mr. Schulman noted that he would not be available for the March 20. Mr. Kleppin said that if it was a light meeting they could cancel it.

VIII. ADJOURNMENT

**Mr. Schulman made a Motion to Adjourn.
Mr. Witherspoon seconded.
Nathan Sumpter; Michael Witherspoon; Roderick Johnson; Louis Schulman;
Richard Roina; Nicholas Kantor voted in favor.
No one opposed.
No one abstained.**

The meeting was adjourned at 9:15 p.m.

Respectfully submitted,

Diana Palmentiero