

CITY OF NORWALK
SPECIAL MEETING OF THE ZONING COMMISSION
August 17, 2011

PRESENT: Joseph Santo, Chair; Emily Wilson; James White; David McCarthy; Mike O'Reilly; arrived after the roll call: Michael Mushak; Jill Jacobson; Adam Blank

STAFF: Michael Greene; Michael Wrinn; Adam Carsen

OTHERS: Ron Kellogg; Atty. Chris Smith; Matt Brown; Ralph Landano; Allan Smardin; Kenny Vayda; Michael Galante; Guy Mazzola; Richard Bonenfant; Kevin Carter; Kim Cudaha; Atty. Ronald Gold; Atty. Ellen Bromley; Mitchell Wormsbrand; Diane Lauricella

I. CALL TO ORDER

Joseph Santo called the meeting to order at 7:30 p.m.

II. ROLL CALL

Mr. Greene took the roll call.

III. PUBLIC HEARINGS

Before Mr. Santo opened the public hearings, he gave a plaque to Robert Keyes, the former chair of the Zoning Committee, for his eight years of service to the City of Norwalk.

a. #6-11SP – Club Italia – 3 Brook Street – Proposed club use

Mr. Santo opened the public hearing. Ron Kellogg, who represented the applicant, Club Italia, began the presentation by submitting the green cards to staff. The site will be used by family members where events, birthday parties, etc. would be held. Although food and alcohol will be brought to the site, there is also a small kitchen. All sign-offs are in the file. There were no questions from the commissioners and no comments for or against the application. There was no one wishing to speak on the application. Mr. Santo closed the public hearing.

b. #13-11CAM/5-11SP – AMEC Carting – 1 Crescent St – Modify existing transfer station by adding tonnage & additional haulers

Mr. Santo opened the public hearing. Atty. Chris Smith, who represented the applicant, AMEC Carting, began the presentation by submitting the green cards to staff. He gave a background of the application. There was a court case, Recycling, Inc., et al. v. City of Milford, et al. which stated that state law preempted local zoning laws with respect to uses for transfer stations. He provided the decision to Norwalk's Corporation Counsel. They are not waiving their rights to claim they may have the same rights as Recycling Inc.

Atty. Smith remarked to the commissioners that the changes they were requesting were all minor. The Zoning Commission originally approved the special permit in 2005 but because of a court case filed by AMEC's neighbor to the north, they did not begin construction on the facility until 2008. The facility opened in 2009. He gave a description of the day to day operations of the AMEC facility. AMEC has received no violations concerning the state or city permits except for 2 minor incidents. He later went through all the experts that would be testifying at the public hearing.

Atty. Smith then submitted to the commissioners a packet of information that he and the other experts would be using in their presentations. He reviewed all the exhibits in the packet.

Matt Brown, an engineer with Anchor Engineering, continued the presentation. He has worked on providing services for AMEC's facility since 2007. He discussed how the construction and debris ("C&D") materials are pulverized to give them more density so that the C&D materials can be loaded into larger trucks to be removed from the facility. There are 3 inbound trucks to 1 outbound truck. He described the operations on the floor by using large photos of inside the facility. Atty. Smith said what they were trying to show with the photos was that the facility could handle an increase from 200 to 600 tons.

Mr. Santo asked how they knew it was 600 tons in one of the photos and Mr. Brown said that it was from experience. The procedure included tipping, processing and loading which all occur at the same time. Mr. Brown mentioned that there were three factors which determine what the facility can handle. According to his calculations, AMEC is operating at 15% of their maximum capacity for the building. He discussed features of the facility which lessened their impact on the people working in the building as well as the surrounding neighborhood.

There was a discussion of the vinyl doors and the amount of time that it takes to open them which is far less than the time it takes to open traditional steel doors. These doors are not usually found on transfer stations. Another feature of the facility is the misting system that operates in the facility. The facility also has very thick walls which helps the building to look almost new after 2 ½ years. There is a second scale in the building to weigh the load to confirm that the truck doesn't go over any weight limits. Mr. Brown said they were going to make additional improvements as requested by the Dept. of Public Works. He also noted for the commissioners that many of the other carting companies in Norwalk already are allowed to do the things that AMEC is requesting at this time. During audits, no violations have ever been found. He believed that AMEC's facility is one of the cleanest C&D transfer stations in the state.

There was a further discussion about the oil/water separator after Mr. Mushak had a question about it.

Atty. Smith introduced Ralph Landano, the owner of Aireactor, who discussed the misting system in the building. He gave a background of his company. He told the commissioners about his first meetings with Mr. Mazzola and how the misting system was installed into AMEC's facility. He also took Mr. Mazzola to see similar systems in New York at facilities that were similar to the one in Norwalk. The misting system should

achieve a low level fog which creates humidity that suppresses the dust from becoming airborne. As long as the building has a high humidity level, the dust would not be a problem when the door opens to allow for trucks to come in. The commissioners did not have any questions for Mr. Landano.

Atty. Smith introduced Allan Smardin, the president of HMB Acoustics. He was asked to perform an acoustical evaluation at the facility on April 13, 2011. The result of the analysis was that the dBa levels were around 52-60 and were in compliance with Norwalk noise ordinances. The dominant noise source was from I-95 which is very close to the facility. There were no questions from the commissioners.

Atty. Smith then introduced Kenny Vayda, of Eliminate'Em Pest Control. He gave a background of his company. He stated that the idea of pest control is not to let rodents establish a residency so that they will not become a problem. Mr. O'Reilly mentioned that there has been a complaint by one neighbor of pests. Mr. Vayda was not aware of this and asked to be told about them. He did not expect there to be a problem in the future. Mr. White believed that with the railroad and transfer station across the street, there must be some pests. Mr. Vayda stated that there were going to be pests but that they were not a problem.

Atty. Smith introduced Michael Galante of Frederick P. Clark Associates. He began his presentation with detailing how the traffic studies are performed. He used several tables for his presentation which were included in the supplemental June 2011 traffic report which the commissioners had and was a part of the applicant's file. He described how they obtained the numbers that were used in the traffic report. Future counts were done by including all proposed projects in the area as well as road improvements, including new traffic signals. The analysis was also based upon the worst case scenario of having 600 tons of C&D materials per day at the AMEC facility. Mr. Galante discussed the levels of service of traffic on the roads around the facility. The intersection with a bad grade was West Ave/Butler St. The mitigation of traffic being planned by the other projects would mitigate the traffic coming from the AMEC facility in the future. Mr. Galante also reported on accidents as well.

Mr. Santo asked about a traffic signal on Butler St. Both Mr. Galante and Mr. Wrinn stated that it would be functional in about 6-8 weeks. Mr. McCarthy asked about the difference between truck and car traffic in traffic analyses. Mr. Mushak asked about the queues at the City's transfer station from the trucks that leave the AMEC facility. Mr. Blank asked about how long it took for the smaller trucks to go into and out of the facility and how these counts were done on the charts.

Atty. Smith introduced Guy Mazzola, President of AMEC Carting. He began his presentation by summing up the experts' remarks and answering any questions that came up during those presentations that were not answered. When AMEC goes to a demo job site, a contract is signed which explains what can go into the dumpster and what cannot go into it. He explained what happens with paint cans when they get into the dumpster as well as the AMEC facility. Mr. Mazzola told the commissioners that he would provide a copy of the contract. Monthly reports have been provided to the City with regard to the pest control. There were several reasons why Mr. Mazzola believed there was not a rat

problem at his facility including the fact that they did not come out during the day. Mr. White did not agree with him. Mr. Mazzola also explained further about how he knew the misting system would work well for his facility since the one that he was shown by Aireactor was similar.

Mr. Mazzola then continued his presentation by letting the commissioners know that AMEC was a family business which included himself, his parents, his sisters, his girlfriend and five cousins. He discussed the operations of the business. Mr. Mazzola used some of the exhibits in the packet that Atty. Smith had given to the commissioners for his presentation. He discussed the operations from 2009 when they opened, as well as the volatility of his business. It is different from carting MSW because there is always household waste. When there is less construction work, then there is less C&D materials. There were some days that they had to close early because they were close to taking in 200 tons. In 2009 it was 19 times. In 2011 they have already closed 52 times. Mr. O'Reilly asked how many more employees AMEC would need to go from 200 tons to 600 tons per day. Mr. Mazzola said it would only be 1 traffic coordinator.

If they were to be granted approval on their application, they would still need to get permission from the DEEP which could take up to 12 months. They need to obtain 600 tons because of the spikes in their business. Mr. Mazzola discussed the day-to-day operations of his facility. He also answered further Mr. Santo's question about how they knew how much C&D was on the tipping floor. There will be a traffic control plan and contracts for the outside haulers to control the traffic coming to the site.

Atty. Smith concluded the presentation. Mr. Santo opened the hearing to the public.

The first person from the public to speak was Richard Bonenfant who is the City Councilman who represents District A, which straddles the AMEC property. He was in opposition to the application because he does not think it would be in the best interest of the district. He does not think that the traffic will not be affected. More trucks will be detrimental to the infrastructure that has been newly constructed.

Kevin Carter, the Chief Operating Officer of the Stepping Stones Museum, spoke in opposition to the application. He read a letter that was sent to the commissioners and which was signed by all the businesses within the Mathew Parks area and the YMCA as well.

Kim Cudaha voiced her concerns about traffic and the Heritage Trail.

The next speaker was Ronald Gold, an attorney that represented Sclafani Brothers, a neighbor of AMEC Carting. Sclafani Brothers are the intervener in this application. He passed out a book of exhibits for the commissioners, along with highlighters so they could mark important sections and went through them in detail. The book included the Master Plan of Norwalk, the Mid-Harbor Plan, the Norwalk Bikeway Pedestrian Plan as well as newspaper articles about AMEC Carting in other towns. Atty. Gold discovered from the Tax Assessor's Office that AMEC is not paying taxes on the building, just on the land. Atty. Gold discussed how his client, Mr. Sclafani, had submitted pictures to the Planning and Zoning Dept. staff of violations by AMEC Carting. He also discussed other pictures

that were taken on August 5, 2011. He noted that their permit only allowed them to operate for 11 hours, not the 12 hours that they claim. He claimed that this application should be a new application, not a modification. He also discussed the misting system in the facility and how the misting system makes the sheet rock give off hydrogen dioxide which smells like rotten eggs. He also discussed that the land upon which the AMEC facility is located is an Environmental Justice tract of land and should be regulated by state law. He believed that the commission should delay its decision until a public plan was adopted. He discussed relevant state statues which were included in the exhibit book.

Atty. Gold's associate, Ellen Bromley, discussed the queuing of trucks in the street. She discussed the credibility of Mr. Mazzola and his experts in connection with the prior application by going through the record of the last public hearing when AMEC Carting received its original permit.

Since the commissioners had not expected another full presentation from Mr. Gold and his staff, there was some discussion at this point as to how many more speakers there would be including those from the public. The commissioners decided that they would continue to hear all of the intervener's experts and then comments from the public.

The next speaker was Mitchell Wormsbrand, an environmental consultant, who handed out his report to the commissioners. He discussed seven reasons why the application should be denied including incompatible land use, unhealthful air quality, inadequate facility capacity, undesirable odors, unacceptable noise, existing permit violations, and Environmental Justice requirements. Mr. Blank asked about the Environmental Justice regulations to which Mr. Wormsbrand answered that he thought there should be an Environmental Community Benefits agreement.

Atty. Smith asked that all resumes of the intervener's experts be submitted for the file.

Guy Carroll, the owner of All County Pest Control, was the next speaker for the intervener. He has serviced Mr. Sclafani's Norwalk warehouse for the past eleven years. He believed that if the amount of waste was going to triple there would be more rodent activity. Mr. Carroll did not agree with the applicant reasons as to why there was not a rodent problem. Mr. Carroll has increased Mr. Sclafani's baiting program over the last several years. He was concerned about bed bugs that attach themselves to rats. Mice are carriers of Lyme disease and they are prolific at the facility. Mr. Blank asked about the bait stations that abut the AMEC facility and whether they are refilled on a regular basis. Mr. Carroll told him that they were refilled monthly.

Atty. Gold finished the presentation by reviewing comments about the applicant's presentation. The commissioners did not have any other comments for Mr. Gold. He then gave one more exhibit to the commissioners.

The next speaker was Diane Lauricella, 42 Neptune Ave. She spoke on behalf of people who were away and could not attend the meeting. She first read a letter in opposition from Susan Jacoby into the record. Ms. Jacoby and her family were instrumental in helping to build Devon's Place Playground which is another property that abuts AMEC Carting's facility. For her own presentation, she handed out her own packet

to the commissioners. She went over 10 reasons why the application should not be accepted. She asked that the hearing be continued for others that could not attend. She also wanted a third party to be hired to review the application. Mr. White differed on this opinion but Ms. Lauricella thought that experts should be hired for this type of review. She had gone to the Norwalk Police Dept. and stated that there were more traffic accidents than what the traffic engineer, Mr. Galante, had stated. She also thought that there should have been a referral to the Planning Commission. When she went to visit Mr. Scalfani, he gave some pictures of violations to Ms. Lauricella. She discussed the Plan of Conservation and Development by referencing numerous cites within the plan. At some point, the commissioners requested that she submit all of the cites to the Planning and Zoning staff who would forward them so that the commissioners could review everything in context.

There were no other comments from the public.

The rebuttal for this application was scheduled for Wednesday, August 24, 2011 at 7:30 p.m.

IV. REPORT OF PLAN REVIEW COMMITTEE, JAMES WHITE, CHAIR

a. Action on Items III a.

i. #6-11SP – Club Italia – 3 Brook Street – Proposed club use

**** MR. WHITE MOVED: BE IT RESOLVED that application #6-11SP – Club Italia – 3 Brook Street – Proposed club use and as shown on the site plan titled “Proposed Stores & Apartments at Existing Buildings – Wall & Knight Streets for Fischel Corp, Westport, CT” dated 1/26/1977 by Samuel Resnick, AIA, Norwalk, Connecticut, Scale 1”=10’ AND AMENDED by the applicant for ‘CLUB ITALIA” – Received by Planning & Zoning on 6/22/2011 and on the architectural plan titled “Club Italia – 14 Knight St., Norwalk, CT 06851” Received by Planning & Zoning on 6/22/2011 be APPROVED with the following conditions:**

- 1. That all required CEAC signoffs are submitted; and**
- 2. That all signage, existing and proposed, comply with the zoning regulations; and**
- 3. That any graffiti on the site, now or in the future, be removed immediately; and**
- 4. That all needed permits from the applicable City agencies be obtained; and**

BE IT FURTHER RESOLVED that the proposal complies with the applicable sections of the Norwalk Building Zone Regulations, specifically Section 118-504, Central Business Design District – Subarea ‘A’ building zone and Section 118-1450 Special Permit; and

BE IT FURTHER RESOLVED that a Certificate of Special Permit AND map be placed on the Norwalk Land Records; and

BE IT FURTHER RESOLVED that the effective date of this approval shall be August 26, 2011.

**** MR. MCCARTHY SECONDED.**

**** MOTION PASSED (7-0) (MR. BLANK VOTED AS AN ALTERNATE.)**

b. #11-08CAM – Glazer Construction - 65 Rowayton Avenue – 4 unit multifamily development with public access – Request for release of surety –

**** MR. WHITE MOVED: BE IT RESOLVED that the request to release the surety held for Coastal Site Plan #11-08CAM; Glazer Construction – 65 Rowayton Avenue – Proposed 4 unit multifamily development with public access as on a set of plans entitled "65 Rowayton Avenue Rowayton, CT." by Beinfield Architecture, PC; Land Tech Consultants, Inc. and Eckerson Design Associates and dated April 15, 2008 as revised to July 1, 2008, be approved,**

BE IT FURTHER RESOLVED that a 15 % maintenance surety be retained, to be held for a minimum period of one year; and

BE IT FURTHER RESOLVED that the effective date of this action be August 26, 2011.

**** MR. MCCARTHY SECONDED.**

**** MOTION PASSED (7-0) (MR. O'REILLY VOTED AS AN ALTERNATE.)**

f. #5-11SPR/#10-11CAM – 95/7 Ventures, LLC – 51-63 West Av/15-25 Putnam Av - District 95/7 South - 265,283 sf mixed use development w/232 multifamily units, 16,500 sf retail, 7,200 sf office & 312 space parking garage located in a design district development park – Report & recommendation

**** MR. WHITE MOVED: BE IT RESOLVED that site plan application #5-11SPR and coastal site plan application #10-11CAM; 95/7 Ventures, LLC – 51-63 West Avenue/15-25 Putnam Avenue - 265,283 sq. ft. mixed use development with 232 multifamily dwelling units, 16,500 sq ft retail, 7,200 sq. ft. office & 312 space garage within a design district development park as shown on a set of plans entitled "District 95/7 South Parcel, Site Plan Review Submission" by Beinfield Architecture PC and Stantec Consulting, dated May 20, 2011 as revised to July 8, 2011, be APPROVED, subject to the following conditions:**

- 1. That all modifications to the above referenced plans approved by the Norwalk Redevelopment Agency and the Department of Public Works as shown on various drawings and plans dated revised to August 1, 2011, be made a part of this approval; and**
- 2. That the recommended improvements to enclose the proposed generator contained in the "District 95/7 Emergency Generator Noise Survey" dated July 18, 2011 as revised to July 20, 2011, be made a part of this approval; and**
- 3. That the deed restriction documents referenced in the "District 95/7 Draft**

Affordability Plan” dated June 2011 for a total of 24 deed restricted workforce housing units, including 12 offsite units at 143 1/2 South Main Street, 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 (CZC); and

- 4. That cross easements between the southern parcels and the northern parcels in the District 95/7 Phase I Design District Development Park allowing the transfer of development rights to permit an increase in the permitted FAR for the southern parcel 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 (CZC); and**
- 5. That a stormwater maintenance plan, including an annual maintenance schedule, be submitted prior to the issuance of a Certificate of Zoning Compliance to verify that the proposed subsurface infiltration system will be maintained; and**
- 6. That all soil and erosion controls be installed 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**
- 7. That any graffiti on the site, now or in the future, be immediately removed; and**
- 8. That a surety (in an amount to be determined by staff) be submitted to guarantee the installation of the required improvements and that a Connecticut licensed engineer certify that the required improvements were installed to City standards; and**
- 9. That all traffic improvements be complete prior to the issuance of a final certificate of zoning compliance (CZC) and that within six months of the issuance of the CZC, a follow-up traffic study be submitted; and**
- 10. That a permit from the State Traffic Commission and all CEAC signoffs be submitted prior to the start of construction; and**

BE IT FURTHER RESOLVED that the reason for this action is that this application complies with applicable coastal resource and use policies; and

BE IT FURTHER RESOLVED that this application complies Section 118-502 Reed-Putnam Design District Design District Development Parks in Subareas A & B 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 August 26, 2011.

**** MR. MCCARTHY SECONDED.
** MOTION PASSED (7-0) (MR. BLANK VOTED AS AN ALTERNATE.)**

V. APPROVAL OF MINUTES: July 20, 2011

**** MR. MCCARTHY MADE A MOTION TO APPROVE THE MINUTES.
** MS. WILSON SECONDED THE MOTION
** MOTION PASSED (7-0) (MR. O'REILLY VOTED AS AN ALTERNATE.)**

VI. COMMENTS OF DIRECTOR

There were no comments from Mr. Greene.

VII. COMMENTS OF COMMISSIONERS

There were no comments from the commissioners.

X. ADJOURNMENT

**** MR. SANTO MADE A MOTION TO ADJOURN.
** MR. MCCARTHY SECONDED THE MOTION.
** MOTION PASSED (7-0) (MR. BLANK VOTED AS AN ALTERNATE.)**

The meeting was adjourned at 12:15 a.m.

Respectfully submitted,

Diana Palmentiero