

**CITY OF NORWALK
ZONING COMMISSION
July 18, 2012**

PRESENT: Joseph Santo, Chair; Emily Wilson; Jill Jacobson; Nathan Sumpter; Michael Mushak; Adam Blank; Michael O'Reilly

STAFF: Michael Greene; Adam Carsen

OTHERS: Eva Ehrlich; Steve Jenkins; Atty Frank Zullo; Diane Cece

I. CALL TO ORDER

Joseph Santo called the meeting to order at 7:47 p.m.

II. ROLL CALL

Michael Greene took the roll call.

III. PUBLIC HEARINGS

Before the public hearing, Mr. Santo went over the rules for the hearing. The applicant would make a presentation to the commissioners, then the public would have a turn to address the commissioners, and the applicant would then be allowed to rebut. There were to be no electronic devices that made noise and if anyone had to make call, they were to leave the room.

a. #5-12R- Zoning Commission - Proposed amendments to Section 118-700 Industrial Zone #1 to add multifamily as a new special permit use in Transit Oriented Development areas adjacent to South Norwalk RR Station and related technical amendments

Mr. Greene began the presentation by stating that the Zoning Commission was proposing to implement the first phase of Transit Oriented Development ("TOD") by amending the regulations. The proposed amendment would allow for 52 units of residences per acre and 30% affordable housing. Ten percent of it would be the usual workforce housing. The Floor Area Ratio ("F.A.R.") would be 2.0, the same as the Wall St./West Avenue area. There will be more detailed applications but for now, this would be the first phase.

Eva Ehrlich of Trinity Financial spoke in support of the application. She was hired by the Norwalk Housing Authority to re-develop the site. She gave a brief background of Trinity Financial and some of the projects they have developed.

Steve Jenkins, the architect of the project, showed the commissioners a preliminary concept plan for the re-development of Washington Village which would have 340 units of housing. Some parcels would go to the Housing Authority and then be leased to Trinity Financial. Since applications for tax credits had to be filed by October, they would be filing applications in August for the September Zoning Commission meeting for zoning approvals. This would be for the first phase of the project. Mr. Jenkins was

happy that this proposed amendment would allow multifamily housing in the zone. The first phase of the project to re-develop Washington Village would conform to the proposed amendment, if it is passed. He did state that they may be back with different plans as the project progressed. He also discussed the parking and hoped that the parking requirement would be less.

Mr. Mushak had some questions for Mr. Jenkins about the parking requirements in other towns in connection with their TOD plans. He asked whether he knew what they were but Mr. Jenkins did not. He asked Mr. Greene about the density which he reiterated was the same density as the Wall St. area. Mr. Blank asked about how many stories the buildings would be. Mr. Jenkins said they were townhouses so they would be 2-3 story buildings. He also asked whether they would be adding retail stores to the project and Mr. Jenkins said they would. Mr. Sumpter asked what Mr. Jenkins' experience was with using minority contractors a project in New Haven. He said met and exceeded the minority participation requirement. There was a discussion about the Wall Street area and why it was considered TOD. Mr. Jenkins said that he hoped they would approve the proposed amendment and they would continue to work with the city by discussing the project as it progressed. Mr. Santo liked the project and said it should have been done years ago. Mr. Mushak was told that the Redevelopment Agency did have input on the proposed amendment.

Ms. Wilson read comments from the Planning Commission as well as the Connecticut DEEP. Both stated that the proposed amendment should be approved.

Atty Zullo spoke in support of the proposed amendment. He believed that in order to get the project done, the proposed amendment had to be passed. Industry would not be coming to Norwalk but Norwalk did need residential housing. Later the amendment could be tweaked but for now, the amendment could get the project started.

Diane Cece, Olmstead Avenue, spoke in support of the project and the proposed zone change. She also wanted to confirm that the amendment was just for the South Norwalk area, and not for other TOD areas.

There was no rebuttal and Mr. Santo closed the hearing.

IV. REPORT OF PLAN REVIEW COMMITTEE, JILL JACOBSON, ACTING AS CHAIR

Before the report of the Plan Review Committee, Mr. Santo appointed Ms. Jacobson as acting Chair.

a. #1-10SP - CJT Builders, LLC - 44-46 Stuart Avenue - 16 unit multifamily development - Release of bond -Report & recommended action

**** MR. BLANK MOVED: BE ITRESOLVED** that the surety be released on application #1-10SP - CJT Builders, LLC - 44-46 Stuart Ave - 16 unit multifamily development - Release of surety be **APPROVED**; and

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 approval shall be July 27, 2012.

**** MR. SUMPTER SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

b. #2-10SPR/#14-10CAM - A.J. Penna & Son - 10 Goldstein Place - Contractor's yard - Release of bond -Report & recommended action

**** MR. SUMPTER MOVED: BE ITRESOLVED** that the surety be released on application #2-10SPR/#14-10CAM - A.J. Penna & Son - 10 Goldstein Place - Contractor's yard - Release of surety be **APPROVED**; and

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 approval shall be July 27, 2012.

**** MR. BLANK SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

c. #9-12CAM - Crystal LLC - 314 Wilson Avenue - Indoor flea market/outdoor farmers market - Request to modify plans (location, hours) - Report & recommended action

**** MR. BLANK MOVED: BE ITRESOLVED** that application #9-12 CAM, submitted by Crystal LLC of 314 Wilson Avenue for revisions to the hours, duration and location an indoor flea market/boutique and a seasonal outdoor farmers market be **APPROVED** with the following conditions:

1. That all required CEAC signoffs are submitted; and
2. That all dumpsters for the entire site be located at the front of the building (facing Wilson Avenue) and any and all pickup shall be between the hours of 8:00 AM and 6:00 PM; and
3. That there be no live music outdoors and no amplified music played or projected outdoors; and
4. That any deliveries/restocking of vendors space take place between the hours of 8:00 AM and 6:00 PM; and
5. That any graffiti on the site, now or in the future, be removed immediately; and
6. That the number of vendors be limited to a total of 40 (forty) on the site at any one time; and
7. That the outdoor operation shall be limited to the dates proposed, specifically that the outdoor spaces be operated only from May 1st to October 31st and the indoor spaces can be operated year round; and
8. That the operation hours shall be limited to Monday to Saturday, 8:00 AM to 10:00 PM and on Sunday from 8:00AM to 6:00PM.; and
9. That any and all signage be in compliance with the Zoning Regulations and permits be obtained as required; and

BE IT FURTHER RESOLVED that the proposal complies with the applicable sections of

the Norwalk Building Zone Regulations, specifically Sections 118-700, Industrial Zone # and 118-1110, Coastal Zone; and

BE IT FURTHER RESOLVED that the proposal complies with the applicable coastal area management use policies; and

BE IT FURTHER RESOLVED that the effective date of this approval shall be July 27, 2012.

**** MR. SUMPTER SECONDED.**

Before the vote, Mr. Blank wanted to clarify that the commissioners were only approving what is in the resolution and that they were not approving anything else. Mr. Santo asked if there was anything else that needed to be changed. Mr. Mushak had a question about parking but Mr. Greene said that they could not regulate traffic.

**** MOTION PASSED (6-0)**

d. #10-12CAM - Hochman - 46 South Beach Drive - Additions to SFR - Report & recommended action

**** MS. WILSON MOVED: BE IT RESOLVED** that application #10-12CAM, construction of a single-family residence for the property 46 South Beach Drive and as shown on the zoning location plan by the A-2 survey by William W. Seymour and Associates, Darien CT, Mark. S. Lebow, CT LS #15564 dated April 26, 2012 and amended to July 11, 2012 and architectural drawings plan by Beinfield Architecture, PC, Norwalk, CT, dated March 1, 2012 and amended to July 11, 2012, 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 needed soil sedimentation and erosion controls be installed at the direction of the Staff; 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 July 27, 2012.

**** MR. MUSHAK SECONDED.**

When Mr. Santo asked if there was any further discussion, Mr. Mushak stated that he would like to ask the applicant if there could be some regard for the drainage off the property since there were no drainage standards in Norwalk. He was concerned that the swimming pool water would go into the Long Island Sound. This just fed into the general pollution of the Long Island Sound. He hoped they would be good neighbors and do this. He noted that all of the other towns on both sides of the Long Island Sound had drainage standards. Mr. Santo asked Mr. Greene about the swimming pool and regulations for it. He felt that draining a pool and drainage were two separate items. Mr. Santo asked Mr.

Mushak if he would volunteer to find out about the codes of different towns. Mr. Mushak did not think he should have to do that. Mr. Mushak believed that other towns did address swimming pool drainage in their drainage regulations as well as their zoning codes.

There was a disagreement between Mr. Mushak and Mr. Greene about a developer being told that a pipe could be put into the sea wall and directly into the Long Island Sound. Mr. Mushak stated that it was an application from the previous year when a garage was being turned into a boathouse. The disagreement escalated with Mr. Mushak asking for an apology from Mr. Greene. Ms. Jacobson said the discussion was irrelevant to the original question. At this point in the meeting, Mr. Santo made a motion to move the question. Ms. Wilson seconded the motion. It was approved by Mr. Santo, Ms. Jacobson, Ms. Wilson and Mr. Mushak.

**** MOTION PASSED UNANIMOUSLY.**

e. #11-12CAM - Lugo - 12 Hawkins Avenue - New 2-family dwelling - Report & recommended action

**** MR. BLANK MOVED: BE IT RESOLVED** that application #11-12CAM, construction of a two-family residence for the property 12 Hawkins Avenue and as shown on the site and erosion control plan by Michael J. Mazzucco, PC, Civil Engineer, CT Lic. #16169, dated September 27, 2011 and amended to July 10, 2012 and architectural drawings plan by Westchester Modular Homes, Inc., Wingdale, NY dated February 2, 2012 and May 8, 2012 and amended to July 6, 2012, be **APPROVED** subject to the following conditions:

1. That all CEAC sign-offs are obtained; and
2. That all required soil sedimentation and erosion controls are in place prior to the start of any construction; and
3. That any additional needed soil sedimentation and erosion controls be installed at the direction of the Staff; 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 July 27, 2012.

**** MS. WILSON SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

f. #13-02CAM - Dean - 117 Rowayton Avenue - Off street parking facility - Extension of time - Report & recommended action

**** MS. WILSON MOVED: RESOLVED** by the Norwalk Zoning Commission that the approval time on #13-02CAM- Dean - 117 Rowayton Avenue - Off street parking facility - Extension of time be **APPROVED** for an extension of a period of 365 days with the following condition:

1. That property taxes be kept current for the duration of the extension period;

BE IT FURTHER RESOLVED that the effective date of this approval shall be July 27, 2012.

**** MR. SUMPTER SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

V. REPORT OF ZONING COMMITTEE, ADAM BLANK, CHAIR

a. Action on Item III. a.

i. #5-12R- Zoning Commission - Proposed amendments to Section 118-700 Industrial Zone #1 to add multifamily as a new special permit use in Transit Oriented Development areas adjacent to South Norwalk RR Station and related technical amendments

**** MR. BLANK MOVED: BE IT RESOLVED** that the proposed amendment to the Building Zone Regulations as shown on a certain document entitled "#5-12R - Zoning Commission - Proposed amendments to Section 118-700 Industrial Zone #1 to add multifamily dwellings as a new special permit use in Transit Oriented Development (TOD) areas adjacent to South Norwalk Railroad Station and related technical amendments" dated July 5, 2012, be **APPROVED**;

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

- 1) To implement the Plan of Conservation and Development goal to "Consider designating a redevelopment area at the South Norwalk Station to help achieve goals for transit enhancements and transit-oriented development here"(E.2.2.5, p. 37); and
- 2) To implement the Plan of Conservation and Development goal to "Maximize the number of affordable units available in the Norwalk Housing Authority inventory, within current resources, to address the shortage of affordable housing for all eligible populations"(A.2.2.5, p. 12); and
- 3) To implement the Plan of Conservation and Development goal to "Encourage new development around transit access and allow new development which does not exceed the capacity of infrastructure systems (roads, sewers, water, etc)" (B.1.1.2, p. 16); and

BE IT FURTHER RESOLVED that the effective date of this action be July 27, 2012.

**** MS. WILSON SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

b. #2-12R - Zoning Commission - Proposed amendments to revise the minimum building height requirements for firehouse and for retail buildings over 80,000 sq ft in selected zones - Report & recommended action

**** MR. BLANK MOVED: BE IT RESOLVED** that the proposal to include the Neighborhood Business zone in this amendment be withdrawn.

**** MR. SUMPTER SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

**** MR. BLANK MOVED: BE IT RESOLVED** that the proposed amendment to the Building Zone Regulations as shown on a certain document entitled "#2-12R - Zoning Commission - Proposed amendments to revise the minimum building height requirements for firehouses and for retail buildings over 80,000 sq. ft. in selected zones" dated March 12, 2012 as modified to exempt firehouses from the minimum 2 story height requirements, be **APPROVED**;

BE IT FURTHER RESOLVED that the reason for this action is:

- 1) To implement the Plan of Conservation and Development goal to "Examine and modify existing zoning where necessary to achieve the goals of this plan" (F.2.1, p. 42); and

BE IT FURTHER RESOLVED that the effective date of this action be July 27, 2012.

**** MR. MUSHAK SECONDED.**

**** MOTION PASSED UNANIMOUSLY.**

**** MR. BLANK MOVED: BE IT RESOLVED** that the proposed amendment to the Building Zone Regulations as shown on a certain document entitled "#2-12R - Zoning Commission - Proposed amendments to revise the minimum building height requirements for firehouses and for retail buildings over 80,000 sq. ft. in selected zones" dated March 12, 2012, be **DENIED**;

BE IT FURTHER RESOLVED that the reason for this action is:

- 1) To implement the Plan of Conservation and Development goal to "Provide stability in land use and zoning (F.2.1.2, p. 42); and
- 2) To implement the Plan of Conservation and Development goal to "Preserve and enhance the character of Norwalk" (A.1.1.4, p. 10); and
- 3) To implement the Plan of Conservation and Development goal to "Encourage retail and service sector growth along Routes 1 and 7...and to place emphasis on pedestrian-oriented environment" (A.4.1.2, p. 13); and
- 4) To implement the Westport-North-Main Corridor Study goal to "Reposition both Main Street, Main Avenue and Westport Avenue to multi-family residential and mixed uses" (p. 4); and
- 5) To implement the Plan of Conservation and Development goal to "Encourage a balance between new jobs and housing opportunities" by promoting mixed use developments with residential units in retail/office areas as an efficient use of land and to keep commercial areas "alive at night" (A.1.1.7, p. 10); ; and
- 6) To implement the Plan of Conservation and Development goal to promote "housing affordability by embracing compact, neighborhood-conscious, transit-based development"(A.1.1.7, p. 10); and
- 7) To implement the Plan of Conservation and Development goal to "Provide for the creation and continuation of diverse housing opportunities" including housing over commercial uses (A.2.1, p. 10); and

BE IT FURTHER RESOLVED that the effective date of this action be July 27, 2012.

**** MR. MUSHAK SECONDED.**

However, before the vote, Mr. Mushak addressed the commissioners and public with a

statement. He said he would be voting for the denial because the proposed amendment contradicts the Master Plan. He quoted from the Master Plan as he spoke. He then quoted the core mission from the American Planning Association's website. He believed the Planning and Zoning Department's Director, Assistant Director as well as other members of the Department belonged to it. As he continued with his statement, he made remarks about Mr. Santo and later asked Mr. Carsen if he was changing the tape before he continued his statement. He wanted to confirm that there was a recording of the meeting. He also quoted from other sources that referred to the 2009 amendment. He then quoted the Stamford Advocate in January 2012 as its reporters claimed that Norwalk's sprawl was all over the map. He also believed that Mr. Santo insulted the Master Plan, the people that worked on it and the commissioners that worked hard every day to work on it. He would have preferred working on this amendment if there had been an actual applicant who had promoted it. Mr. Santo said that Mr. Mushak was out of order when Mr. Mushak said that the zoning amendment had been a gift in exchange for gifts to the city of Norwalk.

Mr. Mushak asked what the procedure was for the commissioners once a public hearing has been closed. He then asked that Mr. Santo recuse himself since he wrote a letter to the editor for the Hour. Mr. Greene said that Mr. Maslan had said that Mr. Santo did not have to recuse himself. Mr. Santo asked Mr. Mushak to withdraw the remarks about the city receiving gifts in exchange for the proposed amendment. Mr. Mushak said that he was repeating a rumor that the public had brought up. Although Mr. Mushak did not name the company, Mr. Blank told Mr. Santo that Lowe's had given the city a \$20,000 park pavilion. Mr. Blank also clarified what is allowed for commissioners to hear or do after a public hearing has closed but not been voted upon. Mr. Blank said it was okay for Mr. Santo to write the letter but that it could have invited people to then contact him privately about his vote. Diane CeCe wanted to speak but Mr. Santo refused, since he had never allowed the public to speak before, at this point just before a vote.

**** MOTION FAILED (3-4)**

**** MR. BLANK MOVED: BE IT RESOLVED** that the proposed amendment to the Building Zone Regulations as shown on a certain document entitled "#2-12R - Zoning Commission - Proposed amendments to revise the minimum building height requirements for firehouses and for retail buildings over 80,000 sq. ft. in selected zones" dated March 12, 2012, be **APPROVED**;

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

- 1) To implement the Plan of Conservation and Development goal to "Encourage retail and service sector growth along Routes 1 and 7...and to place emphasis on pedestrian-oriented environment" (A.4.1.2, p. 13); and
- 2) To implement the Plan of Conservation and Development goal to "Review all anomalies and spot zones to conform to regulations, and to encourage reasonable uses" (F.2.1.3 p. 42); and
- 3) To implement the Plan of Conservation and Development goal to "Examine and modify existing zoning where necessary to achieve the goals of this plan" (F.2.1, p. 42); and

BE IT FURTHER RESOLVED that the effective date of this action be July 27, 2012.

**** MS. JACOBSON SECONDED.**

At this point, Mr. Blank made a motion to modify the resolution as follows:

Insert the following language “so long as they are located within .8 mile of an on or off ramp of an interstate highway” after “buildings with a retail floor area of eighty thousand (80,000) sq. ft or more shall be exempt from minimum building height requirements.” He said that he had calculated this and all places on Connecticut Ave. were .8 mile away from I-95. There were no locations on Westport Avenue or Main Avenue that are within .8 mile of an on or off ramp of an interstate. Since he believed that the original proposed amendment would bring big box stores, he thought that this amendment would help alleviate traffic on local roads by putting these stores on Connecticut Avenue near I-95.

**** MR. SUMPTER SECONDED.**

Some of the commissioners wanted a clarification of Mr. Blank’s amendment. It would limit the removal of the second floor requirement to retail stores on Connecticut Avenue. There would still be the second floor requirement on Main Street, Main Avenue and Westport Avenue.

At this time, Mr. Greene asked each commissioner, individually, for their vote on Mr. Blank’s modification.

**** MOTION PASSED (4-3)**

At this point, Mr. Greene reminded the commissioners that they still needed to vote on the main motion to approve which had been seconded by Ms. Jacobson. Mr. Mushak had a concern about the firehouse on Connecticut Avenue and the response time of fire trucks. He was concerned about the volume of vehicles on Connecticut Avenue if traffic increased as big box stores opened on Connecticut Avenue. Mr. Greene reminded all the commissioners that if the amendment is passed, the courts have assumed that traffic volumes had been considered before voting on the proposed amendment.

At this time, Mr. Greene asked each commissioner, individually, for their vote on the motion to approve.

**** MOTION PASSED (4-2)**

VI. APPROVAL OF MINUTES: June 20, 2012

MR. BLANK MADE A MOTION TO APPROVE THE MINUTES OF THE JUNE 20, 2012 MEETING.

**** MS. WILSON SECONDED THE MOTION
** MOTION PASSED UNANIMOUSLY.**

VII. COMMENTS OF DIRECTOR

Mr. Greene had no comments.

VIII. COMMENTS OF COMMISSIONERS

Mr. Blank told the other commissioners that there would be an item on the August Zoning Committee meeting about farming and residences. Since he would be away, Mr. Greene would pass out some information to the commissioners. He would like to go over it in detail at the September committee meeting.

Mr. Mushak asked the commissioners to read the By-laws and Rules of Procedure for the Zoning Commission of the City of Norwalk. He wanted everyone to take it home as "homework" and read it. He did not think they were doing their due diligence. He requested that Mr. Greene, Mr. Wrinn and Ms. Dori Wilson submit their resumes, professional credentials and continuing education. He would also like an accounting of all zoning change fees for the past three years. What was brought in, how much the Zoning Department has and what was it was spent on. He wanted to be able to hire experts and thought that was why the fees had been changed several years ago. He could not recall being able to hire any experts.

IX. ADJOURNMENT

**** MR. SANTO MADE A MOTION TO ADJOURN.
** MR. BLANK SECONDED.
** MOTION PASSED UNANIMOUSLY.**

The meeting was adjourned at 9:07 p.m.

Respectfully submitted,

Diana Palmentiero