

**CITY OF NORWALK
ZONING COMMISSION
December 12, 2012**

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

STAFF: Michael Greene; Mike Wrinn

OTHERS: Richard Redniss; Diane CeCe; Corinne Weston; Margaret Suib; Daisy Franklin; Diane Wycoski; Mary Theresa ("Missy") Conrad; Edward J. Musanti; Robert Burgess; Courtney Austin; Amanda Brown; John Mosha; Diane Lauricella; Ernie Dumas; Richard Bonenfant; Chuck Roy; Atty Peter Nolin

I. CALL TO ORDER

Emily Wilson called the meeting to order at 7:30 p.m.

II. ROLL CALL

Michael Greene took the roll call.

III. PUBLIC HEARINGS

a. #9-11SPR/#22-11CAM - North Water LLC - 20 N. Water St - 133,035 sf mixed use development with 108 units, retail & restaurant - Request to modify approved plan to revise location of workforce housing units from 11 onsite units to 4 onsite units and 7 offsite units at 1 Elmcrest Terrace

Ms. Wilson opened the public hearing. She reminded everyone that the public would have a chance to speak after the applicant had completed their presentation.

Richard Redniss began the presentation on behalf of the applicant. He mentioned how he had recently become involved with this application, although he has been involved in other projects for the applicant. He mentioned that he would discuss three areas in his presentation, the history of the project, the Zoning regulations involved, and the specifics of the November 27, 2012 and the follow-up for this letter.

He pointed out that the application had begun in 2006 with the previous application. The 2006 application allowed the affordable housing to be on Connecticut Avenue. This application was approved but did not go forward. In June 2012, the applicant acquired 143 ½ South Main Street, to be used for affordable housing for the 95/7 project. It was approved for 12 affordable housing units. In January 2012, the demolition notice was published and in February 2012, the Zoning Commission approved 107 units to be built. The Affordability Plan recommended that the applicant would be coming back to the Zoning Commission to modify the Plan as to the placement of the affordable housing units. The applicant had to acquire the off-site housing, which they did in May 2012. In September, 2012, the applicant returned to the Zoning Commission with a request to have some units placed in the off-site housing and for it to be considered a minor change. The commission did not agree with that.

This time they were returning to the Zoning Commission with a slightly different plan.

Mr. Redniss then continued the presentation by discussing the zoning regulations of different towns such as Stamford and Westport and how they compared to Norwalk's regulations.

He then went over the pro forma which is the financial statements of the applicant and what they would show a bank when seeking a loan. He reviewed the revenues of the applicant. He explained the profit margins of the applicant. Mr. Redniss mentioned that the applicant was looking for other units off-site that they could purchase. At the moment, they have an offer on one but since it is bank-owned, it is pending approval. Mr. Blank asked whether they this unit would be a 12th affordable housing unit as well as how many units they were required to have. Mr. Redniss said it would be and that they were only required to have 11 units. He then went over the budget increases that had been unexpected. These increases included soil remediation, siding, gas and electric. The applicant would not see a return on investment because of market rates on the rental units.

Mr. Blank had questions about the parking situation. Mr. Redniss said that if the applicant could have built any kind of parking, they would have had 2 floors less of it and saved a lot of money.

Mr. Sumpter asked Mr. Redniss to further explain what happened in February 2012. Mr. Fowler said that the applicant's original approval from 2006 was surrendered. He also said that the affordability plan stated that the applicant would come back to the Zoning Commission about when they had found a site to put the workforce housing units.

Mr. Rilling asked Mr. Redniss asked whether the units on Connecticut Avenue were occupied and whether the tenants met the threshold for workforce housing. Mr. Redniss explained the workforce housing units there and that they would be deed restricted.

Mr. Sumpter again asked about the approval in February 2012 which discussed the workforce housing units. Mr. Redniss said the workforce housing units were approved on-site but that the affordability plan had requested that the units be moved off-site as soon as a location was determined.

Mr. Mushak asked about the original approval in 2006 which did not require the workforce housing units to be on-site. It was noted that this approval had on-site workforce housing units as well but pre-dated the workforce housing regulations that were adopted in January 2007. Mr. Mushak asked Mr. Redniss to explain tax credits for developers that invested in low income housing. He wanted to know if any applied in this application and whether they were included in the pro forma. Mr. Redniss said that the applicant did not seek any tax credits and that they were usually given to not-for-profit groups as well as those developing housing with a higher ratio of low income housing than there is in this project. He said that it was difficult to get these tax credits and the applicant was not seeking them. Mr. Mushak also asked whether there were any grants or other sources of financing that could be received to help this project's budget.

Mr. Sumpter had questions as to the amenities that would be available for the units on Connecticut Avenue. Mr. Redniss gave the commissioners a letter from Norwalk Hospital Foundation. He also said that a big issue in Norwalk was affordable housing near Norwalk

Hospital, especially within walking distance of it. They thought this was a great amenity.

Mr. Rilling asked about the square footage of the 1 bedroom units that were on-site and off-site. Mr. Redniss said that information was in the packets that the commissioners were given.

Mr. Blank said that he would like to see the off-site workforce housing units, be spread out, rather than all being on Connecticut Avenue. Mr. Redniss spoke about an off-site workforce housing unit that was not on Connecticut Avenue that the applicant was trying to purchase. Ms. Wilson asked if he could tell them approximately where other sites were located. He briefly described some. He also reminded the commissioners that the applicant had many other projects in Norwalk. Mr. Blank made a recommendation of a condition to the approval that he thought might help the applicant with their bank loans.

Mr. Mushak made a statement that there has been criticism about true commitment to build or was this site used as a money-maker. He wondered why the developer built on property in Stamford and Bridgeport when there was empty property in Norwalk.

Mr. Santo said that it was unprecedented for Zoning commissioners to ask for financial records of an applicant. He thought that they had crossed a line by asking for this information since it is not a zoning issue. Mr. Rilling disagreed with this since, one of the reasons the applicant cited moving the workforce units off-site was financial. Mr. Sumpter believed that when he voted for the application in February, 2012, all of the workforce housing units would be on-site.

Ms. Wilson reminded the public that they should keep their remarks to this application only.

Diane CeCe, 37 Olmstead Place, who gave a hand-out to the commissioners, spoke in opposition to the application. She said that there was a transaction between February 2012 and July 2012 which Mr. Fowler was involved with, as an affiliate. She discussed the Zoning regulations which she said, that Mr. Fowler had worked on, with Zoning Department staff. Ms. CeCe said that she worked with one of Mr. Fowler's staff, on a Justification Document. She said this man was polite and quite helpful to her. She had six concerns about the application which she went through in some detail. She noted that he was awarded a \$500,000 grant. She also discussed how his finances showed that his return on investment would be at 6.18%, slightly down from the industry standard of 7%. She did not think this was a valid reason to state that the project was not making a profit and therefore, the on-site workforce units should be moved off-site.

Corinne Weston, 15 Sable Street, spoke in opposition to the application. She was a former Zoning Commission member who worked on the workforce housing Zoning Regulations in 2006. She said that the spirit of the regulations was to increase the amount of workforce housing to 10%. She agreed with Mr. Blank that this housing should be placed around the city and not focused on one area.

Margaret Suib spoke in opposition to the application. She mentioned that she had submitted a letter to the commissioners that day. She believed that 10% of the housing should be "within" the project. However, if those units were moved off-site, there would not be 10% on-site. She discussed the Connecticut Avenue housing. She suggested that some

of the amenities should not be built or scaled back, in order to save money. Her letter went through the numbers that the applicant submitted and pointed out flaws that she saw. She was concerned about segregating the affordable housing units off-site. She began to discuss housing problems in Westchester County but was told to stick to the topic at hand.

Daisy Franklin spoke in opposition to the application. She reminded the commissioners that the people living in workforce housing were people with jobs, such as teachers, nurses, etc. She did not understand why the applicant would build and not include workforce housing. She was also concerned that if this application was approved, it would set a precedent.

Diane Wycoski, 79 Truman Street, spoke in opposition to the application. She mentioned how the applicant should remove some of the amenities in order to lower the cost of construction. She also discussed the Zoning regulations.

Mary Theresa ("Missy") Conrad spoke in opposition to the application. She was concerned that low income housing was being lost and not being rebuilt.

Edward J. Musanti spoke in favor of the application. He discussed the regulations as many of the other speakers had done. He mentioned that the businesses that would rent in the building would help the South Norwalk neighborhood as well as the 200+ neighbors that would move in. He thought it was time to vote for the application so that the project could get done. Mr. Musanti thought that the commissioners remember how much the applicant has done for Norwalk. Mr. Mushak asked Mr. Musanti to come before the Zoning Commission when they have future discussions about density. Mr. Musanti said that the Zoning Commission needed to look at parking, which Mr. Mushak said they were doing. Mr. Mushak asked Mr. Musanti whether there should be an incentive to have developers keep the workforce housing on-site. Mr. Musanti said that there should be some incentives in the regulations.

Robert Burgess, 37 Brooklawn Avenue, spoke in opposition to the application. He said that he is the Chairman of the Democratic District B Committee. He described the history of discriminating housing practices in Norwalk including a lawsuit which resulted in a consent decree. He believed that the City was now reneging on its agreement in the consent decree. He also thought that the work-force housing regulation violated the consent decree and that it should be an ordinance, not a regulation. He thought that people that lived together, stayed together.

Courtney Austin, 145 East Avenue, spoke in opposition to the application. She thought it was not fair for the applicant to change the units for ones that were different, off-site.

Amanda Brown, 80 County Street, spoke in opposition to the application. She is the Chairperson of the Norwalk Democratic Town Committee. She did not think that Mr. Fowler was a novice about the workforce housing regulation. She said that he had helped to draft it. She also suggested diminishing some of the amenities in order to be able to afford constructing the building. She thought by not denying this application, it would result in other developers coming back to request changes to their resolutions.

John Mosha, spoke in opposition to the application. He has lived in Norwalk for 60

years and was on the NEON Board of Directors when they filed a lawsuit against the City of Norwalk. He gave a history of what he considered racism in Norwalk. Ms. Wilson reminded him to stay on topic.

Diane Lauricella spoke in opposition to the application. She said that she agreed with most of what had previously been said. She thought that the location of the property was great. She did not understand why the applicant did not know that there would be environmental problems on the property. This should not be a reason that they could not develop the property. She said that she liked the application approved in February 2012. She agreed with previous speakers that said they should cut back on the amenities. She recommended a book that the commissioners should read. Ms. Wilson said that Ms. Lauricella should stay on topic.

Mr. Blank told everyone that the Zoning Commission has asked developers to submit concrete numbers of what would work and what would not work as far as parking is concerned. Now the Zoning Department has had to do their own research. He thought it was unfair that people thought that the Zoning Commission was not trying to attract development because of the parking regulations when they are not receiving the input requested from developers about actual parking usage.

Ernie Dumas, 160 Main Street, spoke in opposition to the application. He thought if he was going to complete the same application for housing, he should have the same benefits. He felt there was a racial hint in this application. He thought that South Norwalk had been dumped on for years.

Richard Bonefant spoke in opposition to the application. He wanted the units to stay on-site and not be placed all over the city.

Chuck Roy, a former Norwalk resident, who again lives in Norwalk, spoke in opposition to the application. He asked the commissioners to take care when making this decision which would affect the future of Norwalk.

Joe Murro, a resident of South Norwalk for 10 years, asked about the concentration of low income housing in South Norwalk. He wanted to know whether it was spread out throughout the city. He agreed with Mr. Blank's remarks about scattering them throughout the city.

Ms. Wilson asked if there were any other speakers and no one responded. She said that the public portion of the hearing was over. Mr. Redniss asked for a break at this point, in order for him to discuss the rebuttal with the applicant. Mr. Redniss and the applicant were trying to draft language to be inserted in the resolution.

The meeting was recessed at 10:01 p.m. and returned at 10:14 p.m.

Peter Nolin, the attorney for the applicant, spoke in connection with the Consent Decree and fair housing in Norwalk. He pointed out that the Fair Housing official was there as an individual and not in her capacity as the Fair Housing Authority. He also discussed the Consent Decree, which determined that there was no violation by Norwalk. There are big benefits from converting housing to affordable housing.

Mr. Redniss continued the presentation. He explained the importance of the deed restrictions. He said it was a hedge against gentrification. He also thought that the commissioners had a lot of things to balance. He asked them to review their policies after the construction of this project begins. There was a discussion about removing some of the amenities especially the lighting under the Metro-North bridge.

Ms. Wilson closed the public hearing.

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

a. Action on Item III. a.

#9-11SPR/#22-11CAM - North Water LLC - 20 N. Water St - 133,035 sf mixed use development with 108 units, retail & restaurant - Request to modify approved plan to revise location of workforce housing units from 11 onsite units to 4 onsite units and 7 offsite units at 1 Elmcrest Terrace

**** MR. BLANK MOVED: BE IT RESOLVED** that the request to be modify the Workforce Housing Affordability Plan for site plan application **#9-11SPR** and coastal site plan application **#22-11CAM**; North Water, LLC - 20 N. Water Street for a 133,035 sq. ft. mixed use development with 108 multifamily dwelling units to allow seven (7) units to be located off-site at 1 Elmcrest Terrace be **APPROVED**, subject to the following conditions:

1. That the deed restriction shown on a certain document entitled "Workforce Housing Affordability Plan North Water, LLC" dated received on October 18, 2012 showing one (1) studio and six (6) one-bedroom units located at 1 Elmcrest Terrace and one (1) studio, one (1) one-bedroom unit and two (2) two-bedroom units to remain located at 20 North Water St. for a total of 11 workforce housing, shall run with the land in perpetuity and shall be filed on the Norwalk Land Records prior to the issuance of a final Certificate of Zoning Compliance (CZC); and
2. That all other conditions of the original approval remain in effect; and
3. Prior to obtaining a final certificate of occupancy, two (2) units of the offsite workforce housing located at 1 Elmcrest Terrace/50 Connecticut Avenue shall be relocated to another offsite location which the developer proposes and the Zoning Commission approves; and
4. That a twelfth (12th) workforce housing unit offsite shall be provided when the developer is able to close on a studio unit currently under contract; and

BE IT FURTHER RESOLVED that the effective date of this approval shall be December 21, 2012.

**** MR. SANTO SECONDED.**

Before the vote, there was further discussion amongst the commissioners. Mr. Mushak remarked how that in early meetings for this application, the applicant had wanted an additional floor to add density to the project to make it more financially feasible. He also remembered a meeting just several months before this Zoning Commission meeting wherein the applicant had also stated that if it had been able to put another floor on the building it would have been able to keep the workforce housing units on-site. He also said that the issue of density should be addressed in the future. By having more people living in South

Norwalk, it will add jobs to the area. He would be voting no on the application. He hoped this would not happen again.

Mr. Rilling disagreed with all of what was said at this meeting and that the regulation was written so that the commissioners were mandated to approve the applicant's request. He did not think it was the intent of the regulation to allow the units to be moved off-site. He thought there was a need to re-write the regulation.

Mr. Sumpter also spoke against the applicant's request. He believed all the units should be on-site, in the building. He felt that people should not live in the building, just because they are not of the same economic class. In addition, he did not want to set a precedent for developers to come and do the same as the applicant. He wanted to see housing for all people in South Norwalk and not just taking people and moving them somewhere else. If the applicant took the money that they had spent on the team of people who were at the Zoning Commission meetings, there would have been money to build the units on-site. He would vote against the applicant's request.

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

b. #5-08SPR - The Berkeley Frost Bldg LLC - 500 & 550 West Av - 150,000 sf mixed use development - One year extension of approval time - Report & recommended action

**** MS. JACOBSON MOVED: BE IT RESOLVED** by the Norwalk Zoning Commission that the approval time on #5-08SPR - The Berkley - Frost Building, LLC - 500 and 550 West Avenue - 150,000 sq. ft. mixed-use development - Request extension of time be **APPROVED** for an extension of a period of 365 days; and,

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

BE IT FURTHER RESOLVED that the new deadline to obtain zoning and building permits will be September 26, 2013.

BE IT FURTHER RESOLVED that the effective date of this approval shall be December 21, 2012.

**** MR. RILLING SECONDED.**

**** MOTION PASSED UNANIMOUSLY**

c. #6-08SPR/#16-08CAM - POKO IWSR Developers - Wall St/Isaacs St - Wall St Place mixed use development - Six month extension of approval time - Report & recommended action

**** MS. JACOBSON MOVED: BE IT RESOLVED** that the request for a **six month extension of approval time** for Site Plan #6-08SPR and Coastal Site Plan #16-08CAM - POKO-IWSR Developers, LLC - 61 - 65 Wall Street/2, 21 & 23 Isaacs Street - 182,112 sq ft mixed use development (Phase 1) with 101 units, 14,759 square feet retail and a 2,424 square foot restaurant with on site below grade automated parking garage as on a set of plans entitled "Wall Street Place Site Plan Phase 1" by Crosskey Architects, LLC, Wesley Stout Associates and Redniss & Mead Inc., dated May 16, 2008 as revised to May 30, 2008

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 **June 20, 2013** and

BE IT FURTHER RESOLVED that the effective date of this action be December 21, 2012.

**** MR. BLANK SECONDED.**

**** MOTION PASSED UNANIMOUSLY**

d. #4-12SPR/#24-12CAM - 67 Ft. Point St, LLC - 67 Fort Point St - 7 unit multifamily development -Report & recommended action

**** MS. JACOBSON MOVED: BE IT RESOLVED** that application #4-12SPR/#24-12CAM, submitted by 67 Ft. Point St, LLC located at 67 Fort Point Street for a 7 unit multifamily development as shown on various plans by Kousidis Engineering, Norwalk, CT, site plan date 12/6/12 and the architectural plans by BMD, LLC, Norwalk, CT, date 10/18/12 be **APPROVED** with the following conditions:

1. That all required CEAC signoffs are submitted; and
1. That a financial guarantee, in an amount to be determined by staff, be submitted to guarantee the installation of all erosion and sedimentation controls; and
2. That a financial guarantee, in an amount to be determined by staff, be submitted to guarantee the installation of the required public improvements prior to the certificate of occupancy being issued on the construction of any new dwelling; and
2. That any additional needed soil and sedimentation controls be installed at the direction of the staff ; and
3. That any graffiti on the site, now or in the future, be removed immediately; and
4. That *any* changes to the plan be reviewed and approved prior to those changes being implemented; and

BE IT FURTHER RESOLVED THAT reason for this approval is that the proposed project complies with the Norwalk Building Zone Regulations, Section 118-510, Neighborhood Business and Section 118-1451, Site Plan Review; and

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

BE IT FURTHER RESOLVED that the effective date of this approval shall be December 21, 2012.

**** MR. BLANK SECONDED.**

**** MOTION PASSED UNANIMOUSLY**

V. APPROVAL OF MINUTES: November 14 and 29, 2012

MR. MUSHAK MADE A MOTION TO APPROVE THE MINUTES OF THE NOVEMBER 14 AND NOVEMBER 29, 2012.

**** MR. BLANK SECONDED THE MOTION
** MOTION PASSED UNANIMOUSLY.**

VI. COMMENTS OF DIRECTOR

There were no comments from the Director.

VII. COMMENTS OF COMMISSIONERS

Mr. Mushak requested that the public hearing for the Lowe's application be re-scheduled for the February Zoning Commission meeting. He was concerned that the public felt that it was rushed. There was then a discussion amongst the commissioners and the Zoning Department staff. It was decided that if there seemed to be a problem at the January Plan Review and Zoning Committee meetings, when they viewed the model, they could postpone the public hearing at that time.

VIII. ADJOURNMENT

**** MS. WILSON MADE A MOTION TO ADJOURN.
** MR. SUMPTER SECONDED.
** MOTION PASSED UNANIMOUSLY.**

The meeting was adjourned at 10:37 p.m.

Respectfully submitted,

Diana Palmentiero